



PARLIAMENT OF THE COOK ISLANDS

PARLIAMENT PAPER NO. 137

Rarotonga.

Mr Speaker,

I have the honour to present on behalf of the Public Expenditure Review Committee report on complaint regarding integrity of Information produced by Revenue Management Division (RMD)

I have the honour to be,

Sir

Hon. Mark Brown
Prime Minister
Minister Responsible for the Office
Public Expenditure Review
Committee



PUBLIC EXPENDITURE REVIEW COMMITTEE

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4 February 2021

Garth Henderson
Financial Secretary
Ministry of Finance
Rarotonga

Kia Orana Mr Henderson,

PUBLIC EXPENDITURE REVIEW COMMITTEE / COMPLAINT REGARDING INTEGRITY OF INFORMATION PRODUCED BY REVENUE MANAGEMENT DIVISION (RMD)

Introduction

This report has been prepared as a result of a complaint from a corporate taxpayer¹ (**Taxpayer**) primarily regarding the processing of Value Added Tax (**VAT**) returns and provision of related information by RMD. The complaint was originally received on or about 19 August 2020 together with correspondence from the Taxpayer to RMD regarding the Taxpayer's concerns. The Taxpayer referred its complaint to the Committee as a result of not receiving any response from RMD.

The Committee determined the complaint warranted a special review under section 14(1)(c) of the Public Expenditure Review Committee and Audit Act 1995-96 which provides for the Committee to undertake a special review as to the reliability of systems and procedures and the integrity of information produced by RMD.

The Committee met with a director of the Taxpayer and its tax advisor in mid-September to obtain further information about the Taxpayer's complaint. The complaint, subject to this review, and its terms were finalised and provided to the Collector of Revenue (**Collector**) by letter dated 2 October 2020.

¹ For the purposes of this report, the Committee has determined that it is not necessary to disclose the identity of the taxpayer.

Between the end of October and the beginning of November, the Committee (together with the Director of Audit and a senior Audit Advisor) interviewed the Collector, a Senior Tax Advisor, and a Senior Tax Auditor who is also the team leader for the VAT division at RMD.²

The Complaint

The Taxpayer's complaint comprised a number of issues which were put to RMD as follows:

- [1] The failure of RMD to communicate with the Taxpayer when there are purported arrears (according to RMD's system), particularly when such arrears are subject to 1% additional tax (penalty) every month. The additional tax continues to accrue without any knowledge of the taxpayer. The Taxpayer received no statements, emails, or notification of any sort in relation to the purported additional tax arrears in relation to the August 2014 Withholding Tax, the May 2018 PAYE, nor the November 2018 VAT.
- [2] The failure of RMD to provide timely statements. This can apply when the Taxpayer has an uncommitted credit with RMD. The absence of a statement leaves the Taxpayer unaware of the credit being assessed and approved, leading to the situation where RMD retains the credit indefinitely. It may also lead to a situation where RMD applies a credit (of which the taxpayer has not been notified and is unaware) to a non-notified additional tax.
- [3] The failure of RMD to act on the Taxpayer's instructions regarding payment of provisional tax from income tax credits. In particular the notice of assessment and statement of account dated 5 September 2019 showing a total credit of \$478,857.66 which was available for the payment of provisional tax and which RMD had been advised by the Taxpayer should be used for this purpose but this was not done so by RMD.
- [4] The incorrect setting off of certain tax liabilities against a VAT refund due to the Taxpayer. This relates to a \$111,249.23 VAT refund due to the Taxpayer (as assessed by RMD) from the August 2019 return. In particular the VAT refund due as at 20 September 2019 was off set against previously non-notified additional taxes of \$4,085.28 and \$4,749.79, a provisional tax liability (for September 2019) of \$97,017.06, and a provisional tax liability (for March 2020) of \$5,379.09.
- [5] The non-payment of interest on the VAT refund due in accordance with section 29 of the Value Added Tax Act 1997.
- [6] The incorrect dating of receipts. In particular, the charging of additional to the Taxpayer as a result of incorrect recording of the receipt of tax payments.
- [7] The circumstances relating to the debit of \$18.01 and the credit carried forward of \$5.38 (on the 20 January 2020 statement of account of the Taxpayer) which are unknown and unexplained.

