



# Fairness **for all**

The Tax Season is upon us, and as per tradition, the OTO expects an influx of complaints from taxpayers. Some of the issues might seem small but have serious financial implications for taxpayers. The case below involves SARS delaying finalising the verification of a VAT period which subsequently led to a delay in the verification and finalisation of a tax refund.

## **Tax Ombud secures refund of R3 million**

This tax case details a complaint that saw the OTO's intervention to secure the payment of over **R3 million** in tax refunds.

### **Background**

### **What was the tax complaint?**

The complaint against SARS was for their delay in finalising the verification of the 02/2021 VAT period, therefore delaying the payment of a possible refund to the Vendor. SARS repeatedly requested the same documents which led to the delay in finalising the verification and processing of the refund.

## Findings

### Who was at fault?

The Vendor submitted their supporting documents for verification of the 02/2021 VAT period on 13 April 2021. This was more than 21 business days (40 calendar days) since the first batch of documents was submitted to SARS. The subsequent submissions contained the same documents that the Vendor would have submitted whenever there was a follow-up. SARS failed to finalise the case within the prescribed period, therefore delaying the payment of a possible refund to the taxpayer.

The Tax Ombud accepted the case as the complaint raised an identified systemic issue as contemplated by Section 18(5)(a) of the TAA in that SARS delayed the finalising of the verification in respect of the 02/2021 VAT period therefore delaying the payment of a possible refund.

## Recommendations

### What should happen?

It was recommended that SARS finalise verification of the 02/2021 VAT period and release the refund if applicable.

## Resolution

### What was the outcome?

The verification of the 2021/02 VAT assessment was finalised on 8 June 2021, and a refund of **R3 102 709.76** was paid to the Vendor on 9 June 2021.

No interest was paid as the refund was immediately released after SARS finalised the verification.



## Conclusion - Important lesson

SARS has 21 business days to finalise the verification of an assessment. If this time frame not adhered to by SARS, then they are in contravention of the service charter. However, taxpayers should note that the 21 business day period only starts from the date the taxpayer submits all the documents requested by SARS in respect of the verification. Should the same documents be requested by SARS after submitting the first batch, SARS is delaying the process. The taxpayer can approach the Tax Ombud unless SARS requests additional documents or new information not previously submitted.

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