

FAIR PLAY

KEEPING YOU UP TO DATE WITH THE LATEST NEWS

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OFFICE OF THE
TAX OMBUD

Ensuring fairness

Welcome to the latest issue of Fair Play, which highlights some of our initiatives for taxpayers and the progress the OTO has made to ensure the fairness of the tax administration system.

In the first quarter of the financial year, in addition to handling the taxpayer complaints received, the Office has been using various digital platforms and virtual presentations to showcase some of our successes in assisting taxpayers. This testimonial campaign is not an image-building exercise so much as an effort to highlight the OTO's commitment to encouraging the fair treatment of taxpayers and to illustrate the kind of tax matters with which the Tax Ombud can assist.

In this issue, our main feature is an article from a tax practitioner with The Tax Saviour, highlighting some noteworthy aspects of taxpayer behaviour when it comes to their tax affairs. The article is all the more relevant since tax season is starting this July.

We have also included important information to note before approaching the Office of the Tax Ombud to lodge a tax complaint and, most importantly, we share some insights into our processes. Many taxpayers do not understand what complaints we can and cannot accept, so knowing how our processes work can save them time and effort.

PS: Remember to contribute an article to our newsletter and don't forget to share this newsletter with your communities so that they can be well informed about the services of the OTO.



Pearl Seopela
*Senior Manager:
Communications &
Stakeholder Relations*

TAKING CHARGE OF YOUR TAX AFFAIRS

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Tax Ombud's corner

We prioritise building and nurturing more fruitful partnerships.

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Expert's corner

Thabo Modiba discusses how taxpayers can take charge of their tax affairs.

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



@TaxOmbud



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Office of the
Tax Ombud

www.taxombud.gov.za

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



Tax Ombud's corner



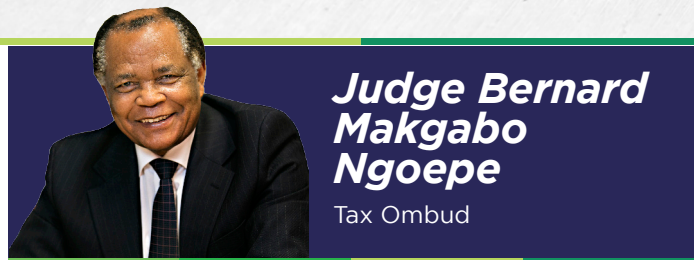
WE PRIORITISE BUILDING AND NURTURING MORE **FRUITFUL** **PARTNERSHIPS**

We are almost at the end of the first quarter of the 2021/22 financial year. As mentioned in the previous issue of Fair Play, we prioritise building and nurturing partnerships that are fruitful and are eager to build more such partnerships. We fully appreciate the pivotal role stakeholders play in helping us fulfil our mandate and in creating much-needed awareness among taxpayers about the Office's complaints resolution services.

“The challenges faced by our country call for more collaborations from both the public and private sectors, and we are pleased that we have been able to forge a few value-adding collaborations in the past.”

In our experience, one of the most valuable forms of engagement with stakeholders is the quarterly meetings we have with members of Recognised Controlling Bodies (RCBs). These meetings are a vehicle for RCBs to hold the OTO accountable. They provide an important platform for interested parties to discuss issues of mutual interest and how we can collectively improve the country's tax administration system while simultaneously promoting tax compliance and protecting taxpayers' rights.

The challenges faced by our country call for more collaborations from both the public and private sectors, and we are pleased that we have been able to forge a few value-adding collaborations in the past. We look forward to formalising many more collaborations in the not-too-distant future.



**Judge Bernard
Makgabo
Ngoepe**
Tax Ombud

“As part of our commitment to ensuring fair treatment for taxpayers, we have submitted inputs to enhance the Service Charter of the South African Revenue Service (SARS).”

Meanwhile, the COVID-19 pandemic continues to affect almost every aspect of life as we know it, putting further strain on the country's limited resources. This has restricted our ability to hold physical engagements with our stakeholders. However, our institution's ability to embrace digitisation has put us in a better position than most to engage effectively and provide taxpayers and other stakeholders with important information about the OTO and our services.

