

Can Sars deduct tax debts from your bank account?

 By [Graeme Palmer](#)

22 Jun 2020

Section 179 of the Tax Administration Act, 2011 allows the South African Revenue Service (Sars) to issue a notice to a person who holds or owes money, including a pension, salary, wage or other remuneration, for or to a taxpayer, requiring the person to pay the money to Sars in satisfaction of the taxpayer's outstanding tax debt.



© Egor Kotenko – [123RF.com](#)

One of the most effective tax collection tools available to Sars is a third-party payment notice to a taxpayer's bank. A taxpayer's bank account is an easy target for a third-party payment as Sars is provided with a taxpayer's bank details when registering for tax.

In *SIP Project Managers (Pty) Ltd v CSARS*, the taxpayer brought an application to set aside a third-party notice and further sought an order that it should be refunded the money paid over to Sars by its bank.

An additional assessment was issued to the taxpayer for R1.2 million on 30 September 2019. It was uploaded onto the taxpayers e-filing profile but through no fault of Sars, did not come to the taxpayer's attention. The taxpayer only became aware of the additional assessment in February 2020 when Sars served a notice on Standard Bank to pay over R1.2 million held in the taxpayer's account.

Section 179 was amended in 2015 requiring delivery of a final demand to the taxpayer at least 10 business days before the issue of the third-party notice to the bank. The demand must set out the recovery steps that Sars may take if the tax debt is not paid, as well as the available debt relief mechanisms under the Act.

When the taxpayer contacted Sars, they were advised that three letters of demand were sent, on 7 and 11 November 2019 and 22 January 2020, before the notice was issued to the bank. The taxpayer could not find any of these letters on their e-filing profile.

Sars abandoned relying on the letters of 11 November 2019 and 22 January 2020 as one was only a payment reminder and the other was not issued within 10 business days before the bank notice. That left the letter of 7 November 2019 which the taxpayer denied receiving and annexed to its court papers a screenshot of its e-filing profile showing no letter of demand had been issued.

The Court held that it was not enough for Sars to prove the existence of the letters, they must also show they had been delivered. Delivery through the e-filing system was acceptable, but Sars failed to provide any proof of delivery. The Court thus found that there had not been compliance with section 179.

In addition to failing to prove delivery, the demand of 7 November 2019 was premature as the date for payment on the additional assessment was 30 November 2019. The letter was issued before the payment due date and before Sars could demand payment. Therefore, the Court declared the third party notice null and void and ordered Sars to repay the R1.2 million with interest.

ABOUT GRAEME PALMER

Graeme Palmer is a director in the commercial department of Garlick & Bousfield.

- Selling shares at a discount for B-BBEE benefits is not a donation - 21 May 2024
- Unblocking a blocking order - 30 Oct 2023
- Tax assessment appeal: Can it be amended? - 31 Jul 2023
- Repair vs improvement: Why it matters to Sars - 18 Jul 2023
- What are taxpayers' rights to a refund from Sars? - 13 Jun 2023

[View my profile and articles...](#)

For more, visit: <https://www.bizcommunity.com>