

FAIR PLAY

KEEPING YOU UP TO DATE WITH THE LATEST NEWS

ISSUE 22 | ANNIVERSARY EDITION | OCTOBER 2021



OFFICE OF THE
TAX OMBUD
Ensuring fairness



8

**YEARS OF
FAIRNESS**

2013-2021

CELEBRATING 8 YEARS OF FAIRNESS



8
YEARS OF
FAIRNESS

2013-2021

AN EXCITING CELEBRATION

The celebration of the OTO's 8th anniversary is an exciting milestone. During this period, the Office has taken great strides to make a difference to the lives of taxpayers through its free and fair intervention when taxpayers have complaints about SARS. We have successfully assisted many taxpayers, some of whom lack the financial means to use tax practitioners or lawyers to attend to their complaints. Confirming the OTO's effectiveness, we have been receiving commendations from taxpayers acknowledging the hard work of the complaints resolutions team in ensuring fairness on their behalf.

While celebrating eight years of fairness, the OTO is looking ahead to the future, where we will continue to serve taxpayers with vigour and promote compliance and fairness in the tax administration system.



Pearl Seopela
*Senior Manager:
Communications &
Stakeholder Relations*

In this edition:



OFFICE OF THE
TAX OMBUD
Ensuring fairness

The OTO's Milestones

A lot has been achieved in the last eight years; we take a look at some of the highlights.

Page 4



Well Done, Team OTO!

Our valued stakeholders shared messages of support to commemorate our 8th anniversary.

Page 6



8 Years of Fairness with Business Day TV

Prof. Thabo Legwaila and Judge Bernard Makgabo Ngoepe during the broadcast of 8 Years of Fairness with host Michael Avery (Business Day TV).

Page 10

Tax Ombud's corner



Judge Bernard Makgabo Ngoepe
Tax Ombud

The Office of the Tax Ombud is celebrating its 8th anniversary this month, which coincidentally is the same number of years I've been at the helm of this vital institution in our country and its tax administration system. I am honoured to have been called upon to establish this institution, and to remain at its helm to help shape it into a robust, impartial and independent recourse mechanism for taxpayers with complaints against the South African Revenue Service (SARS).

Looking at the progress made, it is hard to believe that before the institution was established in 2013, taxpayers had no free and independent recourse against SARS. This was especially challenging to many who did not have the means to hire tax practitioners or lawyers. Over the years, we have made a significant difference in restoring some trust in the South African tax administration system through our relentless pursuit for fairness in how taxpayers are treated. We have promoted a healthy balance between SARS's powers and duties, on the one hand, and taxpayer rights and obligations on the other. We have achieved this through the hard work of our team of experts in tax and other fields, and through the support over the years of our external stakeholders.

The impact of the work we do cannot be quantified. Besides saving business and individual taxpayers millions of rands through refunds, we have ensured that they are treated with dignity and respect when they visit SARS branches throughout the country, and that their complaints are urgently attended to. The situation is not perfect yet, but I'm confident that with continued collaboration with SARS, other institutions and stakeholders, the goal of having an exemplary revenue collector is a certainty rather than a mere pipe dream.

"With the skills and drive to get things done, we believe that we have also made a positive contribution towards promoting tax compliance by protecting taxpayers' rights."

This anniversary is not just a milestone to be celebrated, but also the beginning of another year filled with new opportunities to make a more meaningful contribution to the country's tax administration system. Owing to the

many challenges they face, some institutions in our country may have very little to show even after a decade or more in existence, but we have made tangible contributions to the tax administration system in our first eight years. It is encouraging to note that our stakeholders are happy with what we have been doing. A former Minister of Finance recently commended our work as having contributed to SARS having turned the proverbial corner for a better institution. With the skills and drive to get things done, we believe that we have also made a positive contribution towards promoting tax compliance by protecting taxpayers' rights.

