

ISSUE 13 | SEPTEMBER 2019

# FAIR PLAY

KEEPING YOU UP TO DATE WITH THE LATEST NEWS



OFFICE OF THE  
**TAX OMBUD**

*Ensuring fairness*

**SPECIAL EDITION**

## IT'S OUR BIRTHDAY!

### CELEBRATING

# 6 YEARS

## OF BRIDGING THE GAP OF FAIRNESS AND TAXPAYER RIGHTS



# SIX YEARS OF BRIDGING THE GAP



## Editor's Note

We are delighted to share with you our special edition of Fair Play as we celebrate the sixth anniversary of the establishment of the Office of the Tax Ombud (OTO). This edition, themed "Six years of bridging the gap of fairness and taxpayer rights", features an overview of and extracts from the Tax Ombud's 2018/19 Annual Report, which has just been tabled in Parliament, as well as highlights of the past six years and insights on important matters in the tax sphere.

We take cognisance that we are just over halfway through the 2019/20 financial year and we are grateful for the continued support we receive from stakeholders. We look forward to nurturing existing partnerships, building new ones and working together to promote fairness in the country's tax administration system.

Enjoy the read.

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## NOTICE

This is a quarterly newsletter that will be 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 [PSeopela@taxombud.gov.za](mailto:PSeopela@taxombud.gov.za) or [Communications@taxombud.gov.za](mailto:Communications@taxombud.gov.za).

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## CONTRIBUTORS

**Pearl Seopela:** Senior Manager: Communications

**Jack Malatji:** Specialist: Communications and Outreach

**Sipho Mahlangu:** Graduate Trainee

**Thabo Mkhize:** Specialist: Editing and Publications

**Lebogang Mokoena:** Support and Administration

## FOLLOW US ON SOCIAL MEDIA

Follow the OTO on @TaxOmbud, Office of the Tax Ombud and taxombudsa, and be part of an important dialogue in the country on tax matters.



HONOURABLE TITO TITUS MBOWENI  
MINISTER OF FINANCE

# MESSAGE BY THE MINISTER OF FINANCE

Five years of fairness and making a difference in the lives of taxpayers best describes what the Office of the Tax Ombud (OTO) has achieved since its establishment. Based on its track record, I believe this Office has been exemplary in delivering a much-needed service to taxpayers. In the Tax Ombud, taxpayers have a free, independent and impartial avenue through which to have their complaints against the South African Revenue Service (SARS) expeditiously resolved.

The economic slowdown, growing unemployment, crime and lately, damning findings against government departments and entities, have become a normal part of everyday life in South Africa. It is to be welcomed that the credibility of the OTO and its employees has not been shaken. In fact, our parliamentarians are pleased with what the institution has achieved.

The OTO continued to pursue excellence during the 2018/19 reporting period in executing its mandate of making a positive contribution to improving the South African tax administration system. I can confidently state that the improvement we have seen within the revenue collector is partly attributable to the work done by the OTO, which has helped promote a healthy balance between SARS' powers and duties, on the one hand, and taxpayers' rights and obligations, on the other.

The OTO is making strides in helping restore public confidence in SARS by working with the revenue collector to address many of the systemic issues that have been raised in a number of complaints by taxpayers.

I am also satisfied with the level of cooperation between the OTO and public and private sector institutions. The numerous education and awareness campaigns that have taken place have ensured that a growing number of public servants, politicians and members of the general public are increasingly becoming aware of the existence of the OTO and the services it provides. It should also be acknowledged that a lot more needs to be done to ensure that the majority of our people know about the services of the Tax Ombud. Furthermore, I am happy about the Memorandum of Understanding (MoU) the Office has signed with SARS, as well as the MoU signed with the Office of the Public Protector. This will help expedite the resolution of taxpayers' complaints and ensure that they are dealt with efficiently.

In conclusion, I want to express gratitude for the great work that is being done by Tax Ombud Judge Bernard M Ngoepe, as well as his team, and urge them to continue to carry out the Office's mandate without fear or favour.

*The message by the Minister of Finance is an extract from the Tax Ombud's 2018/19 Annual Report.*



JUDGE BERNARD MAKGABO NGOEPE  
TAX OMBUD

## TAX OMBUD'S CORNER

October 2019 marks the sixth anniversary of the Office of the Tax Ombud (OTO) - six years of bridging the gap, leading initiatives in tax recourse and holding the South African Revenue Service (SARS) accountable if need be. We have encountered challenges along the way, but I can confidently state that this Office has made a significant contribution to the country's tax administration system. We have ensured that taxpayers have a fair and effective avenue to resolve their tax complaints with SARS and to hold the revenue collector accountable, especially when its actions against taxpayers are found wanting.