² For the purposes of this report, the Committee has determined that it is not necessary to reveal the names of the RMD officers interviewed.

The complaint as articulated above was put to each of the Collector, Senior Tax Advisor, and Senior Tax Auditor in separate interviews. A summary of key points of the RMD officers' responses and the Committee's findings are set out below for each individual aspect of the complaint.

RMD Response and Committee Findings on Complaint

[1] *The failure of RMD to communicate with the Taxpayer when there are purported arrears (according to RMD's system), particularly when such arrears are subject to 1% additional tax (penalty) every month. The additional tax continues to accrue without any knowledge of the taxpayer. The Taxpayer received no statements, emails, or notification of any sort in relation to the purported additional tax arrears in relation to the August 2014 Withholding Tax, the May 2018 PAYE, nor the November 2018 VAT.*

By way of RMD's response the following key points are noted:

- The Senior Tax Advisor was not aware that any statements or notices were issued to the Taxpayer and advised that the current system does not allow for this in relation to manual filings in that the system is not set up for this.
- The Withholding Tax which was not paid on the due date in 2014 had additional tax assessed for late payment some 4 years later in 2018. The reason for this late assessment was a clean up of RMD's tax records when the late payment was identified.
- The late assessment of additional tax on the Withholding Tax could be considered as a circumstance that might warrant the reversal of the additional tax imposed due to the significant delay between when the payment was received and the assessment for additional tax some 4 years later.
- The Collector advised that there are more manual returns filed than electronic (online) returns. There is a significant logistical burden in sending out statements for manual filings.
- A taxpayer that is registered for E-Tax (online filing) will be able to see any assessments made in relation to that taxpayer.
- The present system does not flag additional taxes and arrears for RMD to notify taxpayers to mitigate any further additional taxes. The Senior Tax Advisor noted the system has the functionality of a notification manager (which was used in the tax amnesty) but this would require further changes to the system to make it operational. There are resource constraints that make this challenging but it would be possible to do.
- The Collector noted the current system is 18 years old and RMD are looking at upgrading the system but RMD has problems with resource constraints.
- With regard to collecting additional taxes and arrears, RMD advised due to resource constraints available resources are focussed on high risk areas. The resource constraints mean there is limited ability to address all outstanding tax arrears. In the Taxpayer's case the arrears would not have been large enough to trigger further action.

- RMD have a compliance strategy in place identifying issues including those raised in this complaint with a plan to improve systems including return assessment and refund processes.

The Committee finds that the Taxpayer was not provided with any notice or timely communications in relation to the additional tax arrears on the August 2014 Withholding Tax, the May 2018 PAYE, nor the November 2018 VAT.

The Committee accepts that RMD's current system does not currently provide for such notices or communications to be readily generated for taxpayers that opt to file returns manually but notes that the system is capable of such functionality and reports and notices can be printed if and when required. Where a taxpayer is using E-Tax (online filing) this is less of an issue as returns and assessments are processed at the time of filing and the taxpayer's account updated accordingly.

The Committee recommends that RMD review the additional tax charged on the Withholding Tax payment in August 2014 on the basis of the significant delay between the payment of Withholding Tax and the assessment of additional tax some 4 years later and in the absence of notifying the Taxpayer in a timely manner to the Taxpayer's prejudice.

The Committee recommends RMD continue with the implementation of the compliance strategy and prioritise their system upgrade. The Committee appreciates this will be subject to Government providing the necessary resources at time when Government resources are already under severe pressure. However, the Committee considers this issue of significant importance which should be prioritised by Government accordingly.

