



OFFICE OF THE
TAX OMBUD

Ensuring fairness

TAX OMBUD ANNUAL REPORT 2015/16

ITO SECTION 19 OF THE TAX ADMINISTRATION ACT 28 OF 2011





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PART A:

1. GENERAL INFORMATION

INTRODUCTION

The 2015/16 Annual Report of the Tax Ombud (TO) complies with the Public Finance Management Act (PFMA), giving effect to the legislative framework for the regulation of finances in the national and provincial governments. The Accounting Authority presents the Annual Report in line with Section 19 of the Tax Administration Act, Section 55 of the PFMA and paragraph 6.2 of the protocol governing the relationship between the Minister of Finance and the Tax Ombud.

ANNUAL REPORTING PERIOD

The reporting cycle of the OTO is annual, ending 31 March, as prescribed by the National Treasury and the Tax Administration Act. Quarterly reports are prepared and submitted to the National Treasury as per the provisions of the PFMA and Treasury Regulations. This Annual Report records the organisational and financial performance for the period 1 April 2015 to 31 March 2016.

SCOPE OF THE REPORT

The report incorporates financial and performance information based on the approved 2015/16 Annual Performance Plan (APP) and Section 19 of the Tax Administration Act, which was tabled in Parliament in March 2015.

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2. ABBREVIATIONS/ ACRONYMS

ACAS	Anti-Corruption and Security	SAIT	South African Institute of Tax Professionals
ADR	Alternative Dispute Resolution	SMC	Senior Management Committee
AGSA	Auditor General South Africa	SAIPA	South African Institute of Professional Accountants
CEO	Chief Executive Officer	SARS	South African Revenue Service
CAPEX	Capital expenditure	SSMO	SARS Service Monitoring Office
CMO	Complaints Management Office	SMCMS	Service Manager Complaints Management System
CTC	Cost to company	SOPS	Standard Operating Procedures
EE	Employment equity	TAA	Tax Administration Act No 28 of 2011
ENCA	ENews Channel Africa	TCC	Tax Clearance Certificate
FISA	Fiduciary Institute of Southern Africa	TO	Tax Ombud
LSM	Living Standard Measures	UK	United Kingdom
NT	National Treasury	UJ	University of Johannesburg
NOA	Notice of Appeal	UP	University of Pretoria
NOO	Notice of Objection	USA	United States of America
OPEX	Operating expenses	VAT	Value added tax
OTO	Office of the Tax Ombud	WIP	Work in progress
PAYE	Pay As You Earn	WITS	University of the Witwatersrand
PFMA	Public Finance Management Act No 1 of 1999	YTD	Year to date
PEOU	Public Entity Oversight Unit	KZN	KwaZulu-Natal
SABC	South African Broadcasting Corporation		
SAICA	South African Institute of Chartered Accountants		

3. FOREWORD BY THE MINISTER OF FINANCE



PRAVIN J GORDHAN, MP
MINISTER OF FINANCE

“We owe a debt of gratitude to the millions of taxpayers in our country who have provided the state with the means to fund its programmes which, in a virtuous cycle, will stimulate growth, job creation and generate higher future revenue. We owe them our deep gratitude and a commitment to spend this money wisely, honestly and efficiently. But also we owe to these taxpayers a system that treats them fairly.”

I appointed the country’s first Tax Ombud, Judge Bernard Ngoepe, in October 2013. Six months later, at the official launch of the Office on 7 April 2014, I made the following comment:

“We owe a debt of gratitude to the millions of taxpayers in our country who have provided the state with the means to fund its programmes which, in a virtuous cycle, will stimulate growth, job creation and generate higher future revenue. We owe them our deep gratitude and a commitment to spend this money wisely, honestly and efficiently. But also we owe to these taxpayers a system that treats them fairly.”

In the time that has passed since then, fairness has been a hallmark of the Office’s operations, which provide taxpayers with a capable, free and expeditious avenue to deal with complaints that could not be resolved through the internal mechanisms of the South African Revenue Service (SARS). There is no doubt in my mind that the Office of the Tax Ombud has thus far made a real difference to taxpayers and is helping to inspire greater confidence in the tax system.

