

CASE STUDIES

THE OFFICE OF THE TAX OMBUD CONTINUES TO EDUCATE TAXPAYERS AND TAX PRACTITIONERS ABOUT ITS MANDATE AND SERVICES, AND OFTEN USES EXAMPLES TO SHOWCASE THE TYPE OF COMPLAINTS RECEIVED AND HOW THEY ARE DEALT WITH AND RESOLVED. BELOW ARE TWO CASES RECEIVED AND RESOLVED AS THEY FALL WITHIN THE OTO MANDATE.



TAXPAYER COMPLAINT

The taxpayer lodged a complaint in respect of VAT refunds for nine periods that SARS had failed to pay out timeously. Out of the nine periods, the taxpayer lodged five objections disputing the assessments; three were allowed in full and the refund was allocated to other periods still under dispute, while two were still in progress when the investigation was concluded. Further, the refunds for two periods were allocated to other periods which were also under dispute; one period was selected for verification and a refund was paid out in respect of one period. At the time when the taxpayer lodged objections, a request for suspension of payment was also submitted and was granted by SARS.

REASON FOR ACCEPTING A COMPLAINT BY THE TAX OMBUD

The taxpayer advanced compelling (convincing) circumstances,

which the OTO review committee found compelling and the matter was accepted on that basis. Further, SARS erred by doing a debt equalisation when there was a standing suspension of payment of the debt and the suspension had not been revoked. Due to the debt equalisation that was done by SARS even though suspension of payment was in place, the refund that the taxpayer had been expecting was significantly reduced.

RECOMMENDATION TO SARS

SARS was requested to reverse all the debt equalisation journals and to pay out the refund to the taxpayer. SARS accepted that the complaint was valid and acknowledged that it had taken the Audit division a substantial amount of time to issue revised assessments after the objections had been allowed and after the audit had been finalised. SARS subsequently refunded the credit back to the taxpayer.



TAXPAYER COMPLAINT

The taxpayer lodged a complaint with regard to an outstanding income tax refund for the 2016 year of assessment. In the course of reviewing the complaint, it was established that there was no refund due to the taxpayer as SARS had raised an additional assessment. The taxpayer then lodged an objection which SARS disallowed; an appeal was subsequently noted in November 2016 and the matter was still not finalised. The Tax Ombud Operational Specialist working on the matter contacted the taxpayer for clarity about the complaint and the desired resolution. It was established that the taxpayer wanted SARS to deal with the appeal as he believed that once the appeal was finalised he would be due a refund.

REASON FOR ACCEPTING THE COMPLAINT BY THE TAX OMBUD

The complaint was accepted as it was an identified systemic issue, “Non-adherence by SARS of the dispute resolution turnaround times”.

RECOMMENDATION TO SARS

SARS was then requested to urgently engage the taxpayer in order for both parties to finalise the matter as the 90 days prescribed by the rules had elapsed and there was no record of any agreement reached by the parties as to an extension of the dispute resolution period.



NOTICE

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