[2] *The failure of RMD to provide timely statements. This can apply when the Taxpayer has an uncommitted credit with RMD. The absence of a statement leaves the Taxpayer unaware of the credit being assessed and approved, leading to the situation where RMD retains the credit indefinitely. It may also lead to a situation where RMD applies a credit (of which the taxpayer has not been notified and is unaware) to a non-notified additional tax.*

By way of RMD's response the following key points are noted:

- RMD will send out statements (for manual filings) where there are changes to the return. In this case there were no changes in the assessment from what was filed by the Taxpayer and no statement was sent to the Taxpayer.
- RMD's system is not set up to issue statements to taxpayers that have manually filed their returns where the self-assessment is accepted by RMD and no changes are made.
- Where a taxpayer has a tax credit, the system will use this to off-set against any other tax that may be owing by the taxpayer.
- The Collector advised that work is being done by RMD to return historical tax credits to taxpayers.
- RMD is looking at system enhancements / upgrades for better processing of refunds of tax credits and the ability to provide automatic notifications including for manual filings. In addition

to the costs of such enhancements / upgrades there may still be issues with the logistics of delivering notices to taxpayers.

The Committee finds that RMD does not provide statements to taxpayers showing any tax credit in cases where RMD has accepted a taxpayer's return with no changes made to same. The current system in these circumstances will not automatically generate a statement for the taxpayer. This can lead to a situation where RMD may apply a tax credit to a non-notified additional tax (as described in [1] above). This situation should be addressed and rectified as a matter of priority.

As set out above in [1], the Committee recommends RMD continue with the implementation of its compliance strategy and the enhancement and upgrade of its system. Ideally, RMD's system should be able to automate and provide timely statements and notices to taxpayers advising them if a taxpayer has a credit due to them or if additional tax has been assessed. While this appears to be less of an issue for taxpayers using E-Tax there is still a gap as far as manual filings are concerned.

[3] *The failure of RMD to act on the Taxpayer's instructions regarding payment of provisional tax from income tax credits. In particular the notice of assessment and statement of account dated 5 September 2019 showing a total credit of \$478,857.66 which was available for the payment of provisional tax and which RMD had been advised by the Taxpayer should be used for this purpose but this was not done so by RMD.*

By way of RMD's response the following key points are noted:

- The Taxpayer's tax credit was not applied to provisional tax as directed due to human error in processing the return manually and not following the Taxpayer's instructions.
- RMD are developing standard operating procedures to address this issue.

The Committee finds RMD failed to act on the Taxpayer's instructions to apply its income tax credits to payment of provisional tax due. The Committee accepts that the reason for this failure was human error in manually processing the return and inadvertently overlooking the Taxpayer's instructions.

The Committee encourages RMD to develop appropriate operating procedures to minimise the risk of such errors occurring in the future but recognises that where human input is required it may not be possible to completely eliminate the risk of errors being made.

[4] *The incorrect setting off of certain tax liabilities against a VAT refund due to the Taxpayer. This relates to a \$111,249.23 VAT refund due to the Taxpayer (as assessed by RMD) from the August 2019 return. In particular the VAT refund due as at 20 September 2019 was off set against previously non-notified additional taxes of \$4,085.28 and \$4,749.79, a provisional tax liability (for September 2019) of \$97,017.06, and a provisional tax liability (for March 2020) of \$5,379.09.*

By way of RMD's response the following key points are noted:

- RMD's current system is set up where a VAT refund is due, before the refund is released, the system will automatically check and set-off against any other taxes.

- The application of the VAT refund due to a provisional tax liability that was not due should not have been done without the Taxpayer's authority. RMD advise that as a result of this complaint the problem has been identified and resolved.
- Changes can be made to a taxpayer's account / statement without showing a corresponding debit / credit entry or explanation.
- An administrative decision was made to set up system to only show what is current on the basis that this creates less confusion than showing all assessments and changes made.
- While it is possible to make changes to a taxpayer's account including deleting transactions, only senior staff are authorised to make deletions. In any case, even though changes (including deletions) may not appear on a taxpayer's statement the system will record internally all entries including deletions although such records require the assistance of technical support to retrieve them.
- The Collector advised that a policy has been introduced earlier this year (and prior to the complaint) that all changes to a taxpayer's account need to be approved by a team leader.

