ENSURING FAIRNESS

A warm welcome to the first issue of *Fair Play*, a newsletter of the Office of the Tax Ombud, produced and published by the office’s department of communications. We have entitled our newsletter “Fair Play” in consonent with our motto: “Ensuring Fairness”. Our vibrant and informative newsletter aims to keep our stakeholders abreast of important matters affecting the Office and developments in the tax recourse sphere. We hope it becomes an interactive platform for the sharing and exchange of views and ideas.

As the Tax Ombud, I have been with this Office since its inception just over two years ago and I am proud to have been part of its establishment from an institution with just three people (myself and two employees) into a fully operational entity servicing and bringing much-needed relief to thousands of individual taxpayers and businesses across the country. Presently, the Office has a staff component of 32 suitably qualified men and women.

We have firmly found our footing after the initial formative years and are taking bold strides in providing fair, efficient, impartial and independent recourse for taxpayers to resolve their issues with the South African Revenue Service (SARS) for free.

While we may still have some way to go in certain respect, we compare favourably with our counterparts in the United States of America, Canada and the United Kingdom from which we drew some lessons. The Tax Ombud offices in these countries have bigger footprints and a wider mandate than ours, just to mention a few differences. We are busy engaging relevant structures in the government to address these and other shortcomings.

We are also exploring how to increase our footprint across the country to ensure that taxpayers have access to a just and free service that can protect their rights as taxpayers.

We have firmly found our footing after the initial formative years and are taking bold strides in providing fair, efficient, impartial and independent recourse for taxpayers to resolve their issues with the South African Revenue Service (SARS) for free.

I am pleased to say that we have received incredible support from tax practitioner bodies, businesses and individual taxpayers and SARS. We are confident that working together, we will achieve our goals and become an institution that our fellow African governments can use to benchmark their own Tax Ombud offices. I’m also convinced that we are fast becoming a truly world-class service provider that South African taxpayers can be proud of.
We believe we are on the right path, and will continue to relentlessly pursue our mandate to help improve the country’s tax collection system and ensure a balance between taxpayers’ rights and obligations on the one hand, and SARS’s powers and duties on the other hand. This balance is essential for the nurturing of a culture of tax compliance.

While we are committed to helping improving the country’s tax collection, by facilitating tax compliance, we also urge our government and those responsible for implementing government policy to ensure that the tax collected is used in a manner that uplifts our society and our economy, and is not wasted on fruitless or corrupt or irregular expenditure as that would discourage tax compliance.

My Office and I value your inputs and perspectives, and look forward to interacting with you through this platform and to receiving your views on how to improve this institution.

Judge Bernard Ngoepe
Tax Ombud

A CLEAR STRATEGIC INTENT GUIDES US

“A goal without a plan is just a wish,” a wise man once said. Many goals never amount to anything because there is no plan. Here at the Office of the Tax Ombud, we have clear goals and a well-defined strategic plan that guide our work and ethos.

It might be useful to first explain how we are structured and how we work. At this point, the Office of the Tax Ombud has 30 employees and five programmes (or units), namely the Office of the CEO, Operations, Communications and Outreach, Legal Services and Office Enablement. These programmes work together towards the primary, overall goal of helping to build a fair and accountable tax system.

Our strategic intent and plans are clearly spelt out in two key documents: the Strategic Plan (SP) for 2016 – 2021 and our Annual Performance Plan (APP) 2016/17. Our APP and SP were tabled in Parliament in March 2016.

These plans outline what the Office of the Tax Ombud wants to achieve in the current financial year and in the next five years, and how we are going about this. For instance, we are determined to offer taxpayers and tax practitioners the best possible service, and have set measurable targets to achieve this. Responding swiftly to complaints is important and this year, we aim to resolve a majority of complaints within 15 working days of receipt.