There is still a lot that needs to be done to address many of the challenges facing our country's tax administration system, and the OTO is suitably positioned to lead the way. Of course, some drastic changes regarding the powers of the Office and its independence will be required in order for the Office to fully carry out its mandate and ensure that taxpayers' rights are protected and that their tax rights, as enshrined in the South African Constitution and SARS' Service Charter, are upheld.

Since our inception, our efforts to ensure fairness have been open to public scrutiny. Our annual reports have played an important part in this by reporting comprehensively on the complaints we receive, the recommendations we make and the response from SARS to these recommendations. For our fifth annual report, we will be continuing our tradition of launching the document in the presence of our stakeholders, enabling them to engage us on the contents of the report. The launch of our latest annual report in partnership with the University of Cape Town and Tiso Blackstar enables us to continue creating much-needed awareness about our institution and the services we provide.

We are just over halfway through the financial year and before long, will be required to report back to stakeholders about our performance against the objectives set in our 2019/20 Annual Performance Plan. In the remaining months of the financial year, we request your continued support for our efforts to promote fairness in tax administration. An important upcoming milestone is the release of the second comprehensive systemic investigation report. We will also be putting in even more energy to ensure we meet the targets that we set ourselves at the beginning of the financial year.

In conclusion, I would like to express gratitude for the support we have received from taxpayers and our partners over the past six years. We greatly value these partnerships and are optimistic that, together with our stakeholders, we will reach more milestones on the path ahead and succeed in bridging the gaps that taxpayers currently encounter in the tax administration system.

**Download a comprehensive copy of our 2018/19 Annual Report at: [www.taxombud.gov.za](http://www.taxombud.gov.za)**





GERT VAN HEERDEN  
ACTING CEO

# CEO'S MESSAGE

We call on all citizens and residents to comply with their tax obligations in order to help build South Africa. As we walk the next five years together with the new administration of the country, the Office is hopeful that this administration will inspire confidence in South Africans that their taxes are being utilised for the benefit of every South African citizen; this confidence will in turn improve the level of cooperative compliance within the tax system.

## Customer perception survey

Part of the OTO's strategy is to find innovative ways to continually improve and modernise our day-to-day work processes. To this end, we implemented a Customer Perception Survey to gauge taxpayers' perceptions of the quality of our service, their satisfaction levels, the brand loyalty built in our first five years and, above all, their views on how customer-centric they perceive us to be. As a once-off survey would not deliver the kind of insights we require if we are to improve our service incrementally, it is an ongoing process. A survey questionnaire is routinely sent to taxpayers after the finalisation of complaints lodged with our Office, regardless of whether the complaint was accepted, rejected or terminated. In this way we are able to continually improve the experience of taxpayers and ensure that stakeholders are satisfied with our service.

## Communications and outreach

Our outreach plays an important role in promoting the Tax Ombud brand and, moreover, in ensuring that taxpayers are aware of the services offered. The 2018/19 financial year saw the Office embarking on a number of stakeholder education and awareness campaigns. The different engagements were robust and, based on the outcome, were indicative of taxpayers' appetite to know and understand our operating processes. We will continue to promote and protect taxpayers' rights and remind them of their responsibility to pay tax.

The response to an increase in stakeholder education and awareness engagements, together with a positive presence in the media and presentations to different stakeholders across the country, has been favourable. Increased awareness about the service and value of the Office, and the need for it, has added value in the tax administration system and enlarged taxpayers' experience with tax matters.

## Complaints resolution

There is evidence of a growing need for our services as word spreads among taxpayers about the role we play in resolving complaints. An increase in the number of complaints received by the Office finds expression in the statistics for the 2018/19 financial year. The Office received 4 822 complaints for the reporting period, an increase of 1 170 from the previous financial year (3 652). An important point to note about this increase is that more and more complaints are relevant to the mandate of the OTO, which means we can accept and investigate them. This is a positive development and shows that stakeholders have a better understanding of what we can and cannot do. In turn, this indicates that our awareness and education campaigns are paying off.