The Committee finds RMD wrongly applied the VAT refund due to the Taxpayer to other tax liabilities. In particular there was no basis for applying the VAT refund due to the Taxpayer's provisional tax which was not due. The application of the VAT refund to other tax liabilities including additional taxes is questionable and discussed further in [5] below.

The Committee also notes that while RMD's system is programmed to identify and off-set VAT refunds against other taxes, the system is off-setting VAT refunds against taxes not yet due and in contravention of section 29(3)(b) of the Value Added Tax Act 1997. In this regard the Committee recommends a review of the system to ensure it reflects the statutory authority granted to RMD under legislation in relation to off-setting monies owed to the taxpayer against other tax liabilities or claims.

In dealing with this part of the Taxpayer's complaint it was apparent that the Taxpayer had received a number of different statements and notices where entries and balances were amended or changed without any corresponding debit / credit entry or explanation. While RMD are of the view that this creates less confusion, in this particular case it had the opposite effect creating quite a bit of confusion for the Taxpayer. Given the resources of the Taxpayer including the services of an experienced tax advisor, the Committee is concerned that the statements and notices produced did not provide the necessary clarity required by the Taxpayer. In this regard the Committee recommends RMD review its system and policies around documenting changes to a taxpayer's account / statement to provide better explanations and transparency on changes made and the reason for those changes.

[5] *The non-payment of interest on the VAT refund due in accordance with section 29 of the Value Added Tax Act 1997.*

By way of RMD's response the following key points are noted:

- The Taxpayer was entitled to a VAT refund no later than 15 working days following the day the VAT return was received where the Taxpayer was not notified that RMD was otherwise holding

or dealing with the refund in accordance with section 29 of the Value Added Tax Act 1997 (**VAT Act**).

- The Collector has issued instructions for all VAT refunds due over 15 working days to be released if not notified as otherwise being held. RMD is working on updating procedures for generating reports to identify refunds due for release.
- In this case it appears that the VAT refund due to the Taxpayer was applied to other unpaid taxes (as recorded on RMD's system) but the Taxpayer was not notified of this action within 15 working days following the day on which the return was received by RMD in accordance with section 29 of the VAT Act.
- The reason the refund was not paid to the Taxpayer in accordance with section 29 of the VAT Act is there is no automated process for this under the current RMD system. This is an issue RMD are currently looking at in terms of upgrading the system to deal with the 15 working day notice period and release of refunds.
- RMD agree that if the Taxpayer's instructions to apply its income tax credit to its provisional tax had been followed then RMD's system would not have offset the VAT refund due against the September 2019 provisional tax.
- Discrepancies in a VAT notice of assessment of January 2020 and subsequent VAT statement of May 2020 (showing a lesser amount transferred to the September 2019 provisional tax) was due to a 5% additional tax on the amount owed being reversed although this reversal was not shown in the VAT statement of May 2020.
- RMD agrees that a debit of \$5,379.00 for March 2020 provisional tax against the VAT refund due was not permitted under section 29 of the VAT Act as that tax was not due at the time it was debited as shown in the January 2020 notice of assessment.
- RMD agrees that the Taxpayer was entitled to interest on the VAT refund from the August 2019 return in accordance with section 30 of the VAT Act.
- The transfer made from the VAT refund due to other tax liabilities was a result of automated deductions programmed into RMD's system and were not made to negate the VAT refund due to avoid interest otherwise due.

The Committee finds that RMD did not pay interest on the VAT refund due to the Taxpayer arising from its August 2019 return in accordance with section 29 of the VAT Act.