October is a busy month for the OTO as it also witnessed the relaunch of our taxpayer rights awareness campaign, *#TaxpayersRightsMatter*, which is taking place at the height of the SARS tax season. Given the continued COVID-19 pandemic and loss of jobs, SARS is under pressure to collect even more tax for much-needed services; however, such a drive should not infringe on taxpayers' rights. Our educational and awareness campaign calls on all taxpayers to pay what is due and reminds all that, in turn, the OTO commits to continue doing everything possible to ensure that taxpayers are not forced to pay a cent more than what is required. This campaign is vital as it seeks to ensure that more taxpayers know about the OTO and the free and impartial assistance it provides to those with complaints against SARS.

Increased tax compliance is not only required but also necessary. On numerous occasions, I have stated my belief that tax compliance will increase once taxpayers know that the tax collected is used to make the lives of all people better, and not just a few politically connected. My term in office is coming to an end soon, and I'm happy that I will be leaving behind a strong and capable institution ready and able to continue improving the country's tax administration system. We have made a significant difference, and the almost 100% implementation of our recommendations by SARS is testament to our effectiveness. We will continue pursuing excellence in service delivery.

THE OTO's MILESTONES

The OTO has faced both challenges and triumphs, and Fair Play is pleased to share some of the milestones.



2013

In October, Judge Bernard Makgabo Ngoepe is appointed as the **first Tax Ombud**, becoming one of the first two employees of the Office of the Tax Ombud.

During the first six months, the OTO employed its first Chief Executive Officer, Advocate Eric Mkhawane, who left the organisation in 2019 to pursue other interests.



2014

The OTO is **officially launched** in April by the then Minister of Finance, Pravin Gordhan, and publishes its first Annual Report in Parliament, which covered the activities of the first six months of the existence of the Office to the end of the fiscal year on 31 March 2014.



2015

The OTO undergoes **major rebranding** with the launch of a new corporate identity and a user-friendly website catering to the growing needs of taxpayers.

The OTO also publishes the first Tax Ombud Annual Performance Plan and Strategic Plan for the National Treasury to table in Parliament.



2016

The Tax Ombud **successfully advocates for changes to legislation** to improve its structure and extend the term of office of a Tax Ombud from three to five years. The OTO moves its complaints management system from a manual system to an automated complaints management system on 31 March 2016.



2017

The OTO releases its **first systemic investigation report** into delays in the payment of tax refunds by SARS.



2018

National Treasury grants the Tax Ombud permission to investigate the Pay as You Earn (PAYE) statement of accounts and SARS's non-adherence to dispute resolution timeframes. This was the **second systemic issue** investigation initiated by the OTO.



2019

The Tax Ombud **signs two MoUs**; one with the Office of the Public Protector, formalising cooperation between the two institutions when dealing with taxpayer complaints against SARS; and another with the revenue collector to foster collaboration between the two institutions on matters of mutual interest without encroaching on their respective mandates, particularly on corporate and operational issues.



2020

The OTO hosts a successful stakeholder discussion and receives overwhelming support from taxpayers, tax practitioners, academia and Recognised Controlling Bodies for its continued call for structural independence from SARS.

The Office appoints the second Chief Executive Officer, Professor Thabo Legwaila.

The **10 highest value tax refunds paid to taxpayers through the intervention of the OTO collectively exceed R116 million.**



2021

The **10 highest value tax refunds** paid to taxpayers collectively exceed R156 million.

The OTO's performance information for 2020/21 is audited by the Auditor General of South Africa, followed by the release of the first-ever externally audited Tax Ombud Annual Report.

The OTO establishes an independent Audit and Risk Committee to oversee performance information reporting risks, internal controls and risk management within the institution.

The Office has grown and now boasts 41 employees.

R694

million

NB: The intervention of the OTO has helped facilitate the payment of refunds in excess of **R694 million** to taxpayers from 2017 to 2021 (2017 is when we began linking resolved complaints to refunds paid). If the outcome of our interventions is that a taxpayer receives a refund, that is the result of SARS's response to the OTO's recommendation. We do not recover funds on behalf of taxpayers.

WELL DONE, TEAM OTO!

Over the years, the OTO has cultivated mutually beneficial partnerships with numerous stakeholders who have helped the Office make a difference in the lives of stakeholders. Some of these stakeholders shared messages of support to commemorate the 8th anniversary.