As part of our commitment to ensuring fair treatment of taxpayers, we have submitted inputs to enhance the Service Charter of the South African Revenue Service (SARS). Working more closely with SARS to ensure speedy implementation of our recommendations is also a priority, as are our efforts to continue seeking structural independence from SARS.

Lately, I have been giving a lot of thought on how South Africans, individually and collectively, can make meaningful contributions – over and above paying our share of tax – towards improving the economy of our country and its people. We cannot keep pointing fingers for eternity, and we should ask ourselves what we are doing as individuals and as a collective to make South Africa a better country for all those who call it home.

Overview from the CEO's desk



Prof. Thabo Legwaila
Tax Ombud CEO

FAIR PLAY

Just over two months ago, on 1 April 2021, to be precise, I celebrated my first anniversary as the Chief Executive Officer in the Office of the Tax Ombud. I have received overwhelming support from the Tax Ombud and the employees of the OTO, peers in the tax profession and other stakeholders. Without this support, I do not believe my first 12 months would have been as productive as they were. I am proud of what the OTO has achieved and looking forward to many more milestones during the rest of the 2021/22 financial year.

External audit

The Auditor-General of South Africa has agreed to provide the OTO with external audit assurance. The OTO is currently implementing governance processes to ensure that the Office's performance is internally and externally audited while preserving the OTO's independence. This will assist the OTO to implement a sound governance framework to support the OTO Strategy 2020-2025.

Business operations during COVID-19: level 4 lockdown

Our employees continue to work from home to avoid the spread of the COVID-19 virus. The Office has put measures in place to monitor organisational performance and ensure that service delivery is optimal. These measures include, but are not limited to, monthly reporting at the Senior Management Committee level and frequent monitoring of day-to-day operational activities at manager level.

Monitoring of systemic issues

The Office has not identified any new systemic issues affecting taxpayers since the last quarter ending March 2021. The Office does still have eight active systemic issues that are being monitored for implementation by SARS. These issues are:

- delays in payment of refunds;
- dispute resolution;
- inability on the part of SARS to confirm correspondence was sent (manual and e-filer view correspondence);
- the Tax Compliance System (TCS);
- premature raising of assessments;
- failure to respond to taxpayer requests for deferred payment arrangements within the prescribed turnaround time (21 days); failure to respond to requests for a compromise within the prescribed turnaround time (30 days); and
- failure to respond to requests for suspension of payment within the prescribed turnaround time (21 days).

The OTO continues its outreach amid the pandemic

In the first quarter of the financial year 2021/22, the OTO implemented a testimonial campaign under the theme #TaxpayersRightsMatter to reach out to taxpayers amid the COVID-19 pandemic. The campaign featured testimonial case studies that demonstrated how the OTO has assisted taxpayers with their tax complaints against SARS. These testimonials were carried in the media and virtual presentations and on social media platforms, including Facebook, Twitter, Instagram and LinkedIn. Through the campaign, the OTO had 13 outreach presentations, 18 radio interviews, three television interviews, one piece of print coverage and three pieces of digital coverage, all with an estimated public relations value of **R6 257 088.00**.

"The OTO is appealing to stakeholders for opportunities to engage taxpayers in presentations, content contributions in their stakeholder newsletters and speaking opportunities."

The OTO will continue to solicit opportunities with various institutions to ensure more taxpayers are engaged. This is a strategic objective for the OTO which has already reached many taxpayers through large-scale public relations initiatives and advertising campaigns but is aware that some stakeholders and communities still do not know that there is a free, impartial service to assist with tax complaints against SARS. The OTO is appealing to stakeholders for opportunities to engage taxpayers in presentations, content contributions in their stakeholder newsletters and speaking opportunities.

Taxpayers are reminded that the Office of the Tax Ombud can assist with their tax complaints against SARS and are encouraged to utilise these services, available to them free of charge. Taxpayers are requested to correctly complete the complaints form when lodging complaints as this will facilitate the process. The form is available at www.taxombud.gov.za, and can be submitted via email to complaints@taxombud.gov.za. Taxpayers and tax practitioners can also call **0800 662 837** for assistance.