The Committee accepts that the non-payment of interest is not the result of RMD seeking to negate the VAT refund due to avoid the payment of interest but was a result of automated deductions programmed into the system.

The Committee recommends that RMD review its system and ensure that the output is consistent with the legal obligations imposed on the Collector under the VAT Act. This is something that should be done as a matter of priority. To the extent RMD's current system needs re-programming to make use of any existing functionality that might achieve this, then this should be considered in the first instance. The Collector's instructions regarding the release of VAT refunds due over 15 working days

(that have not otherwise been notified by RMD as being held for other reasons) suggests this is not an isolated incident and should be addressed urgently.

[6] *The incorrect dating of receipts. In particular, the charging of additional to the taxpayer as a result of incorrect recording of the receipt of tax payments.*

By way of RMD's response the following key points are noted:

- RMD accepts that it was likely the discrepancy in the dating of receipts was due to human error. It is noted that due to the volume of returns that are processed on the due date, receipts are not necessarily issued on the day money is received.
- The risk of human error might be reduced with further checks but where these are manually processed it is difficult to eliminate all possibility of human error. Online filing and payments reduce the risk of human errors being made.
- To the extent an error was made in receipting payment, RMD accept that the additional tax imposed should be credited to the Taxpayer.

The Committee finds that it is more likely than not that an error was made by RMD in receipting payment that resulted in additional tax being imposed on the Taxpayer.

The Committee recommends RMD reassess the payment taking this into account and ensure the Taxpayer is not prejudiced by the error.

[7] *The circumstances relating to the debit of \$18.01 and the credit carried forward of \$5.38 (on the 20 January 2020 statement of account of the taxpayer) which are unknown and unexplained.*

By way of RMD's response the following key points are noted:

- With regard to the \$18.01 debit (transfer to VAT November 2018) shown on the VAT notices of assessment of January 2020 and August 2020 and the VAT statement of May 2020, this is a result of a calculation error on the Taxpayer's part. However, RMD did not notify the Taxpayer of this error and it should have.
- With regard to the \$5.38 carried forward balance shown on the VAT notice of assessment of January 2020 and the VAT statement of May 2020 but no longer shown on the VAT notice of assessment of August 2020, RMD were unsure of the reason for this discrepancy.

The Committee finds that the \$18.01 debit (transfer to VAT November 2018) was a result of the Taxpayer's calculation error. However, the error as assessed by RMD should have been notified to the Taxpayer and this was not done.

The discrepancy regarding the \$5.38 carried forward balance and reversal of same without any explanation, while minor, is still of concern with regard to the integrity of RMD's information systems output and reporting.

Conclusion

The Committee finds the complaint substantively made out and upheld as set out in the report above. As a result, the Committee concludes that there are issues with the reliability of systems and procedures and the integrity of information produced by RMD as identified above.

Recommendations

Given the national importance to the country and revenue collection of having reliable systems and procedures and ensuring the integrity of information produced by RMD, the Committee recommends that RMD's system be urgently reviewed and where necessary the system be updated to address the problems identified. In particular RMD's system should be enhanced or upgraded to provide better and accurate information that clearly shows the taxpayer all assessments and changes made by RMD. The system and its application by staff should also ensure that it is in line with the statutory obligations imposed under the revenue legislation of the Cook Islands. Where RMD's current system provides the functionality to address the issues that have been identified, consideration should be given in the first instance to make use of such functionality and to adapt RMD's system accordingly.

The Committee acknowledges that RMD are working towards addressing the issues but faces significant resource constraints. While the Committee appreciates that under current economic conditions the Government's resources are under severe pressure, this issue is of such importance that Government is urged to prioritise the appropriate resourcing of RMD to reinstate confidence in the systems, procedures, and integrity of information produced by RMD.

With regard to the particular Taxpayer that brought the complaint, the Committee recommends that RMD review and reconsider the additional taxes charged to the Taxpayer as a result of delays incurred and errors made which were not notified to the Taxpayer in a timely manner. This assessment should also extend to interest payable to the Taxpayer in accordance with section 29 of the VAT Act.