**Honourable Enoch
Godongwana**
Minister of Finance

The Office of the Tax Ombud (OTO) has been pursuing excellence in servicing taxpayers since its establishment eight years ago this October. While this is a relatively short period for an organisation with such a significant mandate, the contribution it has already made in improving the country's tax administration system has been immense.



Edward Kieswetter
SARS Commissioner

The South African Revenue Service (SARS) is proud to celebrate the 8th anniversary of the establishment of the Office of the Tax Ombud (OTO) on 1 October 2013. Over the years, the OTO has become an integral part of the tax ecosystem where the taxpayer is at the centre of what we do. Indeed, the OTO has become an essential lens through which SARS must review its operations and service to taxpayers.

The SARS objective of making it easy and simple for taxpayers to interact with the organisation does not always bear positive results despite our best efforts, with many service shortcomings causing frustration for the taxpayer. It is then the right of the taxpayer to escalate any service failure to the OTO as a last resort. The Ombud strives to balance the powers of SARS and the rights and obligations of taxpayers to promote a fair and equitable tax administration. SARS have benefited immensely from interacting with the OTO for the benefit of the taxpayers.

In line with international best practice, the important work of the OTO has resulted in the timeous resolution of service, procedural and administrative complaints that were not resolved through the standard SARS processes. We subscribe to continuous improvement and this feedback has enabled SARS to review service levels and communication with taxpayers, which seeks to provide greater certainty and clarity for taxpayers, all of which is vital to drive voluntary compliance and building trust in SARS.

We also wish to thank you for making taxpayers aware of their rights and responsibilities in fulfilling their legal obligations and ensuring that taxpayer education remains a vital part of your work. We are confident we will achieve success as we try to balance the two issues, service to taxpayers, with managing the real risk that we observe to the fiscus, and excited about what the next few years will bring. We trust that the OTO will remain an active partner to improve the tax ecosystem, ensuring progress towards Voluntary Compliance and helping us become a SMART, Modern SARS with Unquestionable Integrity that is both trusted and admired.

Indeed, we are pleased that you have been a fellow companion on this journey of ensuring that SARS can fulfil its legislative mandate of collecting all revenue due, revenue which is vital for building a capable state that can improve the well-being of all its citizens.

SARS congratulates you on reaching this 8th anniversary milestone and hopes that you will remain a valuable stakeholder and partner in the service of taxpayers and our country.

From everyone at SARS, we congratulate the Ombud and team on the auspicious occasion and may we continue to establish effective and beneficial partnerships in the tax ecosystem that deliver maximum benefits for the taxpayers, Government and the public.



The South African
Institute of Chartered
Accountants

SAICA would like to congratulate the Office of the Tax Ombud on its achievements since its inception eight years ago. This includes resolution of the majority of valid complaints received, with a record 98% of recommendations made in the 2020/21 period accepted by SARS.

We are encouraged to see that taxpayer-centricity remains the core focus of this Office, with the launch of its #TaxpayersRightsMatter campaign and the constant striving to promote taxpayer rights and efforts to ensure taxpayers are treated fairly by SARS, balanced with promoting taxpayer compliance by rejecting complaints where the taxpayer has not followed the process as required.

SAICA looks forward to strengthening its collaborative relationship with the Office of the Tax Ombud by creating awareness about the Office and by supporting its efforts to identify systemic matters with a view to making recommendations as to how to resolve these for the benefit of all taxpayers.



Fiduciary Institute of
Southern Africa

The Office of the Tax Ombud has proved itself to be highly efficient in dealing with complaints lodged about the affairs of taxpayers. The responsiveness and action have been impressive, and members of the public can be referred to the Office with confidence.



South African Institute
of Tax Professionals

Congratulations on your eighth anniversary! Harking back to the Third Interim Report of the Katz Commission, you were conceived to protect and thereby strengthen, the “underlying foundation of trust between taxpayers and authorities”. You are fulfilling your purpose and mandate admirably. We are proud to work with you to continue to improve the tax landscape for all. To many more years of engagement!