## Financial support

Our financial model has remained strong and resilient through the turbulent times in which the South African economy currently finds itself. We have been able to do more with fewer financial resources compared to the previous financial year, which is important given the country's economic constraints. The Office's adaptable financial operating model made it possible to source staff and continue building brand recognition through its communication and outreach initiatives, without excessively cutting expenditure. Resources are under pressure, however, and we hope that with the increasing demand for our services, we will be able to motivate for a bit more in our budget.

## Human resources support

We strive to broaden our skills and increase our staff count in order to meet the escalating demand for our services. It is important that our staff be knowledgeable in the field of tax administration and capable of responding satisfactorily to taxpayers' requests. During the year, a number of employees participated in skills development programmes in order to support our core mandate.

## Planning for the next five years

We are an Office operating in times of constant and dynamic change. We continuously seek ways to embrace change and ensure that the work we do remains relevant, along with our skills and capacity to deal with growing volumes of complaints. In the 2018/19 financial year, our staff complement increased from 35 to 44, equipping the Office to improve our output in offering taxpayers a free, impartial and independent mechanism for tax complaint resolutions.

We extend gratitude to SARS, which under the leadership of the then Acting Commissioner Mark Kingon, assisted the Office in resolving the complaints referred to it. We look forward to having a positive and collaborative relationship with SARS under the leadership of the new Commissioner, Edward Kieswetter. While it is certainly necessary for a certain amount of healthy tension to exist between the OTO and SARS, it is of the utmost importance that we work together, as ultimately we have a common goal – to provide service of the highest quality to the citizens of South Africa.

In conclusion, I would like to extend our gratitude to the Recognised Controlling Bodies (RCB) and other stakeholders that collaborated with us by providing numerous platforms from which to engage with taxpayers and raise awareness about our services. The trust placed in us by the many who seek assistance from our Office is also appreciated.

Thank you to every member of Team OTO for your continued pursuit of excellence in service delivery, thus making a positive contribution towards improving the country's tax administration system.

We express our special gratitude to our former CEO Advocate Eric Mkhawane who left the organisation shortly after the end of this reporting period – thank you for five years of fairness, professionalism and excellent leadership.

*The message by the CEO is an extract from the Tax Ombud's 2018/19 Annual Report.*

# OTO'S SERVICES ARE IN DEMAND



TALITHA MUADE  
SENIOR MANAGER: OPERATIONS

we have witnessed a significant increase in demand for our services. Furthermore, if the recommendations we made to SARS were not sound, the revenue collector would have rejected them...but we are understandably happy that SARS accepted and implemented 99.27% of our recommendations. Ideally, our goal is to have SARS implement 100% of our recommendations. Nevertheless, this high percentage of acceptance should be taken in the context that despite the recommendations not being binding, they are accepted and implemented by SARS," says Judge Ngoepe.

Finance Minister Tito Mboweni, also in a message published in the OTO's annual report, congratulates the Office for its achievements in the 2018/19 reporting period. The minister adds that parliamentarians were also pleased with the service the Office offers to taxpayers. "The OTO is making strides in helping restore public confidence in SARS by working with the revenue collector to address many of the systemic issues that have been raised in a number of complaints by taxpayers," says Minister Mboweni. He adds that in a period where many of the country's state-owned institutions have been found wanting and their credibility tested, the OTO has remained credible. "It is to be welcomed that the credibility of the OTO and its employees has not been shaken. In fact, our parliamentarians are pleased with what the institution has achieved."

## Record numbers of taxpayers are approaching the Tax Ombud asking for assistance with complaints they have with the South African Revenue Service (SARS).

In just 12 months, the demand for the free and impartial services offered by the Office of the Tax Ombud (OTO) have increased by 32%, from 3 652 in 2017/18 to 4 822 in 2018/19. There was also a significant increase in the number of complaints resolved, increasing from 1 404 to 2 043 over the 12-month period.

These are just some of the statistics contained in the Tax Ombud's 2018/19 Annual Report, which also reveals that the top 10 tax refunds paid to taxpayers through the intervention of the OTO collectively amounted to over R35 million.

In his statement in the Annual Report, Tax Ombud Judge Bernard Ngoepe says the increase in demand for the OTO's intervention is an indication that taxpayers are not only aware of the existence of the Office but also have confidence in the services it provides.

"If we were failing taxpayers, we would have experienced a decrease in the number of taxpayers approaching the Office for assistance with their complaints with the revenue collector. Instead,

Acting OTO Chief Executive Officer Gert van Heerden says in his annual report message that he is pleased with the improved cooperation between the OTO and SARS, which saw both institutions resolving many systemic issues and signing a Memorandum of Understanding (MoU). The first systemic investigation conducted by the OTO painted a less than positive image of the revenue collector regarding delays in the payment of tax refunds. The systemic investigation report catapulted SARS into action and both institutions worked well to address some of the issues raised in that report, the Acting CEO says.

