



SARS Voluntary Disclosure Programme (VDP)

02 February 2026



South African Revenue Service

Role of VDP on SARS's strategic intent of promoting voluntary compliance.

Making it easy for taxpayers and traders to comply with their obligations

- Easy process makes it easy to remedy past non-compliance for non-compliant taxpayers and traders.
- Finalisation within 90 days upon receipt of required information.
- Acceptance of reasonable estimates when documents are unavailable.
- Collaborative approach to assist taxpayers.

Role of VDP on SARS's strategic intent of promoting voluntary compliance.

Providing Clarity and Certainty

- Secure and confidential environment for regularising tax affairs.
- Binding agreements on tax defaults.
- Provides clarity and certainty for taxpayers and traders
- Taxpayers can interact anonymously with VDP unit
- Non-binding private opinion issued by VDU

Role of VDP on SARS's strategic intent of promoting voluntary compliance.

Stakeholder Engagement and enhancing public trust and confidence

Fostering positive relationships with professional bodies and tax practitioners

Increasing awareness about VDP among stakeholders is essential

Strategic Objectives of VDP

- VDP is an internationally accepted mechanism introduced to provide relief.
- South African taxpayers with tax defaults in respect of any tax types administered under the Tax Administration Act are encouraged to make use of it.
- VDP was introduced for taxpayers who erroneously miscalculated tax or deliberately evaded tax.
- The objectives of the VDP as a product offering of SARS are -
 - To broaden the culture of tax compliance;
 - Increase the taxpayer base;
 - Reduce the tax gap and revenue leakage;
 - Provide certainty to taxpayers regarding their tax affairs.

Principles of the VDP

- Something that has already entered the SARS system / “mind” and which SARS has knowledge of, will not fall within VDP, but should be dealt with i.t.o. the normal SARS processes. Unless under strict circumstances contemplated in section 226(2);
- Disclosure must be ***full and complete in all material respects*** and information withheld that is deemed material renders the application invalid;
- Taxpayers are expected to remain compliant after finalisation of the VDP, hence the limitation of 5 years for disclosures with ***similar defaults***;
- Disclosure must be ***in the interest of the fiscus***.

Benefits of the VDP

- ❑ Section 229 of the Tax Administration Act; SARS must:
 - Not pursue criminal prosecution for a tax offence arising from the 'default',
 - Grant relief in respect of any understatement penalty referred to in column 5 or 6 of the understatement penalty percentage table in section 223 and
 - Grant 100 per cent relief in respect of an administrative non-compliance penalty imposed under Chapter 15 or a penalty imposed under a tax act, excluding a penalty imposed for the late submission of a return
- ❑ Information, including the VDP01 Form and supporting documents submitted via the VDP process are not shared with any other division within SARS.

Introduction of Voluntary Disclosure Programme – Customs and Excise

Following requests from stakeholders, the Minister of Finance announced proposed legislative amendments in Annexure C of the 2025 Budget Review to provide for a Customs and Excise Voluntary Disclosure Programme.

The legislation involves the insertion of a chapter on Voluntary Disclosure Relief in the Customs and Excise Act 91 of 1964.



ubuntu
(n.) "I am what I am because of who we all are"
compassion, kindness and humanity that connect
us together by sharing ourselves with others
and caring for those around us

VDP Technical Concepts and Court cases



Who may apply for VDP?

- Individuals
- Companies and / or
- Representative of such individual or company
- A **person** who is not given notice of commencement of audit or criminal investigation

Exceptions:

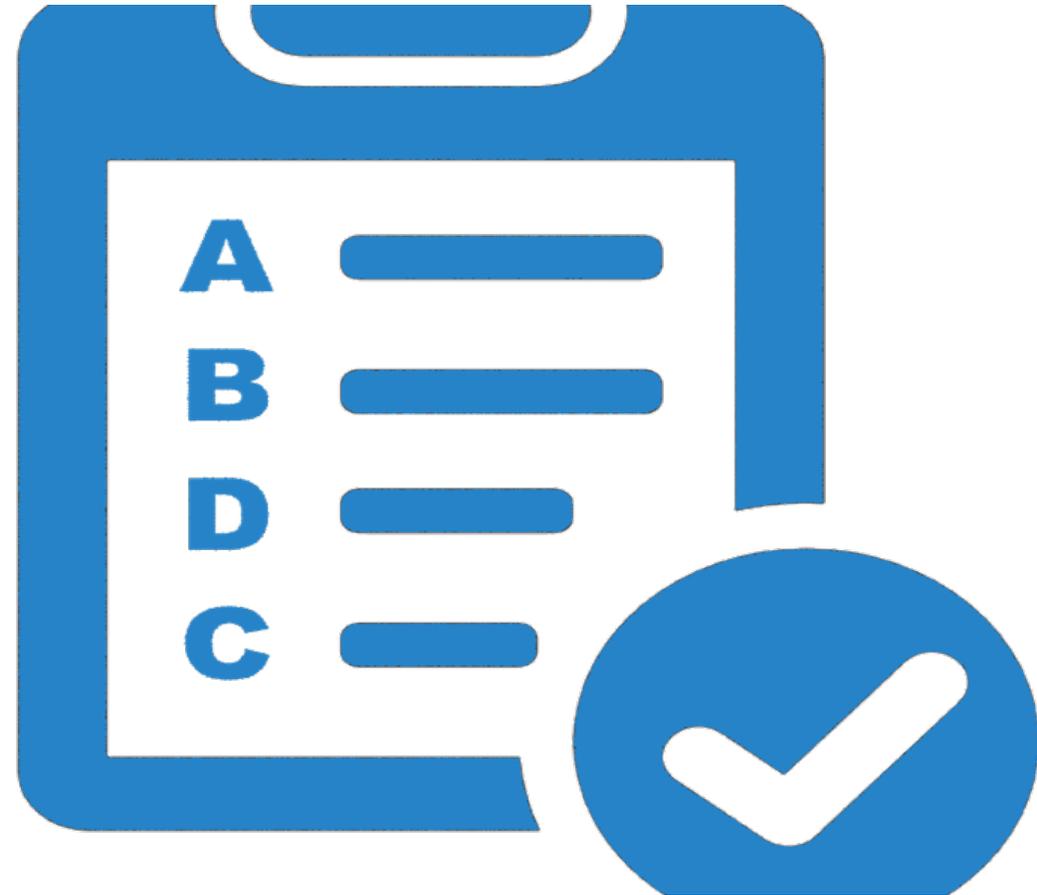
- A senior SARS official may direct that a person under audit / investigation may still apply, under certain circumstances

NB:

- Where the taxpayer does not have proper records; a reasonable estimate will be accepted

Requirements for Valid VDP

- Section 227 must be met
- The declaration of a default must be voluntary
- The default being disclosed must not be similar to another default previously disclosed in the last 5 years
- Full and complete disclosure of all material respects
- The default must involve a behaviour listed under the understatement penalty percentage table in section 223 of the TA Act
- The declaration must not result in a refund due to the taxpayer
- The application must be made in the prescribed form and manner



VDP Concepts – ‘Default’

- For purposes of the VDP, a default is –
 - the submission of inaccurate or incomplete information to SARS;
 - the failure to submit information; or
 - adoption of a ‘tax position’.
- For purposes of Chapter 16, the term “tax position” is defined in section 221 as an assumption underlying one or more aspects of a tax return, including whether –
 - an amount, transaction, event or item is taxable;
 - an amount or item is deductible or may be set-off;
 - a lower rate of tax than the maximum applicable to that class of taxpayer, transaction, event or item applies; or
 - an amount qualifies as a reduction of tax payable.
- The default must result in an understatement, i.e. a shortfall or a tax prejudice to SARS.

Concept “disclosure”

The term “disclosure” is not defined in the TA Act. The Cambridge English Dictionary defines “disclosure” as –

- “to make something known publicly, or to show something that was hidden”.
- To disclose something involves the act of making something known that was hidden.

