Taxing Times 2020

A survey of corporate taxpayers' experiences with the South African Revenue Service

Tax Controversy and Dispute Resolution
August 2020

pwc

Contents

Introduction

PwC's annual Tax Controversy and Dispute Resolution Survey (TCDR Survey) was created to benchmark taxpayer experiences when dealing with the South African Revenue Service (SARS). The latest survey, the third in the annual series, targeted those persons in charge of tax functions across various industries and was conducted between May and July 2020. The 2020 survey was sent out to 1901 PwC clients across various industries and was also published for those who wished to participate anonymously. A total of 184 people participated via a targeted email which included 37 people participating via the anonymous link. A total of 107 corporate respondents completed the full survey, the results of which are discussed herein.

Since the first survey was released in 2018, the tax industry as well as the world at large has persevered through significant changes. For example, the appointment in 2019 of a new Commissioner at SARS, Mr. Edward Kieswetter, followed the release of the Nugent Commission of Inquiry Report (which found a range of governance failings, revenue collection weaknesses and non-compliance).

More recently, the world saw the outbreak of the COVID-19 pandemic, which brought about economic disruption resulting in many taxpayers experiencing financial strain and the continuity of various business sectors being threatened. On 15 March 2020, President Cyril Ramaphosa declared a national state of disaster in South Africa in line with the Disaster Management Act, 2002. Furthermore the country has been in various stages of the national lockdown since the end of March 2020 - commencing on level 5 on 26 March 2020, moving to level 4 on 1 May 2020, thereafter to level 3 on 1 June 2020 and finally to level 2 on 18 August 2020. Each level has seen an easing in restrictions, in some way or form, for example on the conduct of certain business activities/ operations, the allowance of social gatherings with a limit on the number of attendees and the ability to exercise at different times of the day.

The pandemic prompted the introduction of the Disaster Management Tax Relief Administration Bill, 2020, and Disaster Management Tax Relief Bill, 2020 in April 2020 (with a revised/enhanced version being released in May 2020). These Bills aimed to provide tax relief measures to assist in alleviating cash flow burdens experienced by tax compliant small to medium-sized taxpayers (with an annual turnover of below R100m). In this year's survey, PwC included a range of questions on the relief mechanisms contemplated in the aforementioned Bills.

Recent developments at SARS

May 2019	A new Commissioner of SARS, Mr. Edward Kieswetter, took office on 1 May 2019.
March 2020	Restricted business operations within SARS as well as on certain non-essential business activities in general, due to the national lockdown which was necessitated by the outbreak of the COVID-19 pandemic.
April 2020	The Draft Disaster Management Tax Relief Administration Bill, 2020, and Draft Disaster Management Tax Relief Bill, were published for comment. These Bills provided for tax measures to assist in alleviating cash flow challenges faced by tax compliant small and medium sized businesses arising as a result of the COVID-19 pandemic and national lockdown.
April 2020	SARS missed its revenue collection target for the sixth consecutive year, this time by R66bn.
May 2020	Revised Draft Disaster Management Tax Relief Administration Bill, 2020 and Revised Draft Disaster Management Tax Relief Bill, 2020 were published for comment.
May 2020	SARS released its Strategic Plan 2020/21 - 2024/25 with a focus on nine key objectives, including building public trust and confidence in the tax administration system.
July 2020	Draft Tax Administration Laws Amendment Bill, 2020 and Draft Taxation Laws Amendment Bill,2020 were published for comment.
August 2020	SARS commenced assessing a significant number of taxpayers automatically.

About the survey and the objective

The survey aims to gauge our corporate clients' experience when dealing with SARS and to use their feedback to support constructive engagement with SARS about how it can improve public trust, efficiency, and confidence in the tax administration system as well as improve its stakeholder engagement.

This report presents respondents' feedback concerning the Voluntary Disclosure Programme (VDP), issues faced by clients in managing audits as well as disputes, SARS service delivery and the impact of the COVID-19 pandemic on their tax affairs as well as taxpayer behaviours.

We believe that some of the questions are aligned to SARS' key strategic objectives and are important drivers not only to rebuild the organisation but also to ensure effective and efficient collection of taxes in a tough economic climate.

The values displayed per response represent the percentage of respondents who provided an answer to the specific question. Some questions are not applicable to all respondents, for example, transfer pricing is only applicable to companies that carry out cross-border transactions with connected persons.

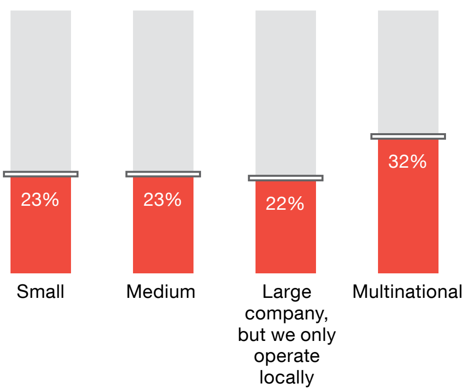
The survey questions were divided across six major clusters of experience:

- Audit process
  - Corporate income tax (CIT)
  - Value-added tax (VAT)
  - Pay-as-you-earn (PAYE)
  - Transfer pricing (TP)
- Debt management process
- Voluntary Disclosure Programme (VDP)
- SARS' service delivery
- COVID-19 – Tax relief
- Taxpayer behaviour

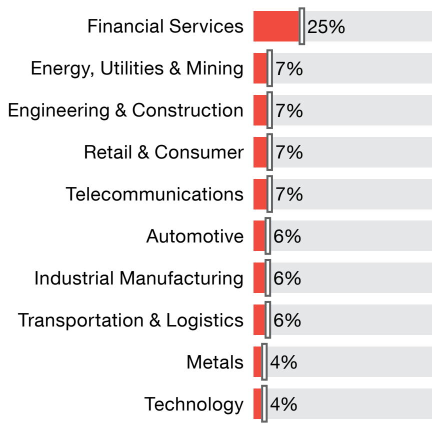
Respondent profile

Company size / Top 10 industries represented

Q: What is the size of your company?



Q: Which industry is your company in?



Source: PwC analysis

In this year's survey, 23% of participants represented small companies, 23% medium-sized businesses, 22% large local companies, and 32% multinationals.

Taxpayers across 23 industries participated in the survey, the biggest respondent being from the financial services sector with 25%, followed by energy, utilities & mining, engineering & construction, retail & consumer, automotive, telecommunications, industrial manufacturing, transport & logistics, metals and technology.

The audit process

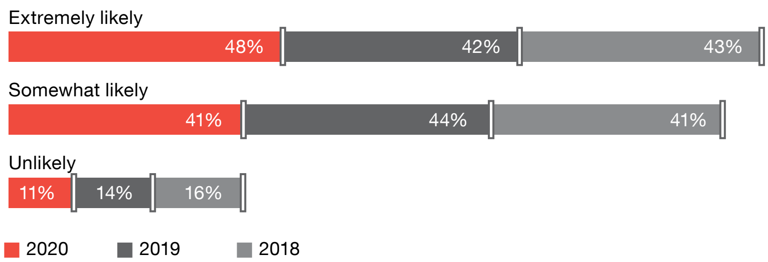
The usual procedure in respect of the filing of a tax return is that an assessment is issued based on the information submitted in respect of the taxpayer. Thereafter, SARS may select the taxpayer for verification or audit. For purposes of the verification process, SARS will compare the information submitted by the taxpayer (or other third parties) against the financial and accounting records and/ or other supporting documents to ensure that the taxpayer's return is a fair and accurate representation of the taxpayer's tax position. For purposes of the audit process, SARS may request certain financial and accounting records and/ or supporting documents of the taxpayer to determine whether the taxpayer has correctly declared such tax position to SARS.

Corporate income tax

Likelihood of an audit

We tested our clients' perception of the likelihood of them being selected for verification audit following submission of their annual corporate income tax returns. The 2020 results show a 6% increase from last year in the proportion of respondents who feel that they are 'extremely likely' to be selected for an audit verification by SARS following submission of their corporate income tax (CIT) returns. This could be an indicator that SARS is performing audits more frequently — perhaps in an effort to detect non-compliance as well as to meet its revenue collection targets.

Q: How likely is SARS to verify/audit your company post submission of CIT return on an annual basis?



Source: PwC analysis

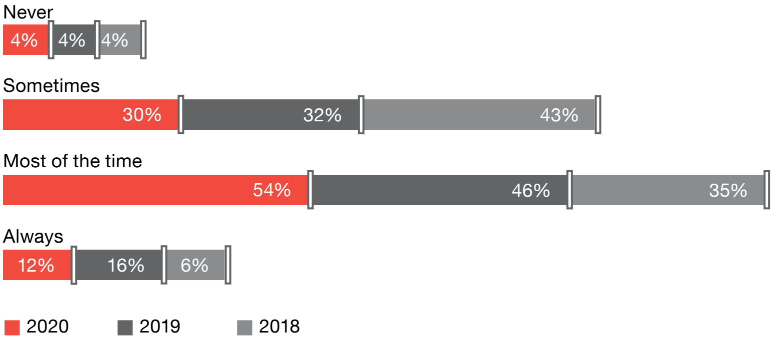
Requests for information

Post receipt of notification of audit, we asked participants whether SARS' requests for information met the requirements outlined in Section 46 of the Tax Administration Act No. 28 of 2011 (TAA). No less than 96% of respondents considered that such requests met the required criteria 'always', 'sometimes', or 'most of the time', which suggests a continued effort by SARS to improve compliance with its own obligations under the TAA.

Granting of extensions

For various reasons, it is not always possible for taxpayers to gather, assemble and submit the information requested by SARS within the time frame provided by SARS. Our results show a steady increase since 2018 with 66% noting that SARS has granted their extensions 'most of the time' or 'always'. The feedback from respondents this year is encouraging as it suggests that SARS has become more accommodating or reasonable in granting requests for extensions to submit the information requested.