The second systemic investigation, approved by the Minister in October 2018, relates to complaints about the Pay as You Earn statements of accounts and SARS' tendency to disregard the prescribed timeframes for the resolution of disputes. "I remain optimistic that the results of the investigation will see both the OTO and SARS working together to address the issues, as was the case in respect of the first report," he says. This co-operation resulted in a drastic reduction in the complaints regarding delays in the payment of tax refunds.

*The article features extracts from the Tax Ombud's 2018/19 Annual Report.*

## KEY HIGHLIGHTS OF THE OFFICE'S ANNUAL REPORT:



SARS implemented **99,27%** of the OTO's recommendations.



More than **R35 million** is recovered on behalf of taxpayers from SARS through the intervention of the OTO.



The OTO received **16 779** contacts.



The Tax Ombud concluded an **MoU** that governs the relationship between the **OTO and SARS**.



The Tax Ombud signed an **MoU with the Public Protector of South Africa**.



A **customer experience survey** was conducted to gauge taxpayers' perceptions of the quality of the OTO's services and their satisfaction levels.



The Tax Ombud received permission from the Finance Minister to conduct **more systemic investigations**.

Visit [www.taxombud.gov.za](http://www.taxombud.gov.za) to download the full annual report.



# SIX YEARS OF BRIDGING THE GAP

The Office of the Tax Ombud has come a long way since its first day of operation on 1 October 2013. Between then and 1 October 2019, there have been six years of significant milestones. Fair Play takes readers down memory lane.

## 2013

Judge Bernard Makgabo Ngoepe was appointed as the first Tax Ombud.



## 2014

The Office of the Tax Ombud is officially launched in April by the then Minister of Finance.

## 2015

The Tax Administration Act was amended to give the Tax Ombud more powers when addressing taxpayers' complaints and strengthened the Office's independence from SARS.



## 2016

The OTO conducted its first systemic investigation. This was into delays in the payment of tax refunds by SARS.

## 2017

The Tax Administration Act was amended to give the Tax Ombud more powers when addressing taxpayers' complaints and strengthened the Office's independence from SARS.

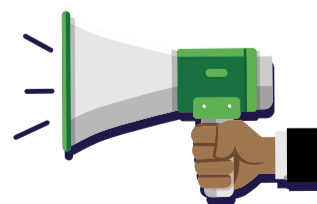


## 2018

- National Treasury granted the Tax Ombud permission to investigate the PAYE statement of accounts and SARS' non-adherence to dispute resolution timeframes.
- The first customer perception survey was commissioned to determine the level of awareness and perception about the Office of the Tax Ombud (OTO) among SA taxpayers and tax practitioners.

## 2019

- SARS implemented **99.27%** of the OTO's recommendations.
- The Tax Ombud signed **MoUs** with SARS and the Office of the Public Protector.
- The term of office of the Tax Ombud was extended for another three years.







**MANDISI NTAUZANA**  
**DIRECTOR: TAX & ACCOUNTING SERVICES**  
**MANDISI NTAUZANA (PTY) LTD**

# REMEMBER, THE TAX OMBUD IS HERE TO HELP

Fair Play features seven insightful tips from Mandisa Ntauzana, one of the tax experts who used the services of the Tax Ombud and would like to share the appropriate processes to follow when taxpayers interact with the OTO and SARS.

- The OTO services and SARS dispute resolution processes are FREE.
- When filing a notice of objection and/or notice of appeal with SARS, the taxpayer should have documentary proof and valid reasons why the objection and/or appeal should be granted, and should keep and maintain a record of all interactions with SARS (i.e. case numbers).
- A taxpayer and/or their representatives should exhaust the SARS dispute resolution processes. These entail lodging a notice of objection, appealing the outcome of the notice of objection if merits exist and lodging a complaint with the SARS Complaints Management Office if the complaint is still not resolved.
- A complaint, with supporting documents, may be brought to the OTO's attention only after the taxpayer and/or their representatives have exhausted the SARS dispute resolutions processes unless there are compelling circumstances for not doing so.
- The OTO does from time to time take complaints that have not exhausted SARS dispute resolution processes and these matters are (1) complaints that raise systematic issues, (2) when exhausting the SARS dispute resolution processes will be prejudicial to the taxpayer, (3) the dispute is unlikely to be resolved within a reasonable time as determined by the Tax Ombud.
- A complaint to the OTO should be filed using complaint form OTO 01, which is available on the OTO website at [www.taxombud.gov.za](http://www.taxombud.gov.za). The form should be completed in full and all interactions with SARS should be listed in chronological order for ease of following the complaint.
- The OTO does not have jurisdiction in matters relating to legislation, SARS policy or practice or a matter that is in a tax court or has been decided in a tax court.

