



OmbudsmanSA

STATEMENT ON FORMAL RESOLUTION

Published under section 26 of *Ombudsman Act 1972*

March 2026

Fairness in tax assessment processes



Essential Insights

This matter highlights that decisions affecting individuals must be made by State government agencies in a fair, efficient and timely manner, particularly where the matter and/or a delay in the matter may have a detrimental impact on a person's wellbeing.

PAYROLL TAX ASSESSMENT

- Revenue SA and the Commissioner for State Taxation (**the agencies**) assessed that a taxpayer (**the complainant**) was severally liable for payroll taxation for a company owned by their ex-spouse for an amount of nearly \$1m.
- The complainant provided the agencies with detailed legal argument as to why they believed they were not liable for the amount or should be excluded from the liability. The agencies initially did not seek legal advice in response to the taxpayer's request for an exclusion from liability.
- The agencies final determination, which took over three years, concluded that the complainant should be excluded from the liability.
- The process, including the length of time that it took, impacted the complainant's health and wellbeing.

KEY OUTCOMES FOLLOWING THE OMBUDSMAN'S ASSESSMENT

The Ombudsman acknowledged the agencies' important role in enforcing payments of liabilities due to the State, and that this role is critical to the ongoing functioning of government.

In this matter, however, the Ombudsman formed the view that the agencies had acted in a manner that was wrong by:

- failing to adequately consider the complainant's objection to the assessment
- taking an unreasonable length of time to finalise the determination (3 years from the initial liability being raised and 18 months from the time of the lodgement of formal objection)
- communicating with the complainant in a manner that failed to adequately consider the impact this matter had on the complainant's welfare
- pursuing the liability in all of the circumstances of the matter including that the complainant was unlikely to be able to fulfil it and was an ex-spouse of the other director and shareholder of the jointly held company.

Noting the agencies' commitment to continuous improvement, the Ombudsman decided to resolve this matter by way of formal resolution, which involved the agencies agreeing to the following:

- Committing to adopting a vulnerability framework
- Reviewing KPIs relating to RevenueSA and the Commissioner's case management system or processes to ensure that the determination of potential debts is not subject to undue delay.
- Working closely with the Crown Solicitor's Office to develop a mechanism to ensure that matters of legal complexity can be resolved efficiently
- Agreeing to the publication of this summary statement
- Submitting a request to the Treasurer to consider whether they should exercise their discretion to make an ex-gratia payment to the complainant towards their legal expenses, having regard to the Ombudsman's view that the agencies had likely erred