As a final comment, it is noted the complaint was referred to the Committee due to the Taxpayer not receiving any substantive response from RMD to its queries. The Collector acknowledged that a suitable response was not forthcoming in a timely manner. The Committee refers to RMD's Charter which include the goals that RMD will be prompt, courteous and professional and will provide the taxpayer with reliable and correct advice and information about tax obligations.

The Committee takes this opportunity to thank the Collector and the RMD officers for their co-operation and assistance in this special review.

Yours sincerely



Heinz Matysik

Member, Public Expenditure Review Committee

Cc The Collector
Cc Minister of Finance
Cc Allen Parker, Director of Audit

Cc Speaker of Parliament
Cc Geoffrey Stoddart, PERC
Cc Joseph Caffery, PERC

Please find attached to this report, on the next page, the comments from the Revenue Management Department which are in response to the report that was provided to the Collector in draft form for comment in accordance with section 16(2) and (3) of the Public Expenditure Review Committee and Audit Act 1995-96.



MINISTRY OF FINANCE AND ECONOMIC MANAGEMENT
GOVERNMENT OF THE COOK ISLANDS

8 January 2021

Ref: R022

Heinz Matysik
Member, Public Expenditure Review Committee
Rarotonga

By email

Kia Orana Mr Heinz

Public Expenditure Review Committee /Complaint Regarding integrity of information provided by the Revenue Management Division (RMD)

I refer to the Public Expenditure Review Committee's final report which was emailed to the Financial Secretary and Collector on 21 December 2020 (the Report). The following letter provides RMD's comments in response to the Report.

1. **Paragraph 1 on page 1 of the Report notes: "This report has been prepared as a result of a complaint from a corporate taxpayer (Taxpayer) primarily regarding the processing of Value Added Tax (VAT) returns and provision of related information by RMD."**
Comment: PERCA's letter of 24 August 2020 records the complaint as being "Processing systems at the Revenue Management Office are unsatisfactory and alleges improper actions in respect of certain transactions". The allegations of improper actions should be included and covered off in the Report as RMD believes those allegations were unfounded and a result of a simple oversight and human error.
2. **Paragraph 1 on page 1 of the Report notes: "The complaint was originally received on 19 August 2020 together with correspondence from the Taxpayer to RMD regarding the Taxpayer's concerns."**
Comment: This statement does not appear to be correct. PERCA advised RMD on 28 August 2020 that the formal complaint was received on Saturday, 22 August 2020.
3. **Paragraph 1 on page 1 of the Report notes: "The Taxpayer referred its complaint to the Committee as a result of not receiving any response from RMD".**
Comment: If this background information is included in the Report then following timeline of events should also be included to give a full account of what actually occurred:
 - 3 August 2020 - RMD receives the initial complaint from the Taxpayer (complaint 1).
 - 3 August 2020 - Acting Collector confirms receipt of complaint 1 with the Taxpayer.
 - 14 August 2020 – The Taxpayer lodges a second complaint with RMD (complaint 2).



- 21 August 2020 - Collector advises Taxpayer as follows:

"As you know the COVID-19 pandemic has resulted in unprecedented times. As part of the Cook Islands Government's Economic Response Package Revenue Management administers the Wage Subsidy, Business Cash Grant, Training Subsidy and assesses the Business Continuity Credit Facility Loan applications. As a result our already limited resources have been stretched further. Unfortunately this has resulted in staff being placed under an unusually high level of pressure on a daily basis and longer than normal response periods. Thank you in advance for your understanding and patience."

...

I will provide a response to the matters raised in your letters of 3 August 2020 and 14 August 2020 once the review has been completed. As noted above the review commenced on 5 August 2020 but has not been finalised."