After investigating the complaint and making a decision, the Office communicates such decision to the taxpayer and issues recommendations to SARS for implementation.

## CALLING THE OFFICE OF THE TAX OMBUD



**Taxpayers calling the Office of the Tax Ombud will get through to a voice response system that gives them the following options:**

### CALL CENTRE:

If you are calling about a new complaint against SARS or are following up on an existing complaint, you will be requested to press 1.

A reference number for any call received by the Call Centre Agents will be generated.

### RECEPTION

If you have general enquiries not related to a tax complaint, you will be requested to press 2. This option will take you to the OTO Receptionist. If a caller chooses this option by mistake, the Receptionist will advise you to call again (by redialling 0800 662 837 or 012 431 9105), and press Option 1 when prompted to do so, so that the call can be re-routed directly to the Call Centre.

## DID YOU KNOW

That you can follow up on the status of your accepted tax complaint by contacting the Office of the Tax Ombud Operational Specialist whose contact details (email and phone number) appear on the acceptance letter?

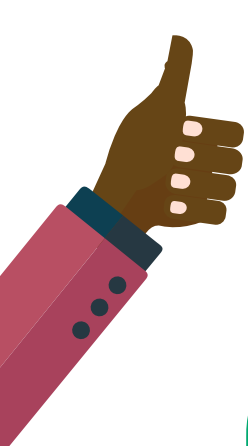


# SERVICE WITH EXCELLENCE

Since its inception six years ago, the OTO has pursued excellence in fulfilling its mandate of improving the country's tax administration system, while also protecting taxpayers' rights. Over the years, the OTO's interventions have helped save billions of rands for individual and business taxpayers. The top 10 tax refunds paid to taxpayers through the intervention of the OTO in 2018/19 collectively exceeded R35 million.

BELOW ARE SOME OF THE COMMENDATIONS THE OTO OPERATIONS SPECIALISTS HAVE RECEIVED OVER THE YEARS FOR RESOLVING TAXPAYERS' COMPLAINTS AGAINST SARS.

## PROMPT RESPONSE



*It is a **breath of fresh air** to deal with the Tax Ombud colleagues. I have dealt with the SARS colleagues for so many years, I have never received an acknowledgment and any follow up for that matter this quickly, and they never respond to anything until you call many times before you can get any reaction. Your **prompt response** is indeed applauded. Many thanks and regards.*

## HEART-WARMING

*I would like to thank the Tax Ombud for the speed and integrity with which you handled my complaint. It is truly heart-warming to find institutions that work tirelessly and efficiently for the citizens of South Africa. As a resident, this gives me hope that organisations like yours would continue to outperform and exceed the shoddy service that we are becoming used to.*

## FAIR OUTCOME

*Thank you so much for intervening on the company's behalf. We have always been **fully compliant** with all legislation including the Income Tax Act. Accordingly, it seemed very unfair for us to be subjected to ongoing delaying tactics by SARS when we could have used that money to generate more business and consequently higher taxable income....**we thus commend you** for assisting law-abiding companies like this one in achieving a fair outcome.*

## GRATEFUL

*Words cannot express how grateful I am for your assistance in resolving my rebate issue with SARS. Last night my rebate was deposited into my account after eight months of waiting. I'm convinced this would not have happened without your assistance.*

## EXCELLENT SERVICE

*I have just received a notice from SARS that the issue has been resolved and that I will be receiving a small refund (just in time to pay provisional tax). Unfortunately; your excellent service will be rewarded by my talking about your red-tape-cutting skills to all friends and colleagues. My apologies in advance if I trigger a deluge of requests for help from others in need of your services. **Thanks again for your help** in resolving this matter.*

## HAPPY MEMBER

*I am pleased to inform you that the refund has been paid into my account on 12 August 2015. I thank your Office very much for resolving the matter in less than 15 calendar days of lodging my complaint, the problem I battled to have resolved since 2009. That was really 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.***