Q: How likely is SARS to grant extensions for submission of responses to Section 46 'requests for relevant material'?

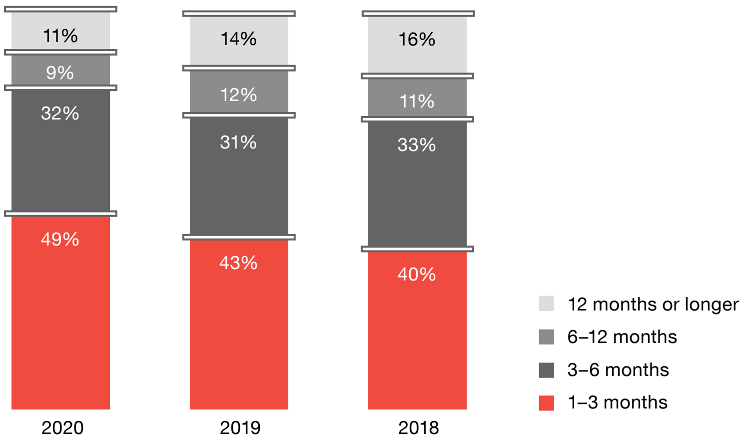


Source: PwC analysis

Time taken to finalise a verification audit

There has been a slow but steady improvement in the length of time taken to finalise a verification audit with a 6% increase in the finalisation of verification audits within three months (as promised in the SARS Service Charter) and fewer respondents experiencing extended turnaround times of '12 months or longer'. This suggests that SARS is making progress in improving its verification processes through more specific information requests and speedier turnaround times.

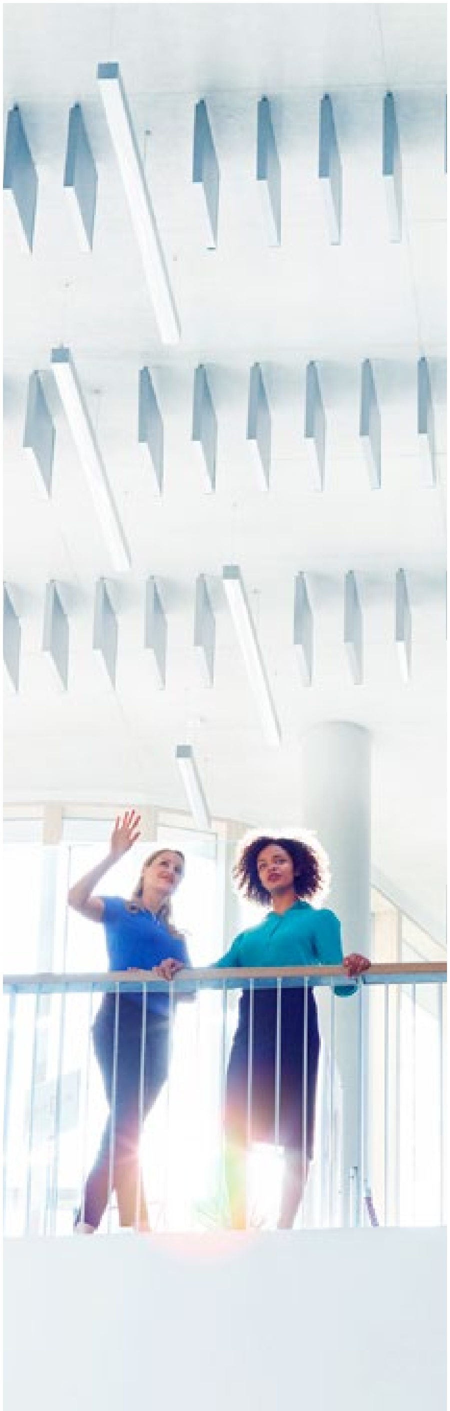
Q: In your experience, how long does it typically take SARS to complete a verification audit?



Source: PwC analysis

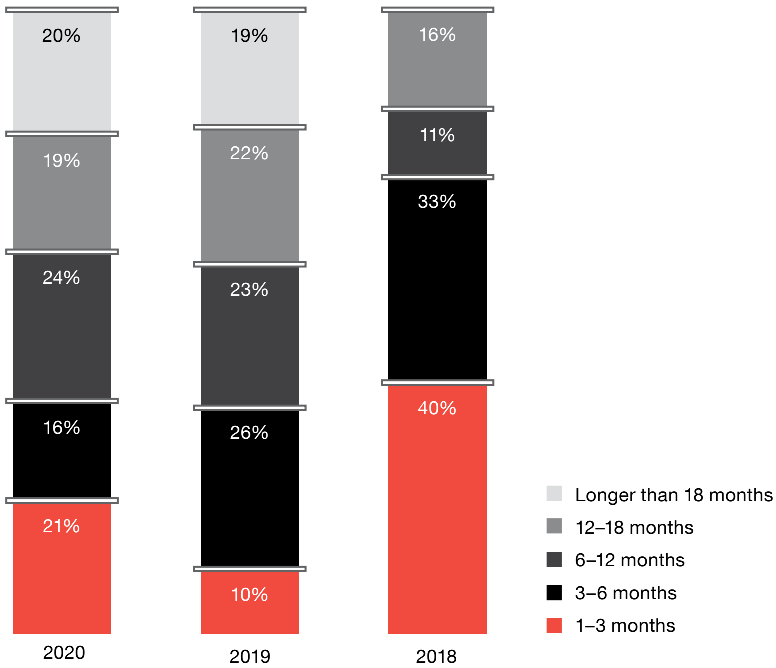
Time taken to finalise an investigative audit

Once the verification audit is complete, SARS retains the right to refer the matter for an investigative audit. We asked respondents about their experiences with investigative audits and the feedback received this year was varied. Just over a fifth (21%) reported that SARS took between '1–3 months' to complete their investigative audit compared to just 10% in 2019. However, this is not as positive as the 2018 result of 40%. SARS still has work to do on its turnaround times, as 24% of respondents advised that finalisation took 6–12 months. It is concerning that a fifth said it takes longer than 18 months.



These findings suggest that the audits are complicated and that SARS is under-capacitated, or lacks the skills and resources required to deal with these matters. Whatever the reasons, it results in additional costs, delays, and uncertainty for taxpayers.

Q: In your experience, how long does it take SARS typically to complete an investigative audit (usually post verification audit)?



Source: PwC analysis

Issuance of progress reports

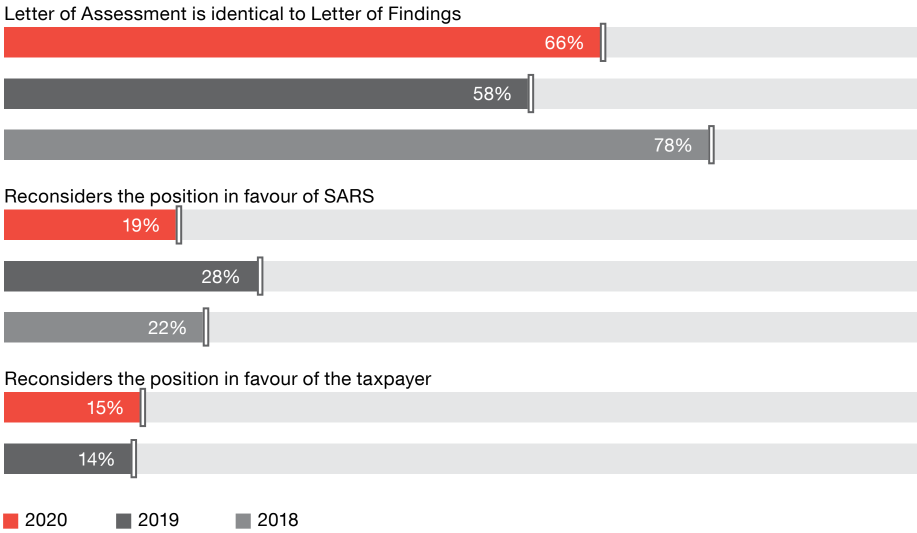
During the audit process, it is important for SARS to take cognisance of taxpayers' rights and to follow due process, which includes the issuance by SARS of stage of completion reports as part of keeping the taxpayer informed during the audit process. Respondents report a widespread failure by SARS officials to issue progress reports during the conduct of the audit, as required by Section 42 of the TAA. Although there has been some progress from previous years, 80% of respondents say that progress reports are not routinely received, whilst only 20% state that progress reports are always received or received most of the time. This suggests that SARS officials may require more training on taking cognisance of following due process during the audit process.

Audit Findings Letter

Once the audit is finalised, SARS is compelled to deliver an Audit Findings Letter as prescribed in section 42 of the TAA. The taxpayer in turn has the right to respond to the Audit Findings Letter (usually within 21 days) outlining its tax position, either agreeing or disagreeing with SARS' audit findings.

We asked respondents whether they believe SARS officials actually consider their responses and apply their minds to the merits. Whereas 42% believed that SARS reconsidered its position in 2019, this proportion decreased to 24% this year, with an astounding 66% reporting that the Letter of Assessment (finalisation of audit letter) is identical to the Letter of Findings. This is concerning and suggests there has been a decline at an operational level within SARS.

Q: When you lodge a response to the Letter of Findings, do you find that SARS truly reconsiders its position (including submissions on understatement penalty) or does it seem as if SARS automatically defaults into a Letter of Assessment?



Source: PwC analysis

Letter of Assessment

Once SARS has considered the taxpayer's response to SARS Letter of Audit Findings, SARS will issue an assessment to the taxpayer. This requires SARS to set out the particular type of assessment, the basis for the adjustment(s) as well as reasons as to why the assessment is levied beyond the prescription limit and/or if an understatement penalty has been levied. The Letter of Assessment (finalisation of audit letter) must convey sufficient information to enable the taxpayer to formulate its grounds of objection should they wish to do so.