- 22 August 2020 - Taxpayer lodges a formal complaint with PERCA (as informed by PERCA on 28 August 2020). RMD's standard response period is 28 days. CITC lodged its formal complaint with PERCA 19 days after their complaint 1 and 8 days after complaint 2 had been lodged with RMD.
 - 24 August 2020 - PERCA letter regarding complaint 1 and complaint 2 hand delivered to RMD. The complaint was noted as relating to "Processing systems at the Revenue Management Office are unsatisfactory and alleges improper actions in respect of certain transactions".
 - 2 October 2020 – Subsequent PERCA letter regarding complaint 1 and complaint 2 hand delivered to RMD. The complaints contained in this letter are listed at paragraphs [1] to [7] of the Report (refer to page 2).
4. **On page 3 the Report notes: "The Collector advised that there are more manual returns filed than electronic (online) returns. There is a significant logistical burden in sending out statements for manual filings."**
Comment: RMD processes over 25,000 manual tax returns every year. The large number of manually filed tax returns causes the logistical burden. RMD will be introducing changes in 2021 which are intended to reduce the number of taxpayers filing manually.
5. **On page 3 the Report notes: "A taxpayer that is registered for E-Tax (online filing) will be able to see any assessments made in relation to that taxpayer."**
Comment: The Taxpayer registered for E-Tax on 4 January 2017. From this date the Taxpayer could view tax assessments online via RMD's E-Tax services.
6. **On page 4 the Report notes: "The Committee recommends RMD continue with the implementation of the compliance strategy and prioritise their system upgrade".**
Comment: The Government has invested significantly in RMD over the past few years as a part of RMD's current multi-year modernisation and strengthening program. This investment is scheduled to continue over the next four years.
7. **On page 4 the Report notes: "RMD's system is not set up to issue statements to taxpayers that have manually filed their returns where the self-assessment is accepted by RMD and no changes are made.**



Comment: A tax return filed manually via the self-assessment is not necessarily accepted by RMD if no changes are made. A more accurate statement would be that RMD's system is not set up to issue statements to taxpayers that have manually filed their returns where the self-assessment has been processed by RMD and no changes were made.

8. On page 6 the Report notes: "The application of the VAT refund to other tax liabilities including additional taxes is questionable"

Comment: Section 9 of the Value Added Tax Act 1997 enables the Collector to offset a VAT refund against any obligation imposed under the Income Tax Act 1997, the Customs Tariff Act and Customs Act. In this situation a refund can be offset against a taxpayer's unpaid tax, duty or levy.

9. On page 6 the Report notes: "the system is off-setting VAT refunds against taxes not yet due and in contravention of section 29(3)(b) of the Value Added Tax Act 1997."

Comments: The system is not currently off-setting VAT refunds against taxes not yet due. As noted earlier in the PERCA report RMD had resolved this issue.

10. On page 6 of the Report notes: "the non-payment of interest on the VAT refund due in accordance with section 29 of the Value Added Tax Act".

Comments: Interest had been calculated and credited automatically by the system against the Taxpayer's account on 9 September 2020. The amount of interest credited would have been higher and correct if the credit transfer to provisional tax had occurred as requested by the Taxpayer.

11. The Final comment on page 9 of the Report notes: "As a final comment, it is noted the complaint was referred to the Committee due to the Taxpayer not receiving any substantive response from RMD to its queries. The Collector acknowledged that a suitable response was not forthcoming in a timely manner".

Comment: A response would have been forthcoming in a timelier manner if RMD's response to the complaint was prioritised over and above administering various measures relating to the Government's Economic Response Package. On top of normal operations at this time RMD were administering the Wage Subsidy, Business Cash Grant, Training Subsidy and assessing Business Continuity Credit Facility Loan applications. Additionally it should be noted that RMD were in the process of finalising its review of both complaints when PERCA's review commenced. As a result RMD's review was put on hold pending the outcome of the PERCA review.

If required I would be happy to discuss or provide further clarification of the information above.

Meitaki

Xavier Mitchell
Collector, Comptroller and Director

