



## OTO IDENTIFIES A **NEW SYSTEMIC ISSUE**

The OTO has discovered a previously unidentified issue relating to SARS repeatedly conducting verifications that could be contributing to delays in the revenue authority finalising assessments. This issue was found during an analysis the OTO has been conducting to determine possible root causes of certain delays in paying out refunds, specifically in cases where SARS was not finalising verification cases within 21 days.

It is important to note that SARS has the right to select a taxpayer for an audit, verification or inspection on a random or a risk assessment basis in terms of section 40 of the Tax Administration Act (TAA). This also gives SARS the power to conduct multiple audits, verifications and inspections on a specific assessment period of a taxpayer. However, during the monitoring process, it was noted that there are repeat verification cases which the OTO believes are inappropriate and are a waste of SARS's resources.

The identified repeat verifications are as follows:

- SARS issues a reduced assessment to give effect to the outcome of a dispute; and
- SARS conducts repeat verifications with the same risk and same requested supporting documentation.



## WHAT IS A **SYSTEMIC** ISSUE?

The Office of the Tax Ombud describes a systemic issue as a matter that can be regarded as the underlying cause of a complaint that affects many taxpayers in the tax system. These systemic issues may arise due to how specific South African Revenue Service (SARS) systems function, how SARS's policies, practices or procedures are drafted and implemented, or even how legislative provisions are applied or disregarded.

A systemic examination arises when an issue is identified that may impact many taxpayers or a population segment. The OTO conducts reviews of the individual service complaints and telephone calls received to identify possible trends. Taxpayers can also submit matters they believe are systemic. [Click here](#) for more info.

The following two cases illustrate the circumstances of these inappropriate verifications.

### Case 1:

#### **A verification case as a result of SARS issuing a reduced assessment to give effect to the outcome of a dispute**

According to section 100(1)(c) of the TAA, an assessment becomes final and conclusive after an objection has been decided on, provided no notice of appeal is lodged or if a notice of appeal is lodged and subsequently withdrawn. During the monitoring process, it was noted that verification cases were created after SARS had finalised disputes in taxpayers' favour and revised the assessments accordingly. These cases are flagged for the same issues addressed in the disputes.

For example, a taxpayer's 2021 income tax assessment was issued and selected for verification on 30 June 2021. The verification was finalised, and an additional assessment was issued on 21 July 2021. SARS revised the PAYE credit, indicating that no bank statements or payslips were submitted during the verification. The taxpayer submitted an objection on 22 July 2021, disputing the disallowance of the PAYE credit and submitting the required documentation. The objection was allowed, and the reduced assessment was issued on 10 August 2021. The reduced 2021 assessment was then selected for verification on 11 August 2021. The verification was finalised on 2 February 2022, and the PAYE credit was again disallowed. SARS furthermore indicated that bank statements were not provided.

An objection against the disallowance of the PAYE credit was submitted on 10 February 2022. The objection was again allowed on 23 February 2022, and the reduced assessment was issued. This reduced assessment was selected for verification on 24 February 2022, and the verification was finalised on 23 March 2022 with no adjustments. All the repeat verifications after the allowance of the objection resulted in the 2021 income tax refund of **R11 985** only being paid out on 26 March 2022.

In the above case, a reduced assessment that was issued to effect the outcome of an objection was again referred for verification with the same risk as in the original verification case. This should not be the case, as the assessment is deemed final and conclusive in terms of section 100(1)(c) of the TAA.

## Case 2:

### A repeat in the verification of cases with the same risk and the same supporting documentation being requested

The OTO suspects that there might be a challenge with the SARS system, resulting in the same assessment continually being referred for verification once a verification case is finalised without changes. This was illustrated in the case study featured in [edition 13 of Fairness for all](#).

SARS kept referring to the same risk for verification once the verification case was finalised without an adjustment. This causes delays in taxpayer refunds being paid out and places additional strain on SARS resources, especially during filing season. This can also result in delays with other verification cases.

## STATUS OF THE SYSTEMIC ISSUE

The delay in finalising verification cases within 21 days was classified as systemic in nature on 19 April 2022, and formal recommendations on how the issue may be resolved were also issued to SARS on 20 April 2022.

## Lesson learnt

While the OTO has worked tirelessly with SARS to address many underlying issues that lead to tax complaints, similar complaints sometimes emerge, including repeated verifications.

Taxpayers are encouraged to lodge complaints if they believe the reasons given for repeat verifications are not justifiable.



**NOTE: TAXPAYERS' DETAILS WITHHELD FOR CONFIDENTIALITY REASONS.**

Follow the OTO on the following social media channels and be part of an important dialogue in the country on tax matters:



@TaxOmbud



TaxOmbud SA



@TaxOmbud SA



Office of the  
Tax Ombud

[www.taxombud.gov.za](http://www.taxombud.gov.za)

If you have a QR code  
reader app on your  
mobile, scan to visit:



### Notice

This newsletter is published monthly. Please send your feedback on the newsletter and the types of cases featured to [PSeopela@taxombud.gov.za](mailto:PSeopela@taxombud.gov.za) or [Communications@taxombud.gov.za](mailto:Communications@taxombud.gov.za).

### Copyright Notice And Disclaimer

The information provided in this document is protected by applicable intellectual property laws and may not be copied, distributed or modified for any purpose without the explicit consent of the Tax Ombud. The information was correct at the time of publication but may have subsequently changed. This newsletter is for information purposes only and cannot be considered to be a legal reference. The use of this information by any person shall be entirely at that person's discretion. The Office of the Tax Ombud does not expressly or by implication represent, recommend or propose that services referred to in this document are appropriate to the needs of any particular person. The Tax Ombud does not accept any liability due to any loss, damages, costs and expenses, which may be sustained or incurred directly or indirectly as a result of any error or omission contained in this newsletter. The information does not supersede any legislation and readers who are in doubt regarding any aspect of the information displayed in the newsletter should refer to the relevant legislation, or seek a formal opinion from a suitably qualified individual.