This year's findings suggest that SARS has increasingly failed to provide adequate reasons for taxpayers to understand the basis for the assessments being raised with 25% selecting the 'never' option (being 9% ahead of last year). The results suggest that SARS could be raising assessments as a 'fishing expedition' and is therefore unable to provide adequate grounds to enable taxpayers to understand the basis of the assessments being raised.

Understatement penalties

The Letter of Assessment (finalisation of audit letter) needs to make clear reference to whether SARS has raised an understatement penalty. SARS also needs to ensure that the percentage of the penalty is matched with the appropriate behavioural category as outlined in Section 223 of the TAA. The onus in this regard, rests with SARS to prove the taxpayer is guilty of a particular behaviour that justifies the imposition of the requisite understatement penalty.

No less than 69% of the respondents report that SARS is aggressive 'always' or 'most of the time' in raising understatement penalties on taxpayers. Responses have been high in this category since 2018, raising the prospect that SARS does not consider the situation and just imposes penalties with the hope of increasing its collections.

The prospect that SARS is using understatement penalties as a revenue raising mechanism rather than as a way to incentivise taxpayer behaviour is concerning.

Debt management process

SARS' debt collection function runs in parallel to the dispute process.
A request for suspension of payment, which is governed by Section 164 of the TAA, is a good option when it comes to staying the payment and interest on taxes owed to SARS. The 'pay now, argue later' rule can only be suspended by a senior SARS official if there is an intent to dispute the assessment as well as an adherence to the criteria contained in Section 164 of the TAA.

Response to suspension of payment requests

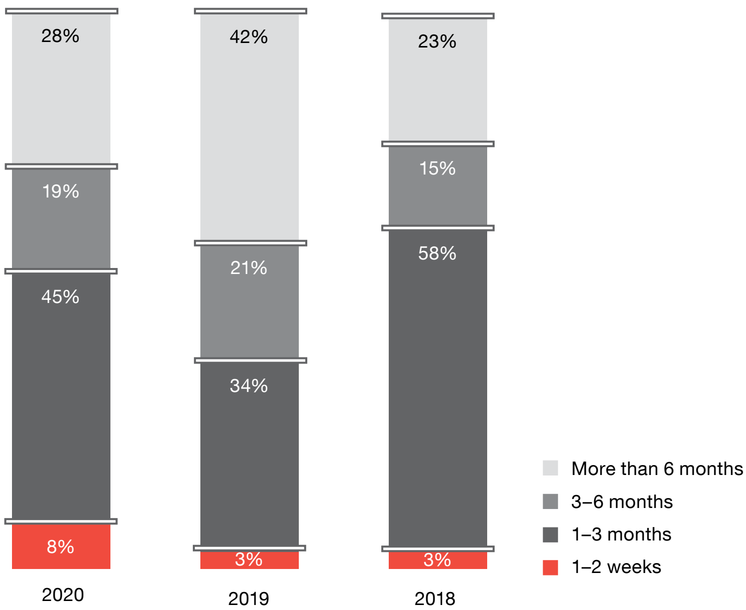
This year, 43% of respondents indicated that more information is requested following the submission of their suspension of payment requests to SARS, which is a 10% increase from 2019. This could mean that SARS officials are more critically reviewing these applications and not granting suspensions of payment "willy-nilly".

Nearly a third (31%) of respondents say that SARS is amenable to accepting suspension of payment applications, an impressive improvement on previous survey results.

Time taken to get feedback on settlement proposals

Settlement proposals are a mechanism for SARS to reduce litigation costs and increase revenue collection. SARS has improved its turnaround time compared to previous years, with 45% of the respondents observing a 1–3 month response time, an 11% increase since 2019. However, 8% of the respondents experienced a 1–2 week response time. Further, 28% report that SARS takes more than six months to consider their settlement proposals. In the current economic climate and with SARS having missed its revenue collection target, it is concerning that SARS, in some instances, takes more than six months to collect such revenue.

Q: How long does it typically take to get feedback on settlement proposals (Section 146 TAA) made to SARS?



Source: PwC analysis

Reduced assessment applications

The reduced assessment remedy is provided in Section 93 of the TAA as a method to correct returns that contain errors of a non-contentious nature and assist taxpayers to regularise their tax affairs. The threshold for purposes of utilising this remedy is that the return was erroneous due to a 'readily apparent undisputed error'.

Lobbying for a less restrictive threshold with the National Treasury has not been successful. SARS appears to interpret the threshold narrowly and the results of our survey speak for themselves with 32% of respondents confirming that their applications have 'never' been successful, while only 20% appear to achieve a satisfactory outcome with an answer of 'most of the time'.

Value-added tax

VAT refunds are a potential drain on SARS' revenues if they are subject to dishonest practices. It is for this reason that the verification process is a vital first step in combating dishonesty and fraud. With that being said, it should become apparent over time whether the information submitted by a vendor is reliable.

Selection for VAT201 verification

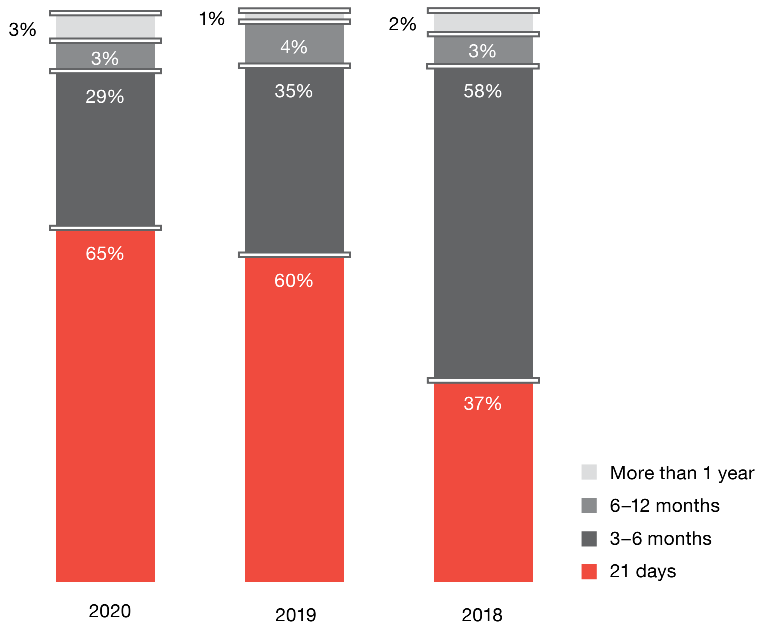
The fact that the VAT returns of a significant proportion of respondents are selected for verification every time they are submitted or whenever the return results in a refund, calls into question the purpose of the verification process. However, the declining frequency of VAT201's being verified after 'every submission' could suggest that if a vendor's track record shows their returns are always compliant, they are being reclassified for periodic verification.

This is an encouraging development and shows that SARS has responded to what is a clear "pain point" experienced by numerous taxpayers.

VAT verification and payment of refunds

The finalisation of verification and payment of refunds has improved significantly this year with an encouraging 65% of respondents reporting that their VAT verification gets finalised within 21 days after submitting documentation in support of the VAT verification and fewer respondents experiencing a finalisation taking more than six months. Respondents report that 82% 'always', 'sometimes' or 'most of the time' get their VAT refund paid within 21 days. These results are encouraging and show that SARS is trying to honour the one or more of the Nine Strategic Objectives detailed in its Strategic Plan for 2020/21 – 2024/25.

Q: When submitting documentation in support of a VAT verification, how quickly does SARS finalise the verification?



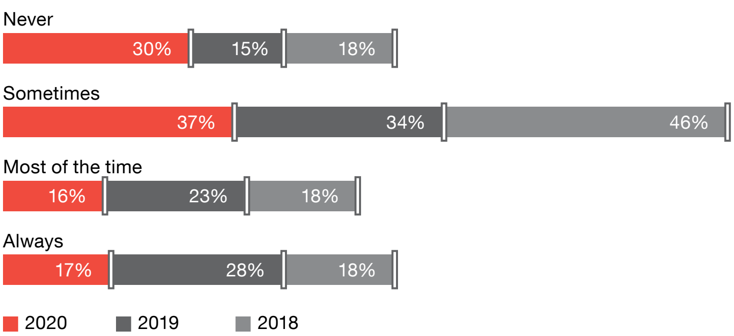
Source: PwC analysis

Pay-as-you-earn

Problems with PAYE accounts

While PAYE administration has improved since last year with the proportion of respondents saying they have no problems with their PAYE accounts doubling to 30%, a third of respondents continue to experience issues 'sometimes' or 'most of the time'.

Q: Are you experiencing issues in relation to PAYE account/s with regards to multiple journal entries or difficulty in unpacking the account?



Source: PwC analysis

Transfer pricing

SARS has stepped up transfer pricing risk reviews (and ensuing audits) since October 2017 and we expect this trend to continue. In the context of base erosion and profit shifting (BEPS), multinationals should review their transfer pricing policies, document transactions/ decisions taken appropriately, and expect to be audited. It is vital for taxpayers engaged in cross-border transactions to have supportive documentary evidence ready in the event of a transfer pricing audit.

Company transfer pricing policy

Half of the respondents in last year's survey said their company had a transfer pricing policy that is applied in practice. This year, this proportion has increased significantly to 82%. This increase is likely due to the impact of the compulsory transfer pricing documentation introduced as part of the BEPS Action 13 initiative.

