

What it means to be a third-party agent for SARS

Few employers or employees truly understand what it means when you are nominated by The South African Revenue Service (SARS) as a third-party agent, which often results in a matter that could be resolved speedily lingering unnecessarily and impacting both parties.

In this instance a Payroll professional is in a prime position to help manage the process.

“Your company’s Payroll administrator performs many services that can alleviate a company’s administrative burden,” says Arlene Leggat, a director at the South African Payroll Association (SAPA).

How it works

If a taxpayer fails to submit their returns, or to pay their income tax, SARS will apply penalties every month until their returns are received and all amounts owed are settled.

However, if a penalty is outstanding for over two months, the Tax Administration Act allows SARS to appoint any person, including an employer, to hold money for that taxpayer as SARS’ agent. If nominated as such an agent, that person/organisation will be sent an AA88 Notice showing an amount to be withheld from the employee’s income, which is to be paid to SARS by the due date shown on the form.

It’s important to understand that when you, as an employer, receive an AA88 Notice, you become legally accountable for the payments. Penalties against an employee with unpaid tax will stop, but for outstanding returns penalties will be applied until the forms are submitted. Failure to adhere to the AA88 instruction will result in the agent being penalised for late payment.

A separate penalty will be incurred for each month that the employee fails to submit their tax return. Every three months SARS will accumulate this debt and issue an AA88 to the Employer (Agent). SARS will also regularly send the agent an AA88 Reconciliation Statement showing any paid, cancelled or outstanding amounts for all employees against which an AA88 has been issued.

What Payroll should do

Any Payroll department should be familiar with the entire AA88 system, how to process payments and how to resolve issues of all kinds.

If you’re unable to make deductions, as will be the case if the taxpayer has left your employment, Payroll should inform SARS of this situation immediately, via the @EasyFile system. On receipt of an AA88, Payroll should inform the employee that deductions will be made, ensure they understand their obligation, and assist them with settling their debt promptly.

If the AA88 is for outstanding taxes, Payroll must ensure the employee knows why the deductions are being made to avoid that a sudden cut in pay might be perceived as trickery on the employer’s part and the worker becoming demotivated and unproductive.

If the employee hasn’t submitted their return, Payroll should inform them that penalties will accrue until they’ve done so and explain the process to be followed. If possible Payroll may even offer assistance in completing and submitting such returns. They would require one of their Payroll team to be a registered Tax practitioner in order to do so.

An employee who earns under R350 000 for the tax year isn’t required to submit a tax return. However, mistakes can creep in and penalties are applied in error. If Payroll receives an AA88

Notice that appears to be penalties for late submission (usually increments of R250), they must encourage the employee to take it up this with SARS to resolve as soon as possible

If the deduction will cause the employee financial distress, Payroll should inform the employee that they can reduce the deductions by proving to SARS they cannot afford it. The employee must gather information about their expenses and submit this to SARS. If SARS deems the case valid, it may split the payments into more manageable monthly installments.

Payroll should also keep the employee updated on deductions, especially in the case where unsubmitted returns yield new penalties every month. In this way, the employee can see the dynamics and that their employer is not withholding pay unfairly.

In addition, if any refunds are due to the employee because of double payments, Payroll can inform them of the process to be followed apply for a refund. And if the employee leaves the company or dies, Payroll should apply for cancellation of further AA88s and refunds for any payments made afterwards.

Education

It would be greatly beneficial for any company to send Payroll personnel that are not acquainted with processing AA88s to SARS' free workshops to ensure they have the latest information and requirements at their disposal.

Value-added service

“Make sure your Payroll department isn't only processing AA88 claims endlessly, but providing a value-added service that keeps your workers happy, motivated and productive,” says Leggat. “They should always strive to help employees protect their income and reduce the administrative burden on your company.”

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MEDIA CONTACT: Idéle Prinsloo, 082 573 9219, idele@thatpoint.co.za, www.atthatpoint.co.za

For more information on SAPA please visit:

Website: <http://www.saPayroll.co.za/>

Twitter: [@SAPayroll](https://twitter.com/SAPayroll)

LinkedIn: [The South African Payroll Association](http://www.linkedin.com/company/the-south-african-payroll-association)