

## TAXPAYERS ARE STILL EXPERIENCING DELAYS WITH REFUNDS



Delays in the payment of tax refunds continue to affect taxpayers. This is despite the Tax Ombud identifying certain root causes of the delays as systemic issues – meaning problems that are regarded as the underlying cause of a tax complaint that affects or will affect a number of taxpayers.

The Tax Ombud has also made recommendations to the South African Revenue Service (SARS) on how best to address the issue of delayed refunds.

In the case described below, we found that the delays a taxpayer was experiencing did result from a systemic issue. The OTO then protected the rights of the taxpayer concerned and helped ensure the refunds due were paid.

### BACKGROUND

The complaint relates to a delay by SARS in paying the taxpayer an expected income tax refund of **R70 886**. The reason put forward by the revenue collector for the delay was that there was an outstanding debt on the administrative penalties account.

### FINDINGS

The OTO investigated the complaint and discovered that the administrative penalty account of the taxpayer reflected a liability of **R22 500** for the taxpayer. This was due to the late filing of the 2007 to 2014 income tax returns, which were filed on 1 April 2022.

On the other hand, the assessed account of the taxpayer reflected a refund of **R93 386**.

Various objections were lodged on 19 July 2022 after SARS partially allowed the request for remission of administrative penalties. As the taxpayer had not submitted a request for suspension of payment, SARS could therefore have taken the simple step of equalising the debt and paying out the remaining refund.

On 6 August 2022, SARS indicated that part of the refund would be offset against the administrative penalty and the rest would be paid out. However, the revenue authority

### MORE ABOUT REFUNDS AS A SYSTEMIC ISSUE

In the 2021/22 financial year, the OTO again assisted taxpayers in securing their refunds. The value of the top ten refund cases where the OTO intervened to assist taxpayers to have the refunds paid out was over **R215 million**. The case here illustrates another matter where OTO protected the rights of a taxpayer, helping ensure refunds due were paid.

[Read more about the systemic issues on our website.](#)

then failed to finalise the debt equalisation and objections, and did not pay out the refund.

The taxpayer therefore lodged a complaint with the OTO on 30 January 2023. The OTO accepted the complaint on 6 February 2023.

### WHY THE OTO ACCEPTED THE COMPLAINT

The OTO accepted the taxpayer complaint as two systemic issues applied. These were SARS's delay in the lifting of stoppers and its non-adherence to the dispute resolution timeframes.

### CONCLUSION

The OTO recommended that SARS should finalise the debt equalisation and pay the refund to the taxpayer. Accordingly, the revenue collector implemented the OTO's recommendation and finalised the debt equalisation.

Furthermore, the objections were finalised on 8 March 2023 (objections were partially allowed). SARS paid out the remaining refunds by 11 March 2023.

### LESSON LEARNT

When the root cause of a taxpayer's complaint has been listed as a systemic issue, taxpayers do not have to exhaust the SARS internal complaints resolution mechanism and can lodge a complaint directly with the OTO.

For example, you can approach us directly when a delay in the payment of tax refunds is due to SARS omitting to lift a stopper placed on the account. Other examples are when SARS fails to finalise a single period verification within 21 days, or commences with recovery steps even though a request for suspension of payment has been submitted to it.

However, it is essential to note that before deciding on your complaint, the OTO will evaluate it to ensure that an identified systemic issue is applicable.

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