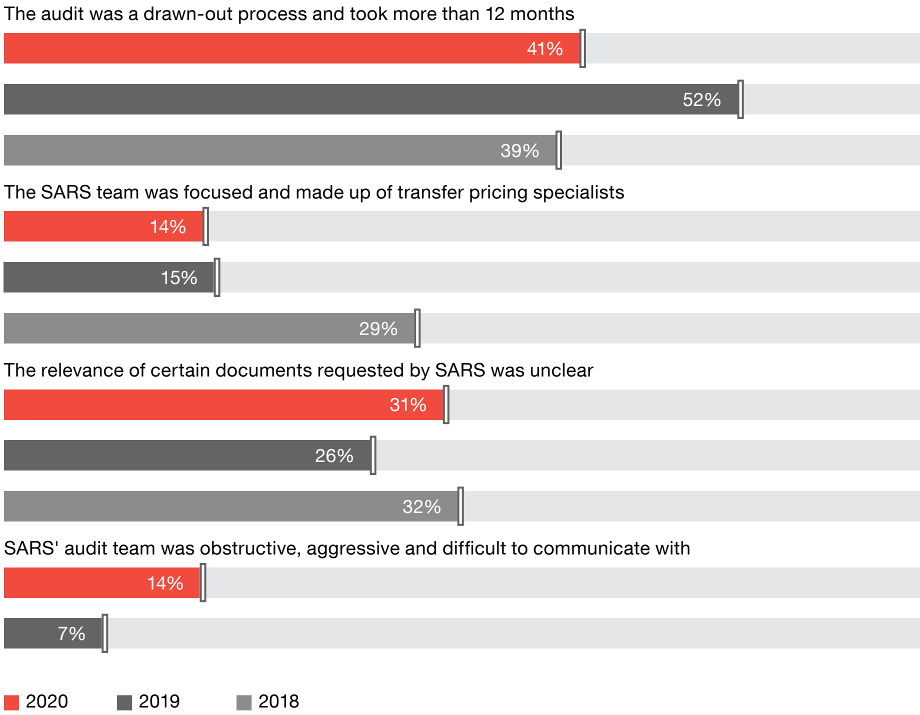
Frequency of transfer pricing audits

This year's results reveal that SARS' increased focus on transfer pricing has taken a back seat in 2020 which could be due to the COVID-19 pandemic and the international trade restrictions imposed when South Africa shut its borders in March 2020 as well as SARS' renewed focus on reviving the Large Business Office (where the transfer pricing audit function is housed). Over one-in-five respondents (22%) reported being selected for an audit relating to transfer pricing, down from 31% in 2019. It is expected that this number will rise once regular cross-border trading resumes.

Experience of transfer pricing audits

Our respondents indicate that 41% are still of the view that the process is drawn-out and that it takes over 12 months to finalise which is an improvement from 52% in 2019. However, what is concerning is that 31% of the respondents have noted that the relevance of certain documents requested by SARS was unclear.

Q: If your company has been subject to a transfer pricing audit, what was your experience? (Select all that apply)

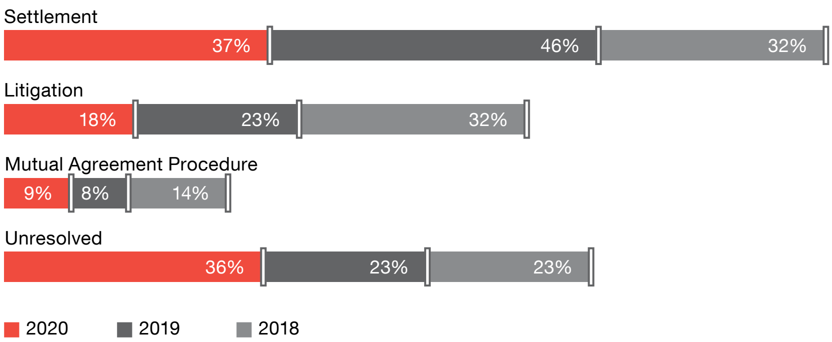


Source: PwC analysis

Transfer pricing assessments

The resolution of transfer pricing disputes appears to be migrating away from adversarial options towards seeking settlement. The reduction in litigation is indicative of an improvement in the climate for settlements and suggests that the gulf between taxpayer and SARS is narrowing, making settlement more possible. The increase in unresolved assessments, up by 13% from last year, could be a temporary result of the lockdown which inhibited SARS from finalising audits.

Q: If you received a transfer pricing assessment, how was it resolved?



Source: PwC analysis

Voluntary Disclosure Programme

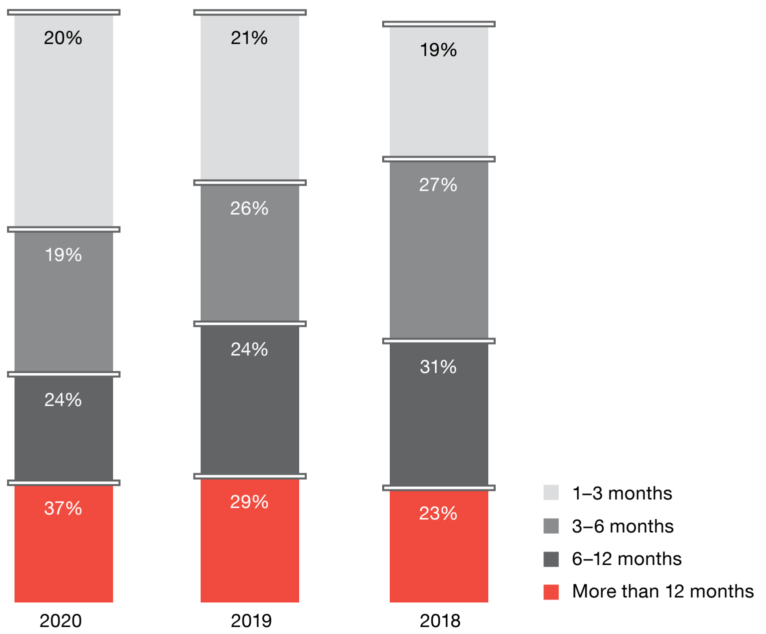
The VDP facilitates a process in which taxpayers voluntarily disclose prior defaults or understatements and make full disclosure, thus relieving SARS from engaging in time-consuming audits. While VDP grants protection to taxpayers against criminal investigation and certain penalties, is also a valuable means of revenue collection for SARS.

VDP applications

VDP gives taxpayers the opportunity to correct compliance defaults without incurring potentially significant penalties. This year, just under half (46%) of respondents said they had made use of the VDP process. What is of concern is that only 20% of the respondents who participated in the VDP had their applications finalised within three months, while 37% reported that their applications took more than 12 months to finalise — an exceptionally long turnaround time considering the potential revenue for SARS.

Q: What is the current turnaround time for a VDP application to be finalised?

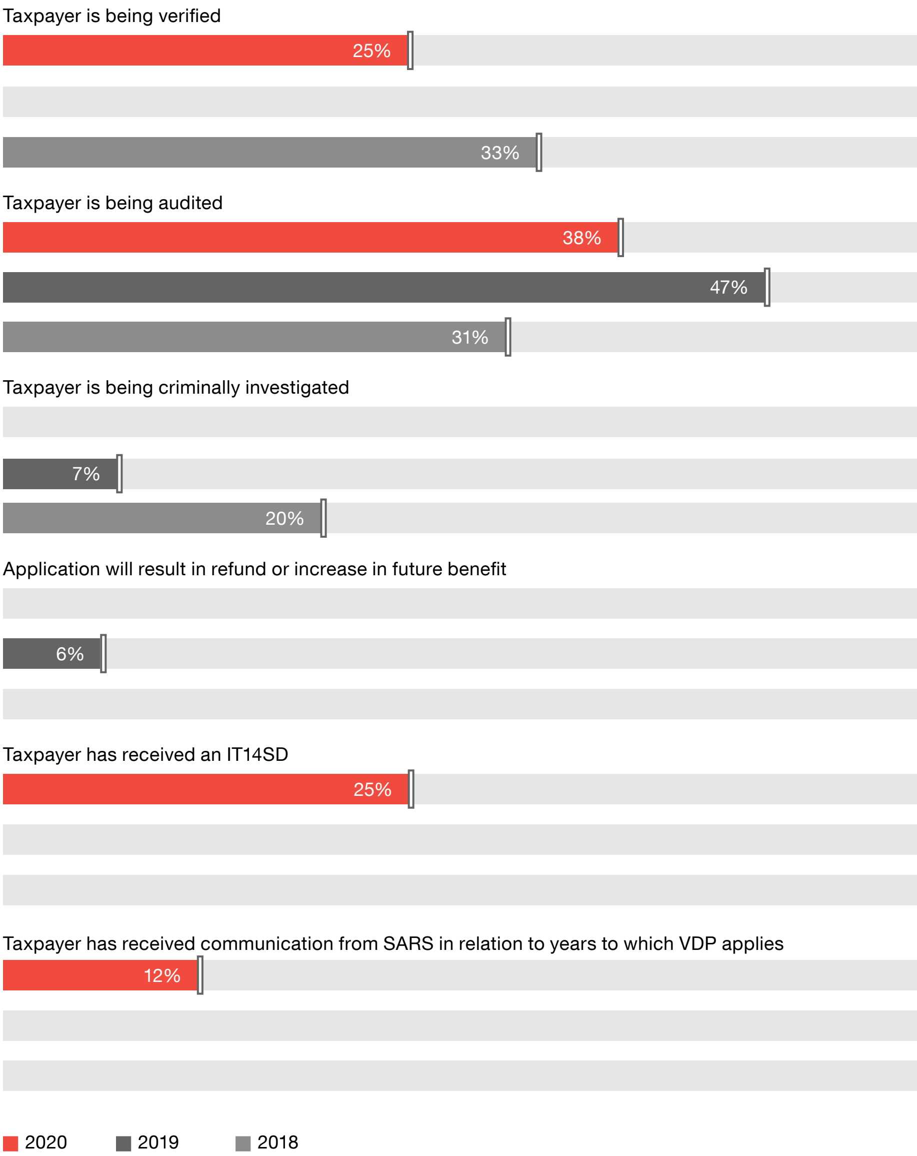
Source: PwC analysis



VDP applications denied

Where VDP applications have been denied due to non-compliance with criteria set in the TAA, the most frequent reason given by SARS was that the application was ‘not being voluntary’. When asked what explanation SARS gave for this decision, the most frequent given by respondents was that they are being audited. This was the reason for approximately 38% of rejected applications, with a further 25% being rejected due to the taxpayer receiving an IT14SD. This raises the question: Should the term ‘non-voluntary’ not be better defined in the TAA or an explanatory note?