This Annual Report sums up the progress for the last financial year and the steps the Office has taken to implement the commitments set out in the five-year Strategic Plan. As this report illustrates, the Office of the Tax Ombud has made significant progress in implementing governance structures, appointing capable staff, facilitating taxpayer complaints resolution and continuously engaging

“It is my firm expectation that all entities reporting to the Ministry of Finance will always enhance integrity and financial prudence and make every effort to expose and fight corruption and mismanagement of public funds.”

with stakeholders. Going forward, the Ministry will review proposals to further strengthen the Office.

It is my firm expectation that all entities reporting to the Ministry of Finance will always enhance integrity and financial prudence and make every effort to expose and fight corruption and mismanagement of public funds.

I wish to commend the Tax Ombud and his team for the excellent work undertaken since October 2013. I remain confident that the Office will continue to deliver a high-quality, proactive service, thereby instilling confidence and improving the level of tax compliance in South Africa.

**PRAVIN J GORDHAN, MP
MINISTER OF FINANCE**

4. FOREWORD BY THE TAX OMBUD



JUDGE BERNARD MAKGABO NGOEPE, TAX OMBUD

It has been an honour to serve as South Africa's first Tax Ombud, responsible for giving recourse to taxpayers while at the same time promoting tax compliance. In October 2016 it will be exactly three years since my appointment by the Minister of Finance Pravin Gordhan. This also marks the end of my term as per my appointment in accordance with Section 14(1) of the Tax Administration Act No 28 of 2011 (TAA). The time has passed swiftly, understandably so: the formative years in the life of the Office of the Tax Ombud have been interesting, challenging and fulfilling.

The complexity and sophistication of the Office has increased significantly since its inception in October 2013. For instance, with only two employees to run the Office when we started out, we had to move quickly to develop procedures and protocols for engaging with taxpayers, SARS and the Minister of Finance. I am proud of the solid foundation we have laid. In the year under review, 28 skilled and dedicated staff served taxpayers, tax practitioners and other stakeholders.

I am once again privileged to present my third Annual Report, covering the financial year 2015/16. This is the first time our report will cover the predetermined objectives that we set in the medium-term Strategic Plan and Annual Performance Plan. In March 2015 we submitted our first strategic planning documents which were tabled in Parliament. A year later, this is a perfect opportunity for us to reflect on our performance to gauge if we are still on the right track towards achieving our goals and have kept our commitments to help inspire confidence in the tax system.

Fulfilling the mandate and ensuring our independence

We have made it clear that our role is to be an independent and impartial avenue where disputes between taxpayers and SARS are resolved fairly and expeditiously. Similarly, we have indicated that our work as an impartial institution must inspire taxpayers to have confidence in the country's tax system. As we fulfil our mandate, we strive to ensure that taxpayers are treated fairly, and to increase the level of tax compliance so that, in turn, more resources will be available for socio-economic and infrastructural development.

In my second Annual Report, I articulated the pivotal role the Office has in carrying out its mandate, and pointed out the shortcomings stemming from the nature of the relationship the Office has with SARS in terms of funding, employment of staff and the limitations of the mandate. We have made great strides in engaging the Ministry of Finance and I trust that the proposals that have emerged will make a difference in the fulfilment of our mandate.

Strengthening the independence of the Office of the Tax Ombud (OTO) is vital and urgent. The

“We have made great strides in engaging the Ministry of Finance and I trust that the proposals that have emerged will make a difference in the fulfilment of our mandate.”

perceived dependence of the OTO on SARS has reputational risks and the status quo cannot be allowed to persist. Adequately addressing these concerns is paramount if we are to contribute meaningfully to further building the credibility of the country's tax system in the eyes of taxpayers.

The majority of complaints accepted were resolved in favour of the taxpayer; this demonstrates the need for the services the OTO offers.

It is also important to note that during 2015/16 the Office relocated from a building that was previously occupied by the SARS Service Monitoring Office to new premises with no connections to SARS - further strengthening the independence of the Office.

Governance and stakeholder engagement

Good governance is a cornerstone of the OTO's ethos and operations. We have started with the process of setting up strong and resilient governance structures that will ensure we operate within our mandate, while complying with all relevant legislative requirements.