The word “disclosure” was considered in *Reed v Minister of Finance and Others* (High court case no 30832/15) and the judge stated that: “it means to open up something closed or folded up..., If somebody knows something then it is difficult to see how, without straining language into incomprehensibility, another person can “disclose” the thing known to the first person.

Determining whether something is (disclosable) is not a subjective matter but is purely objective – “does the person have knowledge of the thing or not; if not, it can be disclosed, if yes it cannot be disclosed.”

In this case, the taxpayer was aware that SARS was looking into his tax affairs and made a VDP application subsequent to this fact becoming known. It was held that the taxpayer had not disclosed in the application to SARS anything that SARS was not aware of.

VDP Concepts – “Voluntary”

The entire Programme is based on the voluntary disclosure of a default by an applicant. The meaning and understanding of “voluntary” is of utmost importance.

The word “voluntary” is not defined in the TA Act. The Cambridge English Dictionary defines “voluntary” as –

- “done, made, or given willingly, without being forced or paid to do it”.
- Section 227(a) requirement.

In *Purveyors South Africa Mine Services (Pty) Ltd v CSARS* the court considered whether the application made by the taxpayer was “voluntary” for purposes of section 227(a).

VDP Concepts – “Voluntary” continued..

Both the High Court (Case no 61689/2019) and the Supreme Court of Appeal (SCA 135/2021) agreed with SARS’ argument that the taxpayer’s application was not “voluntary” based on the following reasons –

If there is an element of compulsion underpinning a particular act, it is no longer done voluntarily.

It was submitted that the application was brought in fear of being penalised and with a view to avert the consequences referred to.

The term “voluntary” under section 227 is not limited to the provisions relating to Audit/Investigation under section 226(2)

VDP Concepts – “Voluntary” continued..

Example – New Registration vs Outstanding Returns:

- If a liability for tax is triggered by the registration for the tax type, the taxpayer may approach the Voluntary Disclosure Division for guidance on the submission of a voluntary disclosure application as part of the registration process.
- For the application to be regarded as valid, it must be submitted within a reasonable timeframe from the date after which the taxpayer has registered for the applicable tax type. In general, the Voluntary Disclosure Division allows a timeframe of 21 business days or a month from the date of registration for the tax type.
- Outstanding returns do not meet the VDP requirements and must be regularised through SARS normal process.

Court Case: *Medtronic*

Interest is not provided for under the VDP relief provisions and is reflected on the VDP agreement.

Background: Applicant requested for remission of interest i.t.o. S 39(7) of the VAT Act after concluding a VDP agreement;

- SARS responded to the Applicant that it could not consider the request for the remission of interest due to the binding legal agreement between the two parties;
- SCA held that in accordance with the principles of the law of contract, the provisions of Part B of Chapter 16, do not permit a taxpayer who has entered into an agreement to seek a remission of interest and to hold otherwise would undermine the legal consequences attached to the conclusion of such agreement.

In a unanimous **Constitutional Court judgment**, held that, on a proper interpretation, the TAA does not permit remission of interest. Interest is an integral component of a VDA. Remitting it would undo the agreement itself.

Further, VDP is a self-contained legislative provision. An interpretation that permits such remission undermines the principle that agreements must be honored.

Service Charter Commitments

SARS strives to ensure that it meets its Service Charter measures in relation to VDP by ensuring:

- Allocation of 9 out of 10 applications within 30 business days of receipt thereof.
- Finalise 9 out of 10 applications within 90 business days where all requested documents have been received unless alternative arrangements are communicated.