Q: If the VDP was denied on the basis of not being voluntary, what is the most common reason given?



Source: PwC analysis

Value of VDP relief

More than half of respondents (54%) do not believe the VDP has assisted their company to obtain the required relief (i.e. regularisation of its tax affairs). This is more than double the proportion of respondents who held this view in 2019 and suggests SARS is not paying enough attention to the VDP application process and the purpose behind its introduction into the TAA.

VDP guidance

Many taxpayers find the VDP process confusing and this year's results show that 73% of participants would find an Interpretation Note to be helpful when considering or later drafting and submitting a VDP application. This appears to be an area in which SARS could be generating much more revenue from taxpayers who are voluntarily offering outstanding taxes to them therefore it would be suggested that SARS refocus on this area.

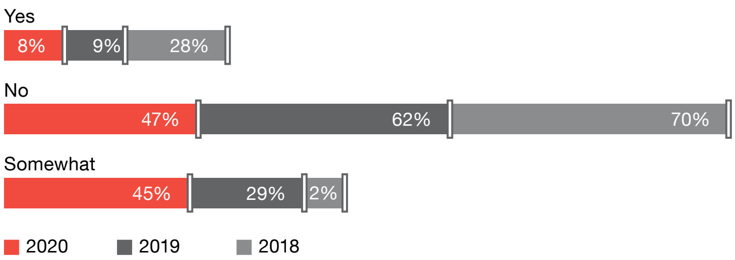
SARS' service delivery

SARS Service Charter

Quality of service

No less than 47% of respondents believe the SARS Service Charter makes 'no' difference to the quality of SARS' service delivery, down from 62% in 2019. However, the increase in the proportion of respondents who believe the SARS Service Charter makes 'somewhat' of a difference is encouraging, suggesting that SARS is making progress in honouring its renewed commitment.

Q: Do you think the SARS Service Charter (issued July 2018) makes a difference to the quality of service delivery by SARS to taxpayers?



Source: PwC analysis

Behaviour of SARS officials

An overwhelming 98% of participants believe that SARS officials' key performance indicators should be linked to the SARS Service Charter in order to incentivise improved performance by SARS officials — this is up from 54% in 2019. This increase suggests that SARS needs to do more to ensure that its officials produce the standard of quality and service promised and expected from them in the SARS Service Charter.

SARS' compliance with time periods

SARS' compliance with time frames has deteriorated, with a 22% decline in respondents saying it 'almost always' complies with time periods. There was a corresponding increase among those finding SARS compliant 'most of the time', up from last year's 17% to 33%.

COVID-19 tax relief

South Africa has been hailed for its decisive response to the COVID-19 pandemic and measures taken to contain the spread of the virus. This report is issued during level 2 of lockdown measures currently still in place in South Africa.

In April 2020, the Minister of Finance announced certain tax relief measures to alleviate the financial burden placed on taxpayers with the introduction of the aforementioned Bills. Taxpayers felt that the strict criteria in the Bills were overly restrictive.

The questions we asked respondents in this section aimed to determine whether these measures were sufficient and whether respondents had made use of them.

Tax relief measures

Qualifying taxpayer

The term 'qualifying taxpayer' is defined as a company, trust, partnership or individual that has a gross income of R100m or less during the year of assessment ending on or after 1 April 2020, but before 1 April 2021, and which gross income for the year of assessment does not include more than 20% passive income. In addition, the taxpayer must be fully tax compliant. An additional requirement for PAYE and Employee Tax Incentive (ETI) relief, is that employers must have been registered as an employer with SARS by 1 March 2020 to be able to qualify for these tax relief measures.

A third of respondents reported that they did not meet the requirements and that full compliance should not be required. 12% of the respondents noted that even though they did meet the requirements, full compliance should not have been required, whilst 33% of respondents stated that they did not meet the requirements and that full compliance should not have been required.

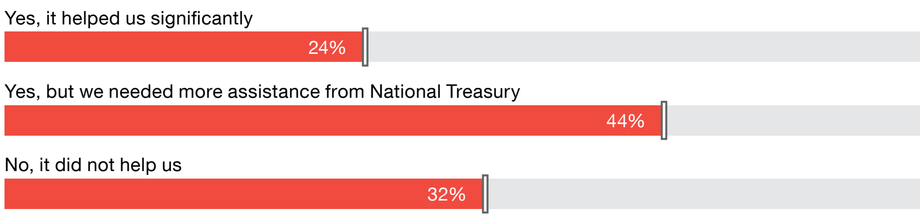
Adequacy of relief measures

Only a quarter of respondents believe that the National Treasury and SARS did enough and 30% say that more should have been done to assist with tax relief measures during the lockdown to relieve liquidity and promote business continuity.

Effectiveness of relief measures

A quarter of survey participants (24%) said that the relief measure helped them significantly, while 44% advised that while they used the relief measure, more assistance was required. Almost a third (32%) confirmed that the relief measure did not help them at all.

Q: If your company makes an annual turnover of below R100 million, did your company make use of any of the relief measures announced in the Tax Relief Bill (i.e. PAYE, ETI, Provisional Tax)?

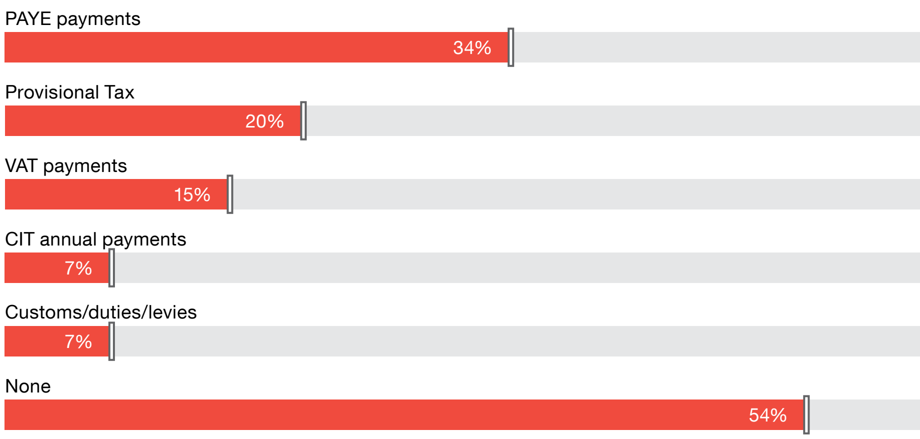


Source: PwC analysis

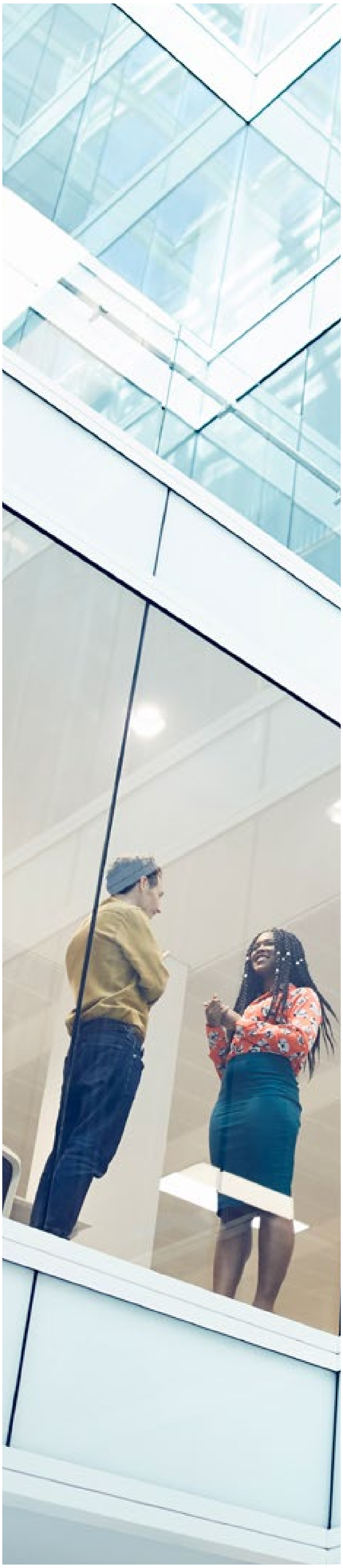
Discontinuation or reduction of payments

Just over half of respondents (54%) say they took no action to reduce or discontinue any of their tax obligations, while 34% took advantage of payment relief for PAYE. A further 20% reduced or discontinued provisional tax payments, while a minority made use of relief offered for VAT, CIT annual payments, and customs duties and levies.

Q: Which tax types did your company discontinue or reduce payments on during lockdown?



Source: PwC analysis

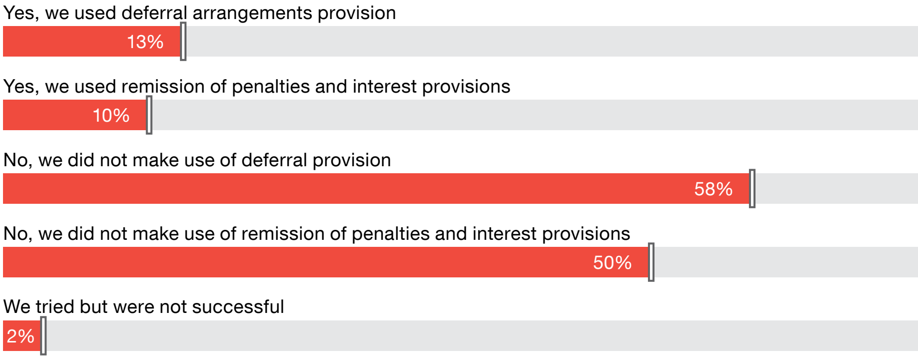


Relief for large businesses as contained in the TAA

Respondents believed that little or no relief was provided for companies with an annual turnover of more than R100m in the Bills. The TAA does however contain mechanisms which were of assistance to some large companies. Section 167 of the TAA, for example, provides for taxpayers to apply for an instalment payment agreement (deferral of payment). Further Section 187(6) of the TAA provides for the waiver of interest payable by the taxpayer if one or more of the requirements laid out in Section 187(7) are met, and Section 215 read with Section 218 provides for the 'remittance of a penalty in exceptional circumstances'.

