

OTO HELPS CANCEL TAXPAYERS' TAX PENALTIES



PENALTY

Many taxpayers are unaware that they have a right to approach the South African Revenue Service (SARS) and request remission of administrative penalties. Although SARS has many options for dealing with such requests, including allowing, partially allowing or disallowing requests, the revenue collector must respond within a reasonable time. The case below, a rare complaint lodged with the Office of the Tax Ombud (OTO), details a taxpayer's request for remission of administrative penalties.

SUMMARY OF COMPLAINT

The complaint relates to a taxpayer's request to SARS for remission of administrative penalties (R34 750) for the 2010, 2011, 2013 and 2018 income tax returns. The request was submitted on 16 January 2023.

FINDINGS

SARS did not respond to the request within the turnaround time of 21 business days, and the taxpayer lodged a complaint with the revenue collector's Complaints Management Office (CMO) on 26 April 2023. When the CMO did not finalise the complaint within the turnaround time of 21 business days, the taxpayer followed up on the complaint on 29 May and again on 5 June 2023. On 15 June 2023, the taxpayer lodged a complaint with the OTO.

RECOMMENDATION

The OTO recommended that SARS finalise the request for remission application.

RESOLUTION

SARS finalised the request for remission of penalties, allowed the request, remitted the penalty and issued an outcome letter on 10 July 2023.

LESSON LEARNT

Taxpayers are entitled to apply for remission of penalties from SARS. Once the taxpayer has applied, SARS needs to respond to the taxpayer's request within a reasonable time. If SARS fails to respond timeously, taxpayers may approach the OTO for assistance in resolving the matter.

Taxpayers need to follow the correct process when applying for a request for remission. This includes using the prescribed [RFR form](#) or submitting a written request when disputing penalties levied due to non-compliance. Information required on the request consists of circumstances that prevented the taxpayer from complying with the relevant obligation, the amount involved and the period.

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

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