During the year under review, we established and nurtured partnerships and relationships with stakeholders such as universities, tax practitioners' bodies such as the South African Institute of Chartered Accountants (SAICA), South African Institute of Professional

Accountants (SAIPA), South African Institute of Tax Professionals (SAIT), Ombud organisations both locally and internationally, and other government institutions. We have also established good relations with media houses who continue to give us support by informing and educating taxpayers about our Office and its mandate.

During the year we took the opportunity to reposition our corporate identity (look and feel), focusing on how we would like to be perceived by our stakeholders and how we should go to the market to create greater awareness about the Office.

Dealing with complaints

Legislation requires of us to perform our function of reviewing and addressing taxpayers' complaints independently and impartially. I am grateful that all of us at OTO have shown real commitment to these important principles when dealing with complaints. Unrepresented taxpayers continue to be the biggest users of our services, and we are glad to be making a difference to the lives of ordinary South Africans. We attended to more than 2 000 complaints from taxpayers during the reporting period.

In the year ahead we look forward to addressing a number of challenges. We expect to achieve the following over the medium term:

- Strengthening taxpayer and stakeholder confidence in the tax system by supporting legislative amendments that will properly position the Office as a separate and independent entity from SARS

“Legislation requires of us to perform our function of reviewing and addressing taxpayers’ complaints independently and impartially. I am grateful that all of us at OTO have shown real commitment to these important principles when dealing with complaints.”

- Initiating the development and contributing towards the implementation of a Taxpayer Bill of Rights, which will undoubtedly strengthen development, democracy and accountability
- Promoting efficiency and achieving excellence by modernising our complaints management system
- Beginning with a process and evaluating the feasibility of expanding our footprint by opening a few more offices in other parts of the country
- Streamlining our governance and risk frameworks to improve compliance and reporting
- Improving capacity through the design of an optimal organisational structure
- Increasing communication outreach to create awareness about our services to ensure that taxpayers seeking recourse are fairly and professionally treated.

While this report will show that the Office has shown impressive growth and strengthened its ability to deliver excellent service to taxpayers,

it will, however, also reflect the following challenges:

a) Challenges relating to the independence of the Office:

- i. In terms of section 15(1) of the Act, the Office cannot employ its own staff directly; it can only employ its staff through SARS.
- ii. In terms of section 15(4) of the Act, the *“expenditure connected with the functions of the Office is paid out of the funds of SARS”*. This means no financial independence from SARS.

These provisions are anomalous, given the fact that the Ombud’s mandate is to investigate complaints against SARS itself. The OTO has therefore made certain proposals for the amendment of these provisions. It is hoped the amendments, supported by the Minister, Treasury and SARS, will be expedited. The matter is urgent for the credibility of the Office.

b) Delays on the part of SARS in finalising the complaints

We have raised this matter in our meetings with SARS, and came out with the hope that the problem will be resolved.

c) Other challenges will be reflected in the body of the report.

In conclusion, I would like to express my appreciation to our Chief Executive Officer, Adv H E Mkhawane, management, everyone at

the OTO and the Commissioner of SARS, its personnel and management for their co-operation in helping resolve most of the taxpayers’ complaints.

I also sincerely appreciate the support and guidance that we have been receiving from the Ministry of Finance and the National Treasury in helping set up and maintain this Office.



JUDGE BERNARD MAKGABO NGOEPE
TAX OMBUD

5. CHIEF EXECUTIVE OFFICER'S OVERVIEW



ADVOCATE HANYANA ERIC MKHAWANE, CHIEF EXECUTIVE OFFICER

Since opening its doors in October 2013, the Office of the Tax Ombud (OTO) has been performing reasonably well and has already achieved some of the goals and objectives set out in its first Strategic Plan and Annual Performance Plan. These goals and strategic objectives are contained in the Annual Performance Plan 2016/17 and Strategic Plan 2016 – 2021, developed and tabled in Parliament during the period under review. This report focuses mainly on the operational business of the

Office, particularly its organisational structure and human capital, complaints resolution record, initiatives to improve efficiency, and community outreach and stakeholder engagement.