Developing a taxpayer bill of rights is a matter that is very close to our hearts in the Office of the Tax Ombud. We have taken it upon ourselves to draft such a bill of rights as part of our contribution to strengthening the country’s tax system, and we believe such a document will greatly empower taxpayers.

Another priority for us is to reach as many of the country’s citizens as possible. It is encouraging to see how more and more people are becoming aware of the Office and utilising our services. We have already made a difference in the lives of scores of taxpayers, saving them millions of rands through our intervention; but our limited footprint is cause for concern. We are busy working on plans on how to expand our footprint to other parts of our country and ensure that our services are brought to the doorsteps of those who need them.

Advocate Eric Mkhawane
Chief Executive Officer

For more information about our strategic intent, please view our Strategic Plan on our website www.taxombud.gov.za.
TRUE STORIES OF HOW WE ARE MAKING A DIFFERENCE

These are just some of hundreds of true stories where OTO’s intervention has helped resolve long-standing issues between SARS and taxpayers. More than 75% of matters investigated by the Office in the 2014/15 financial year were resolved in favour of complainants.

Tax Ombud Judge Bernard Ngoepe, says he is pleased with the results being achieved. “There are still challenges but generally I’m happy with how this institution has effectively and efficiently resolved many serious matters between SARS and taxpayers, some of which had remained unresolved for years. We are not resting on our laurels but working hard to build on what we have achieved, and we will continue pursuing excellence in servicing taxpayers,” said Judge Ngoepe.

He adds that the positive feedback received from taxpayers and tax practitioners is an indication that we are on the right path.

Here are some of the many commendations that our operations specialists have received from satisfied taxpayers:

• “I thank your office very much for solving, in less than 15 calendar days of lodging my complaint, the problem I battled to have resolved since 2009, that was real jet-speed. Keep up the good work that you do on behalf of taxpayers. You have added one happy member in the list of your fans.”

• “I wish to place on record that as a long-practising tax practitioner, having dealt with many such cases, and that this has been exceptionally well handled and I thank you most sincerely.”

• “Kindly accept my gratitude for your fantastic assistance. What we could not achieve with more than 10 representations/letter/objection etc. over more than 2,5 years, you were able to sort out in 2 months, including the festive season in between. I really appreciate your help and kind assistance.”

• “My case has been finalised and I want to thank you and your Office for their assistance. It was quite a surprise to find there are capable people and institutions

“If I hadn’t voiced my tax complaints through the Tax Ombud’s Office, I would still be waiting for the overdue refunds.”

A taxpayer contacts the Office of the Tax Ombud, desperate for assistance after numerous futile attempts to have his tax issue with the South African Revenue Service resolved putting his house at risk of being repossessed by a bank.

The refunds he is entitled to have been delayed and the bank is sending threatening letters. The Office of the Tax Ombud accepts the matter as a valid complaint that falls within its mandate. An operations specialist investigates the matter, accessing all relevant information from SARS and then sending the revenue body a recommendation letter. SARS accepts the recommendations and the taxpayer receives a refund of more than R280 000, enabling him to pay his home loan and ensure his house is not repossessed by his bank.

For years a tax practitioner battles to have his client’s case with SARS resolved, but all that changes when he approaches OTO to assist. Within just over a week of OTO taking over the matter, it is resolved and both client and practitioner are satisfied.
More than 4 000 taxpayers and tax practitioners contacted and received assistance from the Office of the Tax Ombud during the 2015/16 financial year.

In the third quarter of the 2015/16 fiscal year, the Office assisted more than 1 400 taxpayers, the majority using email as the preferred mode of contact.

These are just some of the results mentioned in the Office of the Tax Ombud’s third quarter report, which has been submitted to the Office of the Minister of Finance.

In the third quarter, there was a slight increase in the number of represented cases (where taxpayers have a tax practitioner or attorney representing them). The increase was encouraging as it showed that efforts to engage stakeholders are paying off. In the past few months, OTO CEO Advocate Eric Mkhawane and his senior leadership team travelled the length and breadth of the country presenting to members of the South African Institute of Professional Accountants (SAIPA) and South African Institute of Chartered Accountants (SAICA).