Only 13% of participants reported that they had made use of the deferral of payment provisions, and 10% noted that they had made use of the penalties and interest provisions as set out in the TAA. In addition, only 2% of participants advised that their attempt to make use of the TAA relief measures had been unsuccessful.

Q: If your company makes an annual turnover of above R 100 million, did your company make use of the normal measures in the Tax Administration Act, such as deferral or remission of penalty & interest provisions?

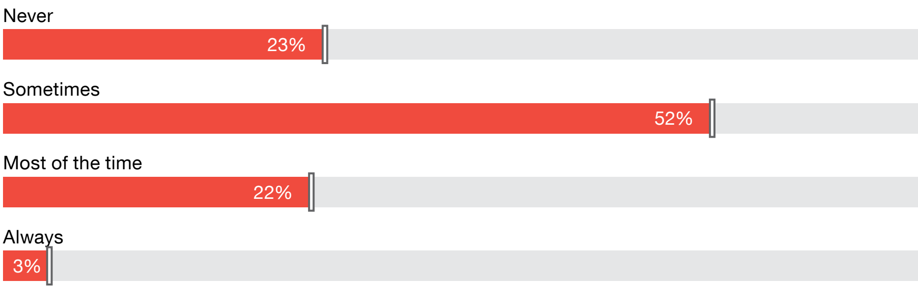


Source: PwC analysis

SARS' service delivery during COVID-19

When asked whether SARS was equipped to handle their company's queries or service-related issues during or after the lockdown, only 3% of respondents said that SARS was 'always' prepared. A further 23% were of the opinion that SARS was 'never' equipped to help them. This is concerning and suggests that SARS urgently upskill its officials to ensure that they are up to date and action requests in line with the COVID-19 related tax measures.

Q: Did you feel that SARS was equipped to handle your queries or service-related issues?



Source: PwC analysis

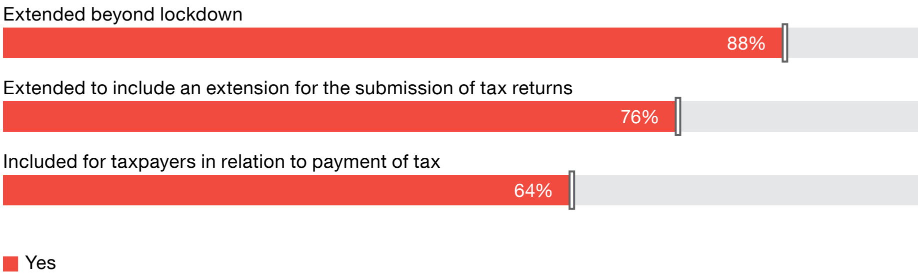
Extension of time frames (dies non)

The TAA deals with various administrative processes, which are subject to specific timelines.
The Disaster Management Tax Relief Administration Bill, 2020, provides for a dies non period (being the 26 March 2020–30 April 2020) which is applicable in respect of selected sections of the TAA. Dies non, means that these days would not be counted for the purpose of calculating the respective administrative time periods.

For instance, the dies non rule will apply to all time periods in respect of dispute resolution provisions as contained in Chapter 9 of the TAA, but does not apply to other provisions such as the submission of tax returns or a response to a request for relevant material under Section 46.

No less than 88% of respondents believe that the dies non should have extended beyond the period provided, and 76% believe that the definition of dies non should have included the time period relating to the submission of tax returns, while 64% also believe it should apply in relation to the payment of tax.

Q: Do you believe that the extension of time period (dies non) should have been…



Source: PwC analysis

Additional feedback from respondents

"All the plans sounded wonderful. We applied for relief in respect of PAYE submissions, but the amount of information requested to qualify, even though the e-filing system automatically adjusted for the deferral, was ridiculous."

"We were looking to SARS and the National Treasury to provide impactful relief. VAT was an area most taxpayers were seeking instant relief on, in line with what other countries did. Instead, SARS made the process onerous and confusing. SARS' measures never seem to take into consideration what is needed or in keeping with its own limitations."

"The information SARS requested for deferrals was burdensome, and SARS did not have the capacity to review it all. From engagement with SARS officials presiding over the request for deferral, it appeared they did not have the capability to assess what they were reviewing. So it was unnecessary all around and could have been resolved through an overall deferral. Sometimes simple common sense is what is needed."

"SARS says it is working to rebuild trust with taxpayers, but judging by the way SARS handled the crisis, it is clear that taxpayers are guilty until proven innocent."

"It's difficult to keep up payments at all as our revenue has completely dried up. We should be able to claim relief for a lot longer than the lockdown period."

"The process of applying for extensions to payment periods/waivers of penalties and interest of PAYE and UIF requires reference to specific items. This duplicates both SARS' and taxpayers' admin burden as a blanket request is not provided. Practically, a taxpayer has to be debited with these charges by SARS before being able to request a reversal. I also found that SARS withdrew monies based on outstanding interest and penalties from taxpayers' accounts and officials I had spoken to prior to the withdrawal were not prepared to consider or listen."

"We overpaid provisional tax during COVID-19. SARS is not taking COVID-19 into account at all to refund the overpayment "

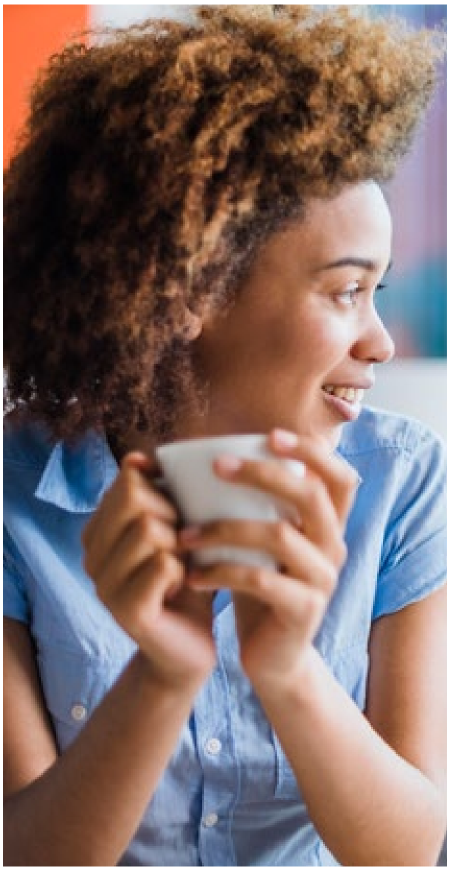
Taxpayer behaviour

Factors driving tax compliance

A better understanding of the behaviours of taxpayers and their attitudes towards taxation can improve both voluntary compliance and the efficiency of tax administration. Evidence suggests that at least four factors drive tax compliance:

- **Deterrence:** The likelihood of getting caught for non-compliance and the threat of punishment.
- **Social norms:** The degree to which non-compliance is socially acceptable.
- **Fairness and trust:** The perception of the tax system and how taxes are collected as being fair as well as the level of trust in government.
- **Complexity of the tax system:** The taxpayers' awareness and level of understanding of their tax obligations and the complexity of the tax system.

This section summarises the responses of corporate taxpayers to questions about these drivers and compares them to previous years' responses.



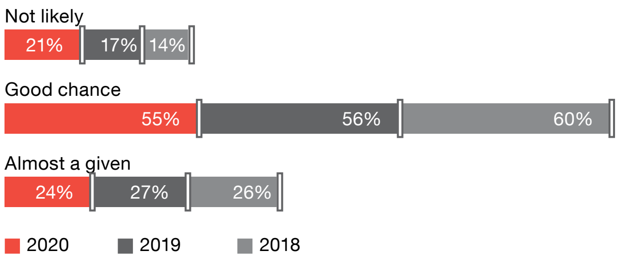
Deterrents

Deterrence, or the act of discouraging non-compliance through the threat of punishment, can raise the costs of tax evasion and thereby dissuade taxpayers from non-compliance. The perceived likelihood of detection, such as through an audit, and the severity of punishment are among the key considerations driving tax compliance behaviour. Thus, revenue services across the world use deterrence to dissuade individuals from tax evasion, by increasing the chances of being found out and the associated negative consequences.

However, while increased audits and more severe punishments are generally associated with increases in tax compliance, these interventions may also backfire if they are too severe and erode taxpayers' trust and sense of fairness in the tax system. A balance is thus required. A recent study based on a meta-analysis of random control trials, shows that deterrence nudges, such as the penalty rate and probability of audit, increase the probability of compliance, though these effects are generally limited to the short-run.[1] The study is based on a meta-analytical framework of over a thousand treatment effect estimates from more than 40 randomised controlled trials.

In our survey, fewer respondents consider there to be a 'good chance' or better that their company will be audited by SARS, compared to previous years. Conversely, the percentage of respondents who considered an audit of their company unlikely has increased over the years from 14% in 2018 to 17% in 2019 and 21% in 2020. There thus appears to be a perception of a reduced likelihood of being audited which could lead to reduced tax compliance or increased tax evasion.

Q: In any given tax year, how likely is it that your company will be audited by SARS?



Source: PwC analysis

1 Antinyan, A. and Asatryan, Z. 2019. Nudging for Tax Compliance: A Meta-Analysis, ZEW Discussion Paper No. 19-055

Social norms

Taxpayers often have a desire to comply because they do not want to be out of line with societal expectations, not necessarily because of fear of punishment. If there is a perception that the majority of fellow taxpayers are compliant, people are more likely to jump on the bandwagon. Reputational risk with regard to tax compliance and how firms are perceived in society have become increasingly important.

