



## #TaxpayersRightsMatter

# SARS DELAYS IN REFUNDING MONEY

The Tax Filing season began on 1 July 2022 and has become synonymous with taxpayer complaints regarding delays in paying tax refunds and other monies sometimes unjustly collected from taxpayers. The case below illustrates one of the challenges faced by taxpayers: the South African Revenue Service (SARS) received an erroneous overpayment due to a Third Party Appointment (TPA) and only paid the refund almost a year later.

## Background Facts

The complaint was about SARS's delay in paying a refund to a taxpayer.

On 22 June 2021, SARS issued a final demand to the taxpayer for a tax debt duly payable. Three weeks later, on 16 July 2021, SARS issued a second final demand reminder for the tax debt. On 26 July 2021, the revenue collector issued a TPA for **R47,248.44** to the taxpayer's bank. A second TPA for the same debt was issued again on 30 July 2022. The bank correctly paid over **R47,248.44** to SARS on 04 August 2021 in line with the first TPA. Unfortunately, the bank also paid an amount of **R41,400** on 13 August 2021 in discharge of the second TPA that was issued. This payment was in error because the tax debt had already been paid in full.

On 14 August 2021, SARS's system placed a stopper on the Income Tax account. This stopper prevented the overpayment not being refunded to the taxpayer. On 30 August 2021, the taxpayer lodged a complaint with the SARS Complaints Management Office (CMO) demanding a refund. On 22 September, SARS lifted the stopper, but requested the taxpayer to file an overdue return for the 2020 tax year. The CMO then closed the complaint without SARS paying the refund.

The taxpayer proceeded to file the 2020 income tax return on 9 November 2021. In February 2022, the taxpayer filed the income tax return for the 2021 year of assessment, which had also become overdue by that time. However, the refund for the erroneous overpayment had still not been paid. On 24 May 2022, the taxpayer lodged a complaint with the OTO. The OTO investigated the complaint and recommended on 31 May 2022 that SARS finalise the outstanding follow-up approval on the account and pay out the refund or provide valid reasons for not doing so.

## Resolution

On 4 June 2022, SARS paid the refund for the erroneous overpayment as well as the refund created by the 2021 declaration.

## Lessons learnt

The OTO appreciates that under the relevant legislation, SARS may refuse to authorise payment of a refund if a return is outstanding. However, this is a discretionary decision. It is debatable if SARS acts reasonably if it refuses a refund under circumstances where that refund resulted from a third party acting on a SARS instruction in the collection process after the debt was already satisfied. That said, taxpayers must ensure that all their tax matters are up to date and compliant. As is apparent in this matter, outstanding returns could result in delays in the payment of tax refunds.

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