The Office also used speaking opportunities presented by other recognised professional bodies to educate their members about the Office, mandate and services.

Open to invitations
“We are a relatively new organisation and we are always looking for opportunities to educate taxpayers about the free and impartial services we provide to taxpayers who have complaints against SARS. We are always looking for opportunities to address taxpayers, and are open to invitations,” says Adv Mkhawane.

He is satisfied with the way the organisation is building strong partnerships with relevant stakeholders. “The partnerships we have built have been mutually beneficial to us and our partners. A few months ago we launched our first full Annual Report with the University of Pretoria’s Tax Department; and the University of Johannesburg (UJ) hosted Judge Bernard Ngoepe in a ‘Dialogue with the Tax Ombud’. Both events were very successful, and we look forward to more collaborations with other institutions.”

“We are an independent and impartial avenue for taxpayers who have been unable to resolve a service, procedural or administrative complaints through the normal complaint management channels of SARS.”
Most complaints still resolved in taxpayers’ favour
From the outset, our reports have shown that the majority of complaints lodged against SARS have been resolved in favour of taxpayers. This trend has continued. In the third quarter, only 20% of complaints investigated were resolved in favour of SARS.

Despite progress in building our investigative capacity, we are still experiencing challenges, especially in the turnaround time in terms of resolving complaints. It is anticipated that turnaround times will improve once a Memorandum of Understanding (MoU) with SARS is in place.

Meanwhile our team is engaging relevant structures to address legislative shortcomings regarding the Office’s independence and limited mandate.

POWER OF ATTORNEY FORM AVAILABLE
The Office of the Tax Ombud has created its own Power of Attorney form that representatives may use when lodging a complaint on behalf of the taxpayer. The form has been loaded onto the website under the section “How to lodge a complaint”. Visit our website at www.taxombud.gov.za for more information.

OFFICE OF THE TAX OMBUD ENGAGES WITH SAIT MEMBERS VIA WEBINAR
OTO CEO Advocate Eric Mkhawane engaged with more than 900 members of the South African Institute of Tax Professionals (SAIT) through webinar on 17 February 2016.

The webinar, hosted by the SAIT at the University of Pretoria, was aimed at creating awareness about the Office of the Tax Ombud, its mandate and services, as well as to encourage both SAIT and non-SAIT members to use these services. The engagement included a question-and-answer session where SAIT members received immediate answers to their questions from Adv Mkhawane.

By the end of the two-hour session, he had answered 49 questions from webinar participants, who used a “we chat” box to send in their questions.

The session was extremely productive with 49 questions asked and answered.

Some of the questions that Adv Mkhawane addressed have been posted on the Office of the Tax Ombud’s website.

We are planning more webinar engagements with different stakeholders and have three scheduled with SAIT on the following dates: 15 June, 17 August, and 12 October. All the sessions commence at 15:00 and end at 17:00. For more information on upcoming OTO events, visit www.taxombud.gov.za.
The Office of the Tax Ombud is committed to handling all complaints and queries received as swiftly, efficiently and effectively as possible. Here are a few tips that taxpayers and practitioners can use to help avoid delays and hitches.

1. **How to lodge a complaint and submit the complaint form**

   Taxpayers can lodge complaints by visiting the Office of the Tax Ombud or contacting the Office by telephone, fax, post or email to request the complaints form. The complaints form can also be downloaded from [www.taxombud.gov.za](http://www.taxombud.gov.za). Taxpayers need to fully complete all sections of the form and sign and date it before the Office can attend to any complaint. OTO will not accept unsigned forms. Please attach all the supporting documents relevant to your complaint.

2. **What to expect when we receive your complaint.**

   - **Acknowledgement**
     We will acknowledge receipt of your complaint and issue a reference number you can use if you need to contact us about your complaint.