CONCLUSION

We are working on our roadmap of both short and long-term goals to ensure that we meet our strategic objectives. We will continue to create awareness about our services, as well as explain and simplify our processes to enable taxpayers to comprehend them easily. We are committed to promoting an excellent service environment that will allow the taxpayers of South Africa to have confidence in our Office to continue to utilise it.



*Expert's
corner*

Taxpayers taking charge

Thabo Cedric Modiba

Business Accountant in Practise (SA)
Director and Managing Director
The Tax Saviour (Pty) Ltd
BCom – Accounting, University of Limpopo;
BCompt – Taxation, UNISA



Having been part of the South African Revenue Service for 11 years and in practice for three years, I have had many opportunities to observe taxpayers' behaviour, and have come to the conclusion that taxpayers still don't know they are in charge of their affairs. There are still taxpayers who believe that SARS or accountants are to blame for their tax problems and, if they think that they are entitled to a refund, they would go to whoever promises them a refund. Some taxpayers still don't believe that lying or declaring false information in their income tax returns or corporate income tax returns is a crime. They still believe that they can get away with declaring false information and still do not check the accreditation of accountants or tax practitioners they appoint.

Here are some of the pain points I have observed among taxpayers:

Technology

Our taxpayers are still struggling with SARS eFiling, Easy File, payroll systems and accounting systems in general. They need to understand that SARS is moving from the old way of doing things and using technology effectively to detect taxpayer non-compliance.

It is important that taxpayers take charge of their own tax affairs and use every available opportunity to empower themselves with knowledge, such as through relevant webinars hosted by accounting and taxation bodies.

In the past few months, I have encountered many taxpayers who were struggling because SARS could not assist them due to the COVID-19 lockdown. Many taxpayers struggled to file their income tax returns and apply for VAT registration. Communicating with SARS was a big problem to those not accustomed to digital and social media communication platforms such as Zoom, Twitter and Facebook.

SARS has in the past few months effectively used the various social media platforms to communicate changes to its systems to taxpayers and practitioners alike, and to inform taxpayers about how they can reach SARS remotely, without having to visit a branch.

Many taxpayers have yet to adapt to the speed with which SARS is moving from the old ways to the new ways of doing things, which are driven by technology. If taxpayers do not adjust and adapt, they will suffer the consequences of being left behind and expose themselves to the risk of non-compliance.

Ignorance

Some taxpayers are still not taking their tax affairs seriously or maybe this is just ignorance or negligence. Many taxpayers only wake up when they receive a call from SARS reminding them of outstanding returns or debt. Taxpayers don't even know that the filing season for 2021 is from 1 July to 23 November and that they should start preparing their file for the submission of accurate returns.

Many taxpayers still don't have eFiling logins or if they are registered, this was done by someone whom they cannot even trace and so they are now struggling to reset their passwords. Taxpayers are currently sitting with unresolved SARS cases and don't know where to go. If only they knew what the Tax Ombud can do for them.

Taxpayers need to start paying attention so that when SARS announces important changes in the system, whether on the news or social media, they understand how they will be affected. Unfortunately, many taxpayers don't know that they can request their tax number or upload documents on the official SARS website, and instead they go to the SARS branches and complain that SARS is chasing them away. Taxpayers need to take charge and ensure their tax affairs are in order.

SMME training

I also came to realise that many small businesses owners lack business management skills or the knowledge on how to deal with SARS and tax compliance matters. Many taxpayers representatives are only interested in the taxpayer's compliance status and do not care how you arrive at it. It is important for SARS to acknowledge and prioritise taxpayer education, especially for SMMEs, and to ensure that stakeholder engagement is well publicised for all interested parties to attend. We have seen the Tax

Ombud holding roadshows across the country; however SARS is still struggling to reach communities, especially in areas where its branches are not visible, to educate taxpayers on the importance of tax compliance.

The role of tax practitioners

As tax practitioners, we have a big role to play in educating our clients. We should not only focus on providing service and invoicing without educating taxpayers on why certain things have to be done.

Tax practitioners are appointed to assist the taxpayers to remain compliant and must therefore encourage taxpayers to correctly disclose information. Tax practitioners must caution the taxpayers on the consequence of non-disclosure or incorrect disclosure of relevant material. Further, for many taxpayers who are struggling with technology, we have to be there for them and ensure that their tax affairs are in order.