Prof. Thabo Legwaila
Chief Executive Officer

INTENSIFYING PURSUIT OF EXCELLENCE

It gives me great pleasure to be part of this milestone as we celebrate the OTO’s 8 Years of Fairness. Although I joined the Office 18 months ago, I feel very proud of the difference it has made in taxpayers’ lives over the full eight years of its existence and its contribution to improving the country’s tax administration system. I am equally chuffed that the OTO is credited with helping to make the South African Revenue Service (SARS) a better institution that values and promotes the protection of taxpayer rights.

These achievements would not have been possible without the collective efforts of our colleagues, who have shown relentless commitment to ensuring that the OTO provides exemplary service that does justice to taxpayers, knowing that their complaints against the revenue collector will be fairly and timeously attended to, for free.

I look forward to making a valuable contribution to the organisation as it focuses on intensifying the pursuit of excellence in service delivery. Let us work together to ensure the next eight years are replete with stories of greater success that could propel service excellence in the tax sphere to heights not yet seen in public service.

EXCELLENCE APPRECIATED

Espousing efficiency and excellence and embracing Batho Pele principles are part of daily practice at the Office of the Tax Ombud when dealing with taxpayer complaints, and the appreciation shown by those engaged and assisted is testimony to the services rendered. We are proud to state that over the years, SARS has consistently implemented almost all our non-binding recommendations, resulting in a majority of complaints resolved in favour of taxpayers. Below are some of the commendations sent to Team OTO by taxpayers and practitioners:



COMMENDED:
LUCY NGCOBO,
OPERATIONAL
SPECIALIST: COMPLAINTS
RESOLUTION

COMMENT: "I am a tax practitioner and have been practising in the tax field for over 50 years. I have what I consider to be a practical question, the answer to which will be of great interest to taxpayers and tax practitioners in general.

Having said that, I need to record my admiration for the work you do, the successes you have achieved and, possibly most importantly, the communications you issue. My question relates to the response from high levels within SARS to the cases you investigate. My question could also be extended to cover the court judgments in recent years that have come down very hard on the behaviour of SARS individuals. That, of course, is not your concern.

Let us use the matter you have just published relating to the extraction of funds from the taxpayer's bank account in excess of the amounts due and in excess of the demands issued. (Please refer to issue 8 of Fairness for All by clicking [here](#).) Let me say it plainly and simply. What SARS did was illegal, and they should have faced a criminal charge of theft. At last, I get to my question in two parts.

- Did SARS apologise to the taxpayer in writing from a high authority in SARS?
- Did the SARS individuals concerned get admonished and suffer real consequences for their illegal actions?

Although you possibly have no right or power to answer my questions, it is the answers to these questions that the taxpaying public would really like to hear. Keep up the amazing work."



COMMENDED:
OBIDIENT CHAUKE,
ACTING MANAGER:
CONTACT CENTRE

COMMENT: "I know most of the time you receive complaints from customers regarding poor service delivery, but allow me to compliment one of your employees, Obidient Chauke, Acting Manager at the Ombud Office.

On Friday, 1 October 2021, I contacted the Office of the Tax Ombud, where I was assisted by Mr Chauke. I lodged a complaint at the office after I had exhausted inquiries at the SARS office regarding my tax return outcomes. I must say, I've never before experienced such service as that provided by Mr Chauke. He gave me new hope to deal with my SARS case.

I asked Mr Chauke to give me his supervisor's or manager's name and e-mail details because I would like to inform senior management about his outstanding service to taxpayers. He is so passionate about his job and reflects the following:

- Client service is a top priority to him.
- He approached me as a client in a professional way.
- He is patient and has good listening skills.
- He has excellent communication skills.
- He walks the extra mile for the taxpayer.
- He made me feel valued as a taxpayer.
- He ensured that I was satisfied with my enquiry and provided me with all the relevant information to launch a complaint.
- He loves his job.
- He has the skills, knowledge and attitude for the job.
- Most important, he adds value to the office of the Tax Ombud.

I only discovered later that he is the Acting Manager! I'm honest, and with all respect to all your Senior Management Team, one does not expect an Acting Manager to conduct himself in such an excellent way. I am of the opinion that the office of the Tax Ombud made a good investment the day they appointed Obidient Chauke as an employee."