Governments can help foster social norms around compliance through public education campaigns around the social contract and the need for taxation. It can also strengthen social norms through messaging with taxpayers. For instance, if people believe that non-compliance is more prevalent than it is in practice, correcting misperceptions regarding the scale of evasion is also a good way to reinforce compliance. Some administrations have used messaging to taxpayers, indicating for example that nine-out-of-ten taxpayers had filed their tax returns in their area in order to increase compliance. In the UK, for example, field experiments showed that messaging from the tax administration with a statement saying that the majority of people had already paid taxes were more effective in motivating tax compliance than standard letters.[2] Similarly, in South Africa SARS has also started communicating in the media and on its website since commencement of the current filing season on 1 August 2020, on the progress of compliance via the auto assessments channels in an effort to communicate its renewed commitment to efficiency as well as to remind taxpayers to submit their returns.

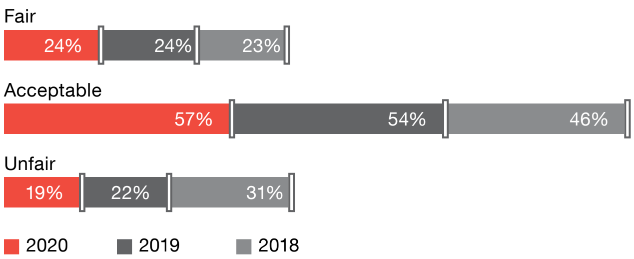
Fairness and trust

Taxpayers' perception of fairness of the tax system and the tax administration as well as trust in the government more broadly are further factors that influence taxpayer behaviour.

How taxpayers are treated by tax administrators and how they perceive tax rates can be highly influential. If taxpayers consider that there is a lack of reciprocity in the tax system and that taxes are too high, this can increase non-compliance.

In this year's survey, 81% of respondents consider rates of corporate taxes to be acceptable or fair. This is more than in 2019 (78%) and considerably more than in 2018 (69%). This may reflect a slightly higher level of conscience among respondents around the need for taxation and government revenue. Current corporate tax rates alone are also unlikely to give rise to evasion.

Q: How fair do you think the corporate tax rates (CIT, VAT etc.) that your company faces are?



Source: PwC analysis

Confidence in the South African government

Beyond the perception of the tax administration and the tax system, confidence in the government more broadly is extremely important as it gains support for compliance, and for minimising avoidance of rules and regulations, especially with regard to taxation. While trust takes time to be earned, it can quite easily be lost. This year we posed the question of how much confidence taxpayers have in government, and the results were split with half saying they have confidence in the government and the other half saying they have no confidence. Only 1% said they have a lot of confidence in the government.

Responsible government spending

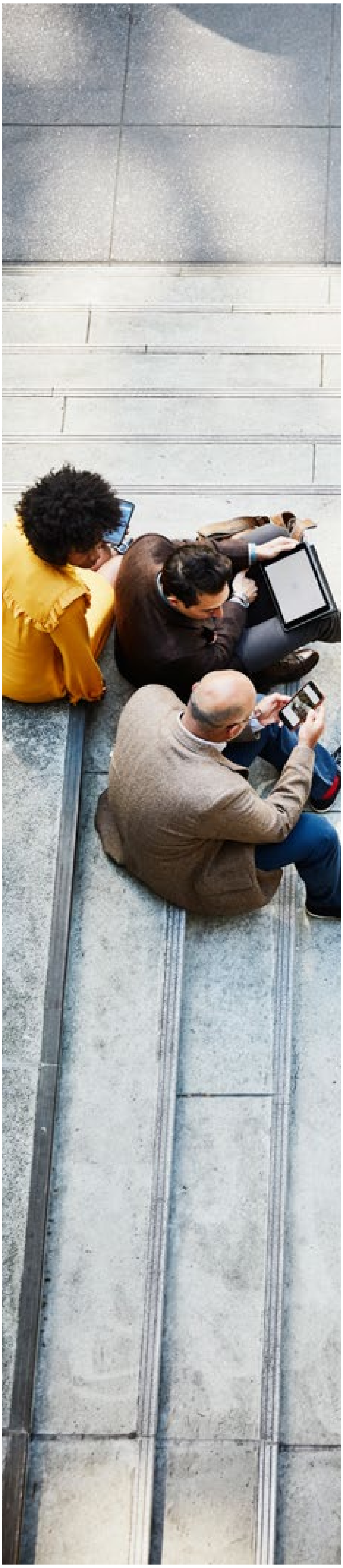
Research has repeatedly shown clear associations between attitudes towards tax compliance and satisfaction with public services and government spending. By contrast, where there is corruption and mismanagement of public funds, taxpayers are less likely to comply.[3]

Our survey results show that this year more respondents considered that their tax payments are effectively deployed than in previous years: 32% compared to 14% in 2019 and 30% in 2018. This points to a particular lack of trust last year from which the government seems to have somewhat recovered.

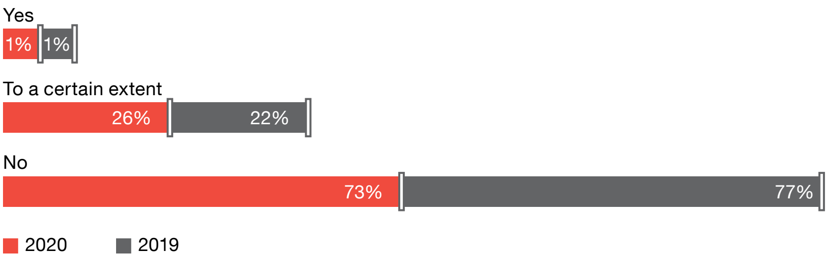
Almost three-quarters of respondents (73%) stated that they are dissatisfied with public infrastructure and services. Although these factors are beyond the tax administration's reach, these drivers will need to be addressed to avoid deterioration in tax compliance. The allocation of funds to develop infrastructure could improve the public's satisfaction.

2 Hallsworth, M., et al., 2017. The behavioralist as tax collector: Using natural field experiments to enhance tax compliance. Journal of Public Economics, Vol. 148, Issue C, pp. 14-31

3 Fjeldstad, O., 2016. What Have We Learned About Tax Compliance in Africa? International Centre for Tax and Development (ICTD), Summary Brief Number 5; Ali, M., Fjeldstad, O.-H. and Sjursen, I.H., 2014. To Pay or Not to Pay? Citizen's Attitudes towards Taxation in Kenya, Uganda, Tanzania and South Africa. World Development 64: pp. 828-42



Q: Are you satisfied with public infrastructure and services (such as health, education, roads, water and sanitation)?



Source: PwC analysis

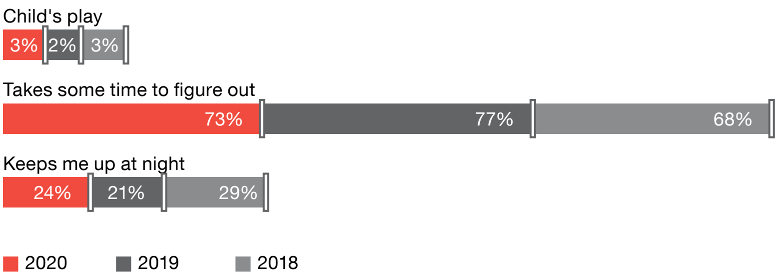
Complexity of the tax system

If complying with tax obligations is complicated and unclear, people will be less inclined to comply and more inclined to make mistakes or evade. Difficulty complying with tax requirements is generally quantified in terms of the number of payments made and time needed to comply with the tax system.

Just about three-quarters of respondents indicated that it takes them some time to figure out the TAA and SARS' processes. This year more responses have indicated that the processes, rather than just taking some time to figure out, keep them up at night (an increase from 21% to 24%). This suggests there might be too much complexity in the tax system and insufficient tools to enable taxpayers to understand the system and TAA better. In SARS' Strategic Plan for 2020/21–2024/25[4] one of the nine objectives that were outlined is to make it easy for taxpayers and traders to comply with their obligations. SARS should consider releasing further Interpretation Notes to assist taxpayers understand the system and TAA better.

In addition to this, more than three-quarters of respondents (77%) report that they use the services of tax advisors or consultants to navigate the tax process with SARS. This may also be a reflection of the complexity of the tax system.

Q: How do you feel about the TAA and SARS' processes?