NOTEWORTHY DEVELOPMENTS

Human capacity

The Office's operations in 2015/16 were underpinned by a sound business structure, strict adherence to set policies and processes,

and recruitment of capable and committed staff with a shared passion for making a difference in the lives of taxpayers.

In March 2015, our staff complement stood at 12, but by the time the fiscal year ended, 16 more vacancies had been filled. We welcomed the appointment of the Senior Manager: Office Enablement, Senior Legal Specialist, Legal Specialist, a Human Resources Business Partner, two specialists in the Communications and Outreach Unit, seven Operations Specialists, a call centre agent and a Tax Specialist.

The growth in personnel came at the right time as the demand for services was increasing and continues to grow as more and more people become aware of our existence and use our complaints resolution services.

Reaching out to stakeholders

Numerous presentations on the Office's services were made in 2015/16 to tax industry bodies such as SAIT, SAIPA, SAICA, as well as academic institutions such as the University of Pretoria (UP), University of Johannesburg (UJ) and University of the Witwatersrand (Wits). Our Office also engaged other bodies outside the tax sphere such as FISA. The collaborations were mutually beneficial, offering the Office a platform and enabling the hosts to learn more about the way we work.

We had a favourable presence in the media, with more than 50 print articles published across a broad range of publications targeting a wide variety of taxpayers. Our leadership team was featured on more than 20 national, regional and local radio stations, reaching taxpayers who fall within different Living Standards Measure (LSM) levels. Tax Ombud Judge Bernard Ngoepe and I were also on ENCA and the national broadcaster,

“Increased awareness about the existence and the value the Office adds to society as a channel for resolving their tax complaints against SARS has led to a significant increase in the number of taxpayers approaching it. In 2015/16, we received 130% more complaints that fell within our mandate compared to the previous financial year. In the same period there was also a decrease in the number of cases that fell outside our mandate and were rejected.”

SABC. The monetary value of this publicity, which we obtained through vigorous engagements with media houses including “meet and greet sessions”, was more than R80 million, dwarfing the R4.2. million combined budget spent on paid advertising on print, online and radio. In addition, we also reached millions of people through several radio campaigns on commercial and community station broadcasts in the country's 11 official languages.

Continuing to explore new avenues to reach taxpayers, the Office joined the ever-growing world of social media with the establishment of Twitter, Facebook and Instagram accounts. Through the social media, the Office is reaching and engaging with more taxpayers and empowering them with knowledge about our services. These platforms have not just been a source of information for taxpayers but also a tool to provide customer service as part of our commitment to service excellence. At the end of the financial year, plans were at an advanced stage to engage the general public at shopping centres and on the doorsteps of communities

across the country. We understand that rights can only be enjoyed by those who are aware of them and sufficiently informed to ensure their possession.

As a new entity, the Office has risen to the challenge of making itself known to taxpayers and other stakeholders, using communication and outreach efforts to raise awareness. In addition the corporate identity review resulted in a new, vibrant and fresh brand identity and a relaunched website. The user-friendly website has attracted a considerable numbers of visitors, with an average of 20 000 page impressions per month.

COMPLAINTS MANAGEMENT

Increased awareness about the existence of and the value the Office adds to society as a channel for resolving their tax complaints against SARS has led to a significant increase in the number of taxpayers approaching the OTO. In 2015/16, we received 130% more complaints that fell within our mandate compared to the previous financial year. In the same period there was also a decrease in the number of cases that fell outside our mandate and were rejected. This is an indication that our educational efforts are paying off as more taxpayers become aware of our mandate. In our ongoing efforts to educate and inform taxpayers about the role of the OTO, it will be important to highlight what complaints we can and cannot accept, as set out in the TAA which determines our mandate. We also have to remind stakeholders that this Office is fully behind tax compliance and is not a mechanism for taxpayers to avoid their tax obligations.

It is pleasing to report that the number of complaints finalised in the financial year under review increased. Unrepresented taxpayers

“Evidence of our growing success in striving for service excellence is that, despite the large increase in the number of complaints received in the reporting period, the Office remained effective and efficient, dealing with all the complaints received expeditiously, mostly (87%) in favour of the taxpayers.”

continued to dominate the usage of the Office