As tax practitioners, we are in a good position to advise the taxpayer of the do's and don'ts of SARS declarations. SARS is continuously implementing changes to its systems and businesses must also adapt and change how they do things to align with the new SARS systems.

Conclusion

- In summary, the taxpayer must always be aware of the following:
- the calibre of the people they appoint to be their tax practitioners;
- that appointing a tax practitioner does not absolve them from being responsible taxpayers;
- that SARS is not their enemy but their partner in building this country and ensuring that the country continues to deliver services to the people; and
- that we are living in a world where technology is leading in business and society, and that SARS is already part of the fourth industrial revolution but some taxpayers are far behind.

At the end of the day, the best approach is a partnership, between SARS and the taxpayer, with the aim of ensuring that taxpayers are always up to date with all the changes and are willing participants in these changes. Together in partnership we can build a brighter future for our country where compliance will be the order of the day.

***Disclaimer:** This is an opinion piece contributed by Mr Thabo Modiba from The Tax Saviour, who does not have any affiliation with the OTO. The article does not necessarily reflect the views of the Office.*

BENCHMARKING WITH THE LEGAL SERVICES OMBUD

The newly appointed Legal Services Ombud, Judge Siraj Desai, met with Tax Ombud Judge Bernard Ngoepe on 26 May 2021.

The Legal Services Ombud is a new body that promotes and protects the integrity of the legal profession, as defined under the Legal Practice Act. Though the legal framework for the organisation was established in 2018, Judge Desai was appointed Ombud in January this year, and the organisation is still establishing itself. The senior management of the Legal Services Ombud met with the senior leadership of the OTO in order to establish best practices in their operations.



[Back row, L-R] **Pearl Seopela**, Senior Manager: Communications and Stakeholder Relations; Prof. **Thabo Legwaila**, CEO; **Gert van Heerden**, Senior Manager: Legal Services and Systemic Investigations;
[Front row, L-R]: **Mmamela Malakalaka**, Senior Manager: Office Enablement; **Judge Bernard Makgabo Ngoepe**, Tax Ombud; **Talitha Muade**, Senior Manager Operations; **Judge Siraj Desai**, Legal Services Ombud; and **Godfrey Ramoroka**: Acting Head: Legal Services and Investigations at the Legal Services Ombud.

LODGING A TAX COMPLAINT WITH THE OTO



Please note this important information before approaching the Office of the Tax Ombud to lodge a tax complaint.

- Ensure that you have exhausted all [SARS internal complaints resolution mechanisms](#) before approaching the OTO.
- When you contact the OTO, its employees will send you an information pack that includes a complaint form and complaints guide, and will take you through the process of how to complete the form.
- If you are representing a taxpayer, the OTO will also send you the Power of Attorney (POA) form that needs to be completed in full by all parties.

Points to remember when completing the form

- Firstly, you need to submit your completed complaints form to complaints@taxombud.gov.za.
- Your complaint form must detail the information about your complaint in chronological order (what happened and when). You can use additional paper if the form does not have enough space for everything you want to include. Finally, attach all supporting documents and sign the form before submitting it to the OTO.
- If you are representing a taxpayer, you must attach a POA that has been signed by the taxpayer, taxpayer representative and witnesses. Remember to submit the POA together with copies of the identity documents of both the representative and taxpayer.

What happens when the OTO receives the complaint form?

- The OTO will capture the completed complaint form on the system and send a letter of acknowledgment within two working days of receiving the complaint.
- The OTO will check if the ID number corresponds with the tax number.
- The OTO will check what the complaint is about and the tax type.
- The Office will also check that the form has been signed and dated.
- With accepted complaints, the OTO will send recommendations to SARS on how the matter should be resolved, and notify the complainant of the status of the complaint.

What happens when the OTO does not review a complaint?

- If the OTO does not review your complaint and terminates or rejects it, the outcome of the evaluation will be sent to you within eight business days of acknowledgment of your complaint.

What happens after the OTO has sent recommendations to SARS?