COMMENDED:
MPHO MASWANGANYE
OPERATIONAL
SPECIALIST: COMPLAINTS
RESOLUTION

COMMENT: “I am writing to say thank you for your assistance over the past few months with several complaints I had against SARS for which you ruled in my favour. I received notification this morning that SARS has paid the final refund due to me. So, at last, my tax affairs are all up to date.”



COMMENDED:
STANLEY MARINGA
OPERATIONAL
SPECIALIST: COMPLAINTS
RESOLUTION

COMMENT: “Many thanks, your service was outstanding and truly a pleasure. You got right in 10 days what SARS employees could not in a year. Thank you once again. Thank you so much for your feedback. The professionalism of the Office of the Tax Ombud has been the only silver lining in this process to keep SARS accountable.”



COMMENDED:
OLBEN MASEBOLA
OPERATIONAL
SPECIALIST: COMPLAINTS
RESOLUTION

COMMENT: “The case referred to your office for resolution has finally been attended to. Though it has taken SARS a whole year to respond positively to my tax issue, I am, however, grateful that your office acted patiently but decisively on my behalf to have the matter resolved.

“I knew from the start that I had a strong case to present against SARS but was each time dismissed by the officials who failed to explain why I ended up having two different tax numbers. I am glad that I am the kind of person who always tries to keep records meticulously so that in the event disputes like this crop up, I am able to present my case backed up by documented evidence.

“Finally, let me thank you heartily for being the taxpayer’s last line of defence. Without you, most of the taxpayers would be carrying heavy tax burdens because of the carelessness of some of the tax officials at SARS branches. Thanking you very much.”



COMMENDED:
JOHANNA MALAPILE
OPERATIONAL
SPECIALIST: COMPLAINTS
RESOLUTION

COMMENT: “I am most grateful to you and the Tax Ombud for all you have done to ensure that SARS pay me back my tax refund owing for the tax year 2020. I am pleased to inform you that I was paid out in full on 10 of April by SARS. Thank you for your assistance in this matter. I am truly grateful to all in your Office.”



COMMENDED:
OBIDIENT CHAUKE
OPERATIONAL
SPECIALIST: COMPLAINTS
RESOLUTION

COMMENT: “With reference to recent correspondence on this subject, I write to advise you that the matter under reference has now been resolved satisfactorily. It is great to receive such good service from you, and I thank you so much for the assistance you have afforded me on this occasion. It is very much appreciated.”



COMMENDED
TALITHA MUADE
SENIOR MANAGER:
OPERATIONS

COMMENT: “I just wanted to personally commend you for the powerful presentation you made this afternoon. You articulated all the pertinent issues very well, and your language was very clear. Thank you so much for your excellent presentation. We benefited so much - keep up the good work.”

CELEBRATING **8 YEARS OF FAIRNESS**

The Office of the Tax Ombud has embarked on an ambitious 360 degree campaign to highlight the institution's 8 Years of Fairness.

The campaign includes print, broadcast and digital components. For example, the Tax Ombud Judge Bernard Ngoepe and CEO Prof. Thabo Legwaila were featured on BDTV, www.businesslive.co.za and in the Business Day. Here are some of the highlights of the campaign.



Prof. Thabo Legwaila and Judge Bernard Makgabo Ngoepe during the broadcast of *8 Years of Fairness* with host Michael Avery (Business Day TV).

OTO brand integration and awareness campaign as featured in *Skeem Saam*, *The Queen*, *Gomora* and *The River*.



TOP 10 MOST COMMON COMPLAINTS

In the past eight years, the OTO has continuously received and managed to resolve complaints with similar themes.



1

SARS placing unwarranted stoppers on the taxpayer's account for refunds not to be paid. This had a significant impact on the taxpayer's cash flow, especially at a time when COVID-19 restrictions were adversely affecting many taxpaying businesses.

THE OTO'S RECOMMENDATION

SARS should remove the stoppers, release refunds where applicable and communicate the outcome to the affected taxpayers.

2

Delays in finalising verification result in delays in releasing refunds that are due; this occurs even when taxpayers have submitted all the requested information.

THE OTO'S RECOMMENDATION

SARS should finalise the verification process and release the refunds or provide valid reasons for not doing so.

