



OFFICE OF THE
TAX OMBUD
Ensuring fairness

CASE ONE
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Fairness for all



Gert van Heerden
Senior Manager:
Legal Services

Welcome to the first issue of Fairness for all, the Office of the Tax Ombud's (OTO) informative monthly newsletter, featuring important case studies.

The publication will focus only on the tax complaints the OTO receives, how these complaints are resolved, as well as the reasoning behind the decisions made. In addition, the case studies featured can help taxpayers and tax practitioners gain better understanding as to whether it is appropriate to lodge a complaint.

Background

What was the tax complaint?

In the case under discussion in this edition, the vendor was registered to file VAT returns on a bi-monthly basis every even month. During 2012, SARS contacted the vendor and informed it that there were outstanding VAT returns dating back to 2008. Apparently, SARS changed the registration to a monthly basis, without notifying the vendor. Therefore, the vendor continued submitting VAT returns and paid its VAT liabilities every second month. However, the total capital amounts of VAT were declared and paid by the taxpayer. **In other words, there was no net loss to the fiscus.**

The vendor then submitted the outstanding returns for the uneven months, after discussions with SARS. It filed the outstanding VAT returns by declaring what should have been declared for the uneven months. The vendor could not change the already-submitted returns, and filing the new returns created **duplications**. This resulted in debits that incurred **penalties and interest**. The vendor assumed that SARS would correct the duplication created by filing these returns on its VAT account, as SARS was aware of the situation.

Numerous meetings were held, and SARS made various undertakings to correct the declarations and accounts. By the time the taxpayer approached the Office of the Tax Ombud, SARS had not resolved the issue.



SARS was proceeding with the collection process, even though it was well aware of the problem.

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Findings

Who was at fault?



According to SARS, the delay was caused by numerous journal entries made in the affected periods.

It was necessary to establish why they were passed in the first place.



In the meantime, the vendor was forced to dispute the liabilities in the affected periods all the way to the appeal stage. When the complaint was lodged SARS had conceded seven of the periods in full.

However, SARS only revised three of the seven conceded appeals.



According to the vendor, the SARS delays in this matter caused the vendor to incur **unnecessary legal expenses and risked even more damage** due to the vendor's inability to obtain a Tax Compliance Certificate, which is required by its current clients.

Recommendations

What needed to be done?

The OTO recommended that SARS:

1

Revise the assessments on the conceded appeals; and

2

Correct the incorrect liability on the VAT account.

Resolution

What was the outcome?



SARS implemented the recommendations. The vendor's VAT account is now **correct**.

Notice

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