



Fairness **for all**

We are in the middle of the tax season, with taxpayers filing their tax returns and some experiencing challenges with the revenue collector. One of these challenges involves SARS taking money from taxpayers' bank accounts through a process called Third Party Appointment (TPA). In many instances, this process is done correctly, but there are also times when SARS takes money without following proper procedures or takes more than the law permits.

The case below, in which the Office of the Tax Ombud intervened, involves SARS issuing a TPA for an amount far above the amount that the taxpayer owed.

SARS unlawfully claimed from taxpayer's bank account

Background

What was the tax complaint?

The complaint relates to a request for SARS to reimburse **R895 143.00** recovered from a taxpayer's bank account through a Third Party Appointment. This was over eight times more than the amounts reflected on Notices of Final Demand sent by SARS and resulted in financial difficulties for the taxpayer in running the business.

Findings

Who was at fault?

SARS issued Notices of Final Demand on 25 February 2021 and 11 March 2021 for **R49 069.41** and **R52 866.69**, respectively. After that, the revenue collector issued a TPA on 19 March 2021 to Absa Bank for **R895 143.00**, which was recovered from the taxpayer's bank account on 26 March 2021.

The amount recovered did not correspond with the amount due on the Notice of Final Demand dated 11 March 2021. Furthermore, in email correspondence on 30 March 2021, the taxpayer queried the **R895 143.00** recovered by SARS and explaining the financial hardship the business was experiencing since an overdraft had to be requested from the bank as a result of SARS having taken more money than it should have.

The OTO noted that the taxpayer had outstanding returns, debit and credit amounts in the VAT account, but could not find any confirmation that the amount reflecting on the Third Party Appointment and paid to SARS was in fact owed as a tax liability.

The OTO accepted the case on the basis that SARS appeared to have incorrectly issued the TPA.

Recommendations What should happen?

The OTO recommended that SARS withdraw the Notice of Third Party Appointment issued for **R895 143.00** and reimburse the taxpayer this amount since the Notice of Final Demand issued on 11 March 2021 reflected **R52 866.69**, or to provide valid reasons for not doing so.

Resolution What was the outcome?

The OTO's intervention secured the return of **R895 143.00** into the taxpayer's bank account on 6 June 2021.



Conclusion - Important lesson

Taxpayers are only required to pay what is due and not a cent more or less. In instances where SARS issues a TPA for monies not due, taxpayers can lodge complaints with the OTO if they are unsuccessful in obtaining refunds from SARS.

NOTE: TAXPAYER'S DETAILS WITHHELD FOR CONFIDENTIALITY REASONS.

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