Tips

1

VDP applications are made via eFiling - Ensure that you have received an acknowledgement of your application 48hrs after application, if not contact the Voluntary Disclosure Division;

2

The taxpayer and the representative taxpayer must both be registered on eFiling and the representative taxpayer must be linked to the tax types and profiles of the taxpayer;

3

If unsure whether your application will qualify for relief, you may request a non-binding private opinion on a no name basis;

4

Provide information or supporting documents relevant to the default disclosed;

5

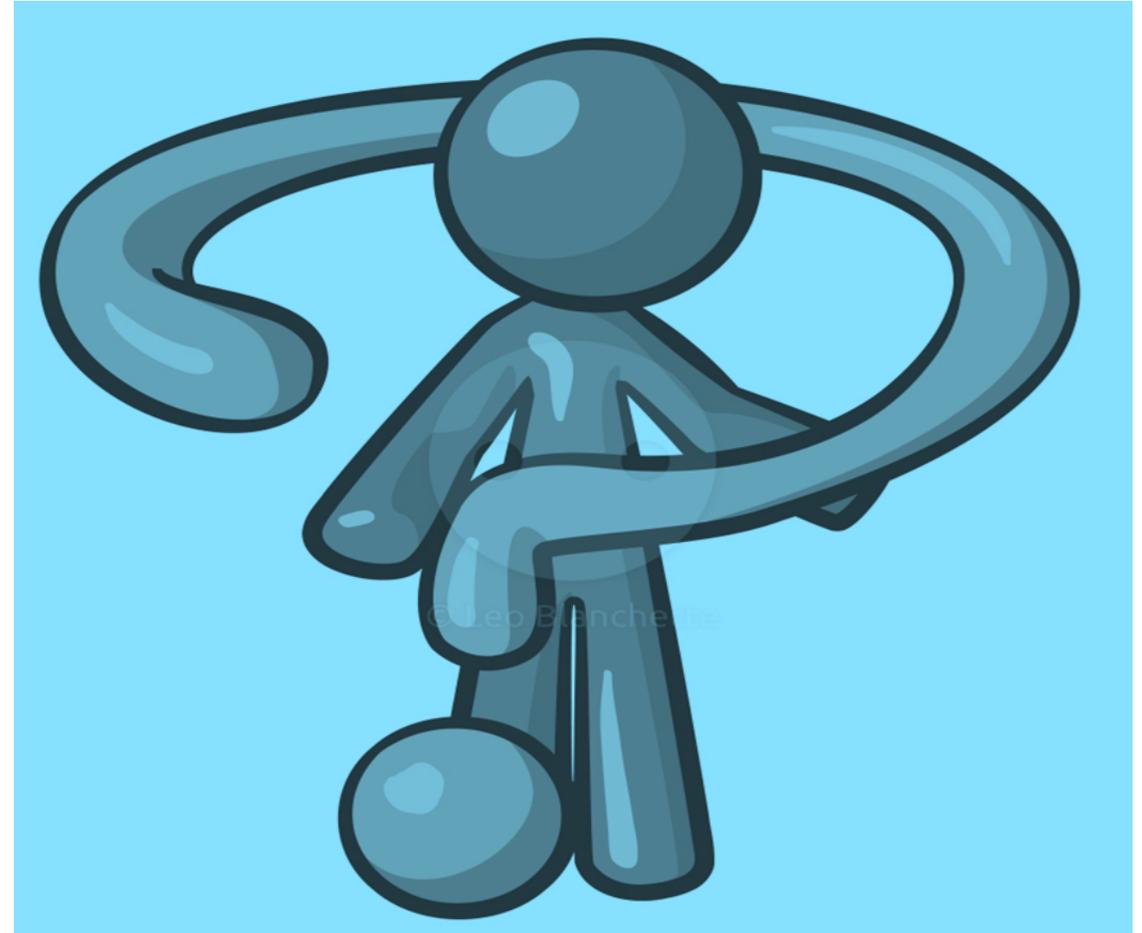
SARS may accept reasonable estimates where default goes beyond prescription period;

6

Determine the affordability of the full estimated tax debt before applying for VDP;

VDP Queries

- VDP related queries may be directed to VDP mailbox: vdp@sars.gov.za or by VDP Division toll free line **0800 864 613**
- Refer to the External Guide-Voluntary Disclosure Programme or visit VDP portal for more information and FAQs.





Thank you

Siyabulela

Siyabonga

Siyathokoza

Dankie

Re a leboga

Re a leboha

Ro livhuwa

Ha khensa