



**PARLIAMENT**  
OF THE REPUBLIC OF SOUTH AFRICA

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Hon. PJ Gordhan  
Minister of Finance  
Parliament of South Africa  
Cape Town

e-mail:

Dear Minister Gordhan

#### **TAX REFUND DELAYS INVESTIGATION**

I write to you to request that you request that an enquiry be undertaken by the Tax Ombud into the period of time that SARS takes to deal with determining the validity of, as well as the actual payment of, refunds of tax, and in particular VAT refunds.

SARS, when questioned on the matter during appearances before the Standing Committee on Finance, has maintained that there are minimal undue delays in the payment of tax/VAT refunds.

It is however our experience that;

- The majority of cries for help that we receive from taxpayers/vendors are about inordinate delays by SARS in paying VAT refunds.
- These delays with refunds of VAT, and other taxes, would seem to be legal in the sense that SARS appears to use elements of legislation that allow extensions of time in order for SARS to raise queries.
- It would seem that the most oft used delaying tactic used by SARS is to request supporting documentation. This documentation is then promptly uploaded via e-filing by taxpayers/vendors and in many cases a completion certificate is issued by SARS that indicates that the review has been completed.
- When taxpayers/vendors, after submitting the documents via e-filing, then follow-up with SARS, again after the passage of more time, as to why the refund has not been paid, they are instructed to take the supporting documents together with banking details and proof of address to a SARS office.
- In many instances the closest SARS office is a 100 km or more away and leads to further delays and hardship for the taxpayer/vendor.
- We don't believe that the drafters of the law ever envisioned that the provisions that SARS seems to be using would be used in the normal course of SARS business. Rather that they would be applied in exceptional circumstances in order to uncover fraudulent vendor refund claims.

In addition to the approaches to us for assistance from taxpayers/vendors, there is also a general narrative amongst many taxpayers that SARS is deliberately finding cause to delay the payment of tax/VAT refunds.

**RA Lees MP**  
**Shadow Deputy Minister of Finance**

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Indeed, a professional body representing accountants wrote to its members late last year to inform them that they were "receiving an influx of queries from members regarding refunds due to taxpayers and requests by SARS that the taxpayer must personally bring supporting documentation to a SARS office" and that they had raised the issue with SARS.

The delays with SARS refunds of VAT cause enormous stress to business in general but to small businesses in particular. The management of cash flow in any business is paramount. Disruptions in the inflow of cash will, without doubt, place restrictions on the ability of business to meet expense payments and to purchase replacement stocks. Even a profitable business cannot survive if it does not receive monies due to it and is thus unable to pay its creditors.

Whilst there may be a lower turnaround time for most refunds we believe that there is an urgent need to mirror the very good maximum 30-day creditor payment regulation, as applied to spheres and departments of government as well as to State Owned Entities, in the tax administration laws as they apply to the SARS payment of refunds. In other words, all refunds including those audited by SARS must be either refunded or rejected within 30 days of the return being submitted.

In my opinion it would not only be immoral but unconstitutional for the State to extort additional funding, even if over a relatively short period, from taxpayers in order to fund its obligations.

I therefore write to request that you use your authority as contained in section 16(1)(b) of the Tax Administration Act to request that the Tax Ombud conduct an investigation into;

- Whether or not;
  - there are systemic failures with regard to SARS refunds of tax/VAT?
  - There are grounds to conclude that SARS are deliberately delaying the payment of tax/VAT refunds?
- Identifying the sections of legislation that SARS may be using in order to "legally" delay the payment of refunds.
- Identifying any other methods that SARS may be using in order to delay the payment of tax/VAT refunds.
- Recommend solutions that will ensure that tax/VAT refunds are paid out promptly by SARS and within 30 days of the submission of returns.

As an alternative approach, and as the Davis Tax Commission is currently reviewing the SARS operating model, we request that the Minister consider referring this vital issue to the Davis Tax Commission to review as part of the operational model review.

I look forward to your favourable consideration of my request.

Yours faithfully



RA (Alf) Lees MP  
Deputy Shadow Minister of Finance  
Democratic Alliance