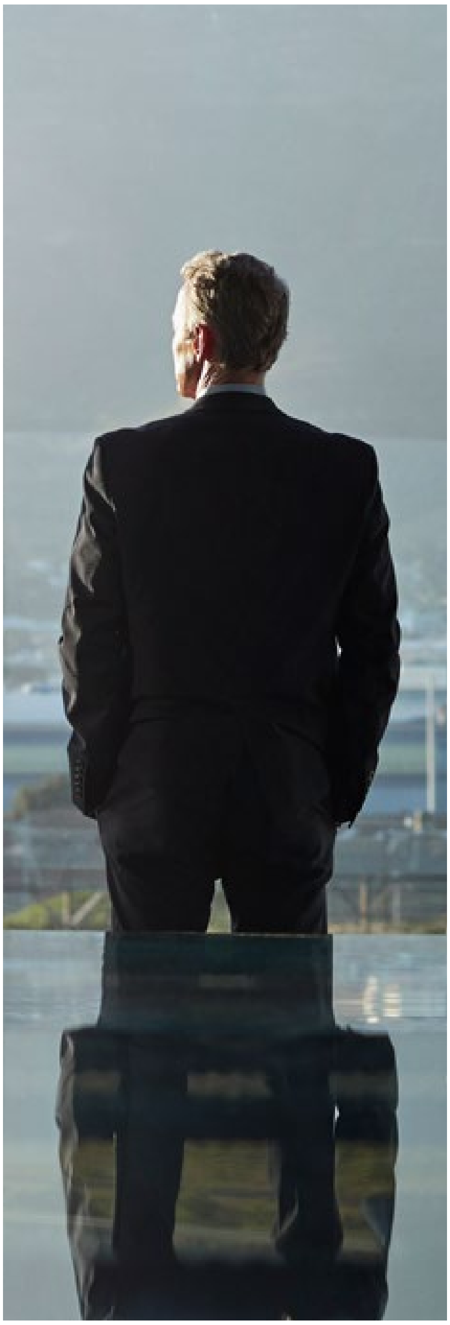
Source: PwC analysis

4 South African Revenue Service, 2020. Strategic Plan 2020/21 -2024/25, p. 23

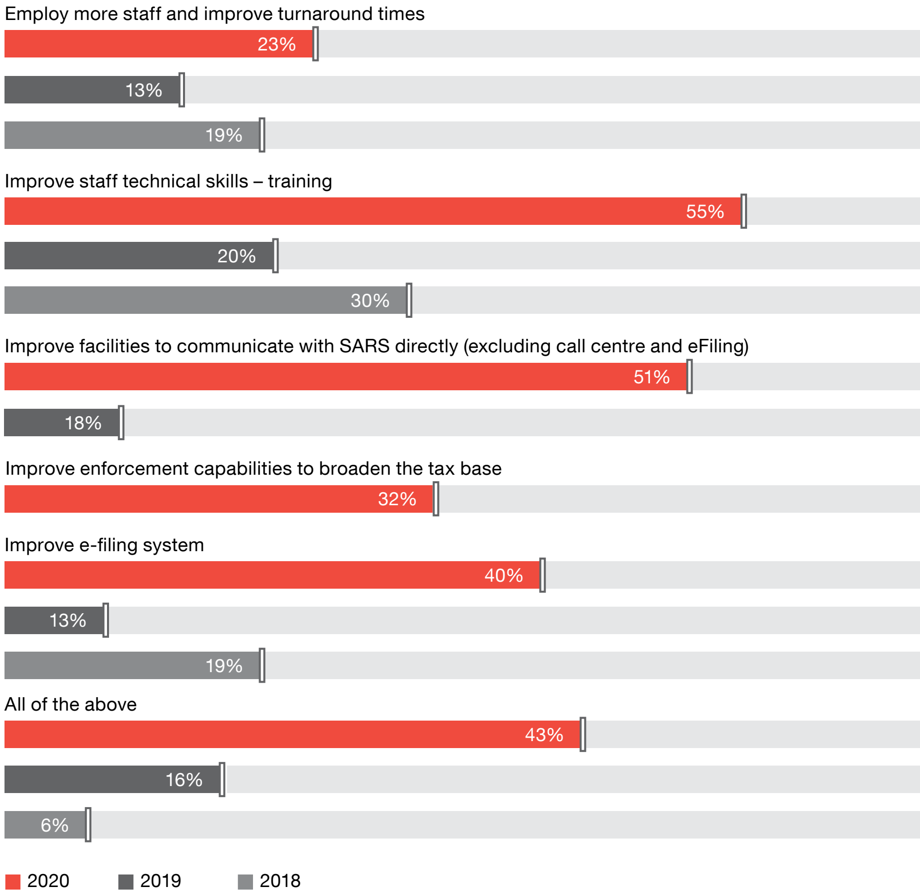
The way forward

Improving services

We asked respondents what they think SARS should do to improve its service to taxpayers. More than half favoured actions to improve the technical skills of SARS’ staff (55%) and improve facilities to communicate with SARS directly (51%), excluding call centre and eFiling. Twenty-three percent of respondents also request improvement in turnaround times and, not surprisingly, 32% favour improving SARS’ enforcement capabilities to broaden the tax base.



Q: What can SARS do to improve its service offering to clients? (Select all that apply)

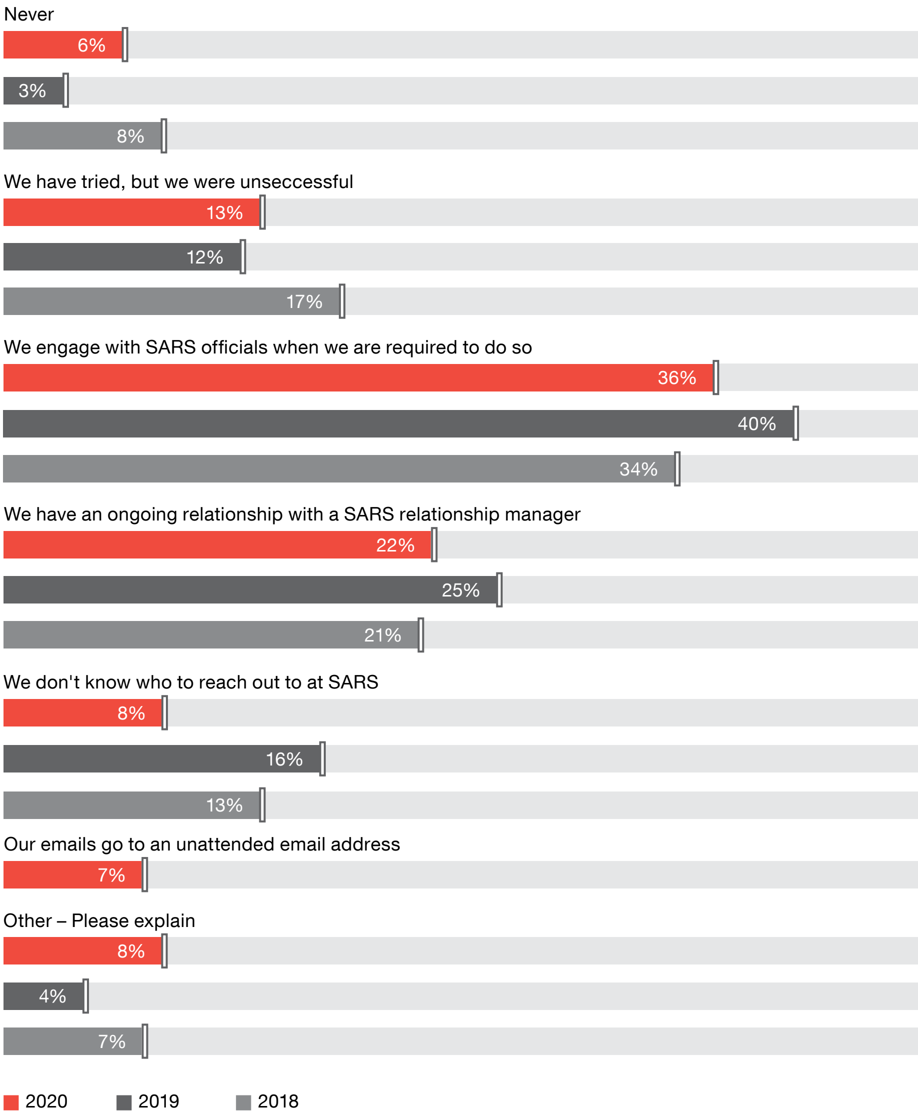


Source: PwC analysis

Engaging with SARS

A sizable proportion (36%) or respondents report that they only engage with SARS when required to do so, while just 22% say they have an ongoing relationship with a SARS relationship manager. More worrying is that 13% say they have tried unsuccessfully to communicate with SARS and 7% say their emails go to an unattended email address. SARS will need to focus on improving its communication strategy with taxpayers to enhance efficiency and compliance.

Q: Does your company actively try to engage with SARS to build an ongoing relationship?



Source: PwC analysis

Additional feedback from respondents

“SARS is a key player in the economy and staff working for the organisation must be highly competent with top notch systems.”

“I live in hope that the new commissioner will deliver SARS back to its former glory.”

“SARS must have more technically equipped personnel to deal with company queries. Legislation is not always clear and requires interpretation of the law.”

“It would be nice to have a direct line to SARS for ad hoc assistance.”

“SARS needs to train and employ more people to assist the citizens of South Africa.”

Improving communication and culture

Sustainable improvement in the tax administration requires better understanding and communication between taxpayers and SARS. The revival of the Large Business Centre is a step in the right direction and better communication coupled with SARS’ new technology improvements should go some way in reducing unnecessary verification and audit steps.

SARS will also be able to operate more effectively if its staff have the necessary technical skills and training, and commit to the values and undertakings of the SARS Service Charter. Only then can meaningful change be achieved.

PwC's tax controversy and dispute resolution services

Key lessons about the tax controversy life cycle

Successfully managing a SARS audit requires (or even regularising a tax position) an understanding of the relevant legislation as well as the policies and procedures that SARS implements. When receiving a final assessment from SARS, it is paramount to ensure that the dispute is comprehensively and timeously filed and that SARS' debt management activities are managed.

PwC assists clients daily with opinions, tax rulings and compliance as well as ensuring that their audit files are audit ready. The golden thread remains to be proactive in any tax submission made to the authorities, or alternatively to consider the tax position before declaring that position to SARS.

Our team of lawyers and accounting professionals are here to help clients prevent, efficiently manage and favourably resolve tax audits and disputes throughout the world. PwC has tax specialists who can assist and support taxpayers during these trying times as we are forced to adapt and reinvent ourselves while living and working through COVID-19. We combine deep technical understanding, local knowledge, strong relationships with government officials, tax litigation experience, and a global perspective to provide you with unrivalled service.

PwC is able to assist with:

- liaising with SARS on a preventative basis, such as assisting clients with tax strategy/opinions, advanced tax rulings, binding rulings as well as VDP applications.
- end-to-end management of tax audits.
- assisting with SARS disputes, i.e. objections, appeals and alternative dispute resolution.
- debt management matters with SARS, including the compromise of debt and settlement as well as instalment payment solutions.

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Notes

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