   - **Screening**
     If we cannot review your complaint, we will inform you of the reason or suggest who might be able to help you.

   - **Review process**
     An operations specialist will be assigned to your complaint. We will then conduct an impartial review of your complaint, using the information available to decide what we believe is fair and reasonable in the circumstances of your complaint. Our consultant will keep you informed throughout the process. You can also contact us and speak to the consultant assigned to your complaint.

   - **Commitment to service**
     We are committed to providing the best possible service to taxpayers who contact us. Once we have accepted your complaint as falling within the mandate of our Office, we will endeavour to finalise your complaint within 15 business days from the date of receiving it. Should we not be able to finalise the complaint within the stipulated period, we will advise you accordingly.

3. **Concluding the investigation**

   At the end of the review, we will send you the outcome of your complaint along with our recommendation.

4. **Know your rights**

   When dealing with the Office of the Tax Ombud, you have the right to be treated professionally, courteously and fairly. That includes exercising the right to lodge the complaint and receiving feedback about the findings.

5. **Keep a record of your communications**

   Please make detailed notes of all your communications, written or verbal, when engaging with the Office of the Tax Ombud and with SARS including the date and time of each contact. Keep all correspondence you send and receive from OTO and SARS.

6. **Ask for the consultant’s name**

   When contacting the OTO you are entitled to know the identity of the person who is helping you or handling your matter.

7. **Complaints we can review**

   OTO can only review and address any taxpayer complaint about a service matter, procedural or an administrative matter, arising from the application of the provision of a tax Act by SARS. It is important to note that in terms of Section 18(4) of the Tax Administration Act, the Tax Ombud may only review a matter if the complainant has exhausted the available SARS’ complaints resolution mechanism.
7. Complaints we cannot review
The Tax Ombud may not review the following:

• Legislation or tax policy,

• SARS policy or generally prevailing practice, other than the extent that it relates to a service matter or a procedural or administrative matter arising from the application of the provisions of a tax Act by SARS.

• A matter subject to objection and appeal under a tax Act, except for an administrative matter relating to such objection and appeal or a decision of, proceeding in or matter before the tax court.

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QUESTIONS THAT TAXPAYERS OFTEN ASK

• What is the relationship between the Office of the Tax Ombud and SARS?
The Office of the Tax Ombud is independent of SARS and plays an oversight role over it.

• Which complaints does the Office of the Tax Ombud handle?
Service, procedural or administrative disputes you have with SARS. These include poor service, bad administration and ignoring taxpayer complaints.

• What complaints does the Office of the Tax Ombud not handle?
Legislation or tax policy, general SARS policy, a matter subject to objection and appeal under a tax Act, or a decision of, proceeding in or matter before the tax court.

• Are the findings of the Office of the Tax Ombud legally binding?
No, but SARS may not willy nilly ignore the recommendations made by OTO, and are required to provide reasons why.

• Does the Office of the Tax Ombud charge for its services?
No, the OTO’s services are free.
OFFICE OF THE TAX OMBUD
HAS A NEW HOME

The Office of the Tax Ombud is now based at Menlyn Corner, 2nd floor, 87 Frikkie de Beer Street, Menlyn, Pretoria, 0181.

We are looking forward to assisting you with any service, administrative or procedural problems that may arise between you, as the taxpayer, and SARS. Through our independent and impartial mediators, you can resolve your tax-related queries quickly and fairly.

Except for our physical address, we have the same contact details as before:

- Contact Centre 0800 662 837
- www.taxombud.gov.za
- @TaxOmbud
- Office of the Tax Ombud
- complaints@taxombud.gov.za

Notice
This is a quarterly newsletter that will be published every three months. The next issue will be out in June 2016. We urge our readers and stakeholders to make inputs on any matter concerning this Office or tax issues. Your inputs could be in the form of comments or letters to the editor, and should be emailed to PSeopela@taxombud.gov.za or at InternalCommunications@taxombud.gov.za

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