- As per the signed MOU between the OTO and SARS, the revenue service has 15 business days to consider the OTO's recommendations and respond with a final report.
- You will be provided with feedback on the progress of your complaint every 15 business days until SARS has finalised the complaint.
- Once an investigation has been done, and SARS has submitted the final report to the Tax Ombud, the OTO will, within four days of receiving the final close-out report, verify the actions detailed in the report against the recommendations sent to SARS. The OTO then communicates with the taxpayer representative/taxpayer about the outcome of the complaint.
- If the OTO disagrees with how SARS has implemented the recommendations, the close-out report is overruled and sent back to SARS, with an explanation of what was not done correctly.
- The matter is only finalised when the OTO agrees with how SARS implemented the recommendations.

What happens if you disagree with the OTO on how your matter was resolved?

- You have 30 business days from the date you receive an outcome to write to the OTO and indicate why you do not agree with the decision.
- This matter will be treated as an OTO appeal. It will be re-evaluated by an independent specialist and presented to the OTO's Appeals Committee, which is chaired by the CEO, Prof. Thabo Legwaila. The decision of this committee is final and the complainant can pursue other avenues if he/she still feels aggrieved.



WHAT YOU NEED TO KNOW THIS TAX FILING SEASON

Who should submit an Income Tax return?

- You do not need to submit a return if ALL of these apply to you:
- Your total salary for the year before tax was not more than R500 000 and employees' tax has been deducted or withheld in terms of the deduction tables prescribed by the Commissioner;
- You only received employment income for the full year of assessment (March 2020 to February 2021) from one employer;
- You have no car allowance/company car/ travel allowance or other income (e.g. interest in excess of the exempt amount or rental income); and
- You are not claiming tax-related deductions (e.g. medical expenses, retirement contributions other than retirement contributions made through your employer).

However, you have to submit a return if you worked for more than one employer, retired or resigned from employment, or if your circumstances have changed in a substantial way, including letting out rental property.

You also have to submit a return if you wish to claim tax-related deductions such as medical scheme contributions and medical expenses not paid by a medical scheme, and personal retirement annuity fund contributions, etc.



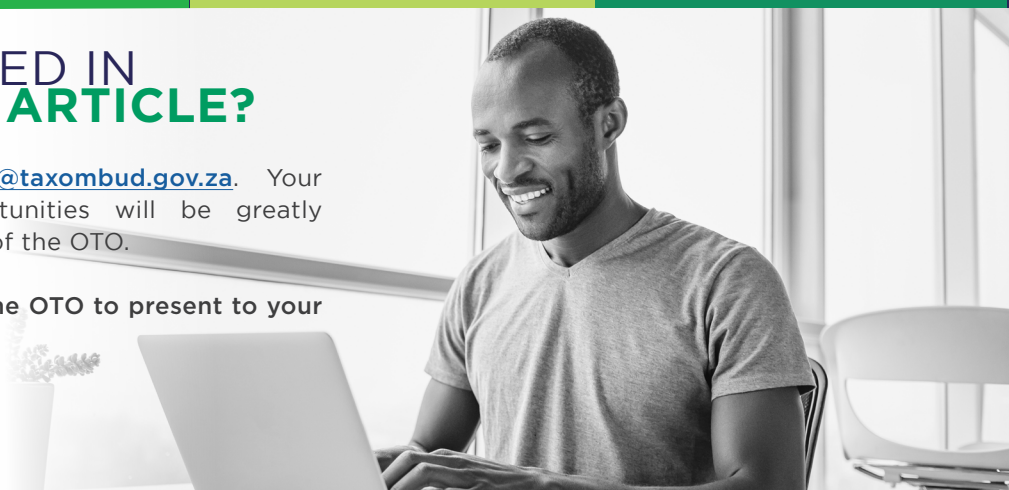
Use SARS' **Tax Wizard** to see if you need to submit an income tax return this Filing Season.

NOTE: Information provided by SARS.

ARE YOU INTERESTED IN CONTRIBUTING AN ARTICLE?

Drop an email to Communications@taxombud.gov.za. Your assistance regarding available opportunities will be greatly appreciated in supporting the mandate of the OTO.

Additionally, get in touch if you'd like the OTO to present to your organisation or community.



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 PSeopela@taxombud.gov.za or Communications@taxombud.gov.za.

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