

## ADMINISTRATIVE DELAYS:

# SARS's failure to issue a reduced assessment

Taxpayers often find themselves caught in complex disputes due to administrative errors or delays by SARS in processing their objections. When these issues result in unfair financial burden, the Office of the Tax Ombud (OTO) serves as an independent mediator, ensuring that taxpayers are treated fairly. In this case, the OTO played a crucial role in addressing a systemic issue - delays in responding to suspension of payment requests - which led to unnecessary debt collection actions against a taxpayer whose objection had already been allowed and finalised. Through its intervention, the OTO not only helped resolve the individual case but also highlighted broader inefficiencies within SARS's processes that need to be addressed.

### Background: What was the tax complaint?

In December 2022, a taxpayer submitted the income tax return based on pre-populated information provided by the system. Unfortunately, the taxpayer did not verify the accuracy of the information before submitting the tax return. After submitting the tax return, the taxpayer noticed that it contained three IRP5 forms that should not have been included. This error led to an assessment, which indicated that the taxpayer owed SARS **R48,992.47**.

Upon realizing the mistake, the taxpayer recalculated the tax liability without the incorrect IRP5 forms and determined that the taxpayer actually owed only **R36,942.07**. The taxpayer promptly paid this amount and lodged an objection against the remaining balance of **R12, 050.40**. Along with the objection, the taxpayer requested a suspension of payment for the disputed amount. SARS reviewed the objection, agreed with the taxpayer, and allowed it. This decision should have triggered the automatic cancellation of the suspension of payment request which should have led to the issuance of a reduced assessment reflecting the correct tax liability.

However, SARS did not issue the reduced assessment. As a result, the SARS system still reflected an outstanding balance of **R12, 050.40**, and SARS initiated debt collection steps, despite the objection being resolved in the taxpayer's favour.

### Findings: Who was at fault?

SARS was at fault for failure to issue a reduced assessment after allowing the taxpayer's objection. This administrative oversight meant that:

- The taxpayer's account continued to reflect an outstanding amount (debt due to SARS) that should have been removed.
- SARS initiated debt collection steps, including appointing a **third-party** to recover the outstanding amount.
- Since the tax debt should have been removed following the objection, the third-party appointment was unjustified and caused unnecessary distress to the taxpayer.

### Third-Party Appointment: What is it?

A third-party appointment is a legal mechanism used by SARS to collect outstanding tax debts directly from a third party who holds or controls taxpayer's assets or income. SARS may appoint a third party to pay taxpayer's outstanding tax debt, for example, an employer to deduct an amount from the taxpayer's salary and pay it over to SARS or a bank to release funds from the taxpayer's bank account and pay them over to SARS. This process can have serious financial consequences, especially when SARS applied it in error.

### OTO Recommendations to SARS

Given that the taxpayer's objection was allowed, and the tax liability was meant to be reduced to nil (R0), the OTO made the following recommendations to SARS:

- 1. Stop Tax Debt Collection Steps** – SARS should immediately stop all tax debt collection measures, including withdrawing the third-party appointment.
- 2. Issue the Reduced Assessment** – SARS should process the reduced assessment without further delay to reflect the correct outstanding balance of nil (R0).

### Important lessons drawn from this case

This case highlights the importance of **efficiency in tax administration** and the impact of procedural delays on taxpayers. The taxpayer acted promptly and correctly by lodging an objection and requesting a suspension of payment. However, SARS's failure to issue a reduced assessment led to unnecessary debt collection actions that could have been avoided.

This case underscores the need for **efficient tax dispute resolution mechanisms** to safeguard taxpayer rights and prevent undue financial hardship. The OTO played a crucial role in resolving the matter. Recognizing that this issue was part of a broader existing **systemic issues** i.e., delays in responding to suspension of payment requests, the OTO intervened and recommended corrective actions.

## Conclusion: Key points for taxpayers and SARS

- Taxpayers should **verify pre-populated tax return information** before submission to SARS to avoid errors.
- SARS must **ensure timely processing** of reduced assessments after an objection is resolved.
- SARS must use **Third-party appointments** judiciously.
- **SARS must improve its administrative processes:** SARS must strengthen its internal systems to ensure that once an objection is finalised in the taxpayer's favour, the necessary adjustments are made timeously to prevent unjust debt recovery actions.
- **SARS must enhance its communication on Suspensions of Payment** – SARS should improve its responsiveness to taxpayers who submit suspension of payment requests, ensuring that these requests are properly addressed even if the related objection has already been finalised.

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