3

Non-adherence by SARS in finalising dispute resolution. SARS, in most cases, does not adhere to the dispute resolution timelines, which is already an identified systemic issue.

THE OTO'S RECOMMENDATION

SARS should finalise its decision on the objections lodged or appeals noted and communicate the outcome without further delay.

4

Incorrect allocation of payments. Taxpayers were complaining that they sent SARS letters on how to allocate their payments but SARS, without explaining its decisions on allocation to taxpayers, did not heed their requests.

THE OTO'S RECOMMENDATION

SARS needs to provide clarity to taxpayers. In some instances, we noticed that the allocation was first done to cover administrative penalties and then to balance principal debt. This was not explained to taxpayers, who do not have that information. SARS should explain to taxpayers on how the allocations have been made.

5

Taxpayers were complaining that they had not received outcomes of their objections, and in some instances, SARS could not prove that they had indeed sent the outcomes to the taxpayer.

THE OTO'S RECOMMENDATION

SARS should provide proof that the outcome of the objection was communicated with the taxpayer or, alternatively, issue the outcome to the taxpayer.



6

Recalled refunds. SARS would pay the refunds into taxpayers' bank accounts and then recall the refunds. SARS takes too long to clear the identified risks and, in some instances, more than six months will pass, prompting taxpayers to complain to the OTO.

THE OTO'S RECOMMENDATION

SARS should finalise the recalled refund verification process and release the refund or provide valid reasons for not doing so.

7

E-filing profile problems for practitioners, resulting in them not being able to add or remove clients from their profiles.

THE OTO'S RECOMMENDATION

We have noticed delays from SARS on this type of complaint and have recommended that SARS assist the affected practitioners with their profiles so that they can add or remove clients.

8

SARS, in some instances, deducts more money from a taxpayer's bank account than it should have, which prejudiced the taxpayer financially.

THE OTO'S RECOMMENDATION

SARS should withdraw the third-party appointment, repay the money collected from the taxpayer's bank and issue a new third-party appointment, if applicable, with the correct tax debt amount.

9

Banking details of taxpayers have been updated, but the verification and refunds are still not released where refunds are due.

THE OTO'S RECOMMENDATION

SARS should update banking details per the information provided, finalise verifications and pay refunds due or provide valid reasons for not doing so.

10

SARS Complaints Management Office (CMO) incorrectly rejects taxpayers' complaints when lodged with it.

THE OTO'S RECOMMENDATION

The SARS CMO should correctly address the complaints lodged by taxpayers and communicate the outcome.

Notice

This is a quarterly newsletter that is published every three months. We urge our readers and stakeholders to contribute (in the form of articles, important announcements, opinion pieces or letters to the editor) on any matter concerning this Office or tax issues. Your contributions should be emailed to PSepela@taxombud.gov.za or Communications@taxombud.gov.za.

Copyright Notice And Disclaimer

The information provided in this document is protected by applicable intellectual property laws and may not be copied, distributed or modified for any purpose without the explicit consent of the Tax Ombud. The information was correct at the time of publication but may have subsequently changed. This newsletter is for information purposes only and cannot be considered to be a legal reference. The use of this information by any person shall be entirely at that person's discretion. The Office of the Tax Ombud does not expressly or by implication represent, recommend or propose that services referred to in this document are appropriate to the needs of any particular person. The Tax Ombud does not accept any liability due to any loss, damages, costs and expenses, which may be sustained or incurred directly or indirectly as a result of any error or omission contained in this newsletter. The information does not supersede any legislation and readers who are in doubt regarding any aspect of the information displayed in the newsletter should refer to the relevant legislation, or seek a formal opinion from a suitably qualified individual.

Follow the OTO on the following social media channels and be part of an important conversation in the country on tax matters:

 [@TaxOmbud](https://twitter.com/TaxOmbud)
 [TaxOmbud SA](https://www.facebook.com/TaxOmbudSA)
 [@TaxOmbud SA](https://www.instagram.com/TaxOmbudSA)
 [Office of the Tax Ombud](https://www.linkedin.com/company/Office-of-the-Tax-Ombud)

www.taxombud.gov.za

If you have a QR code reader app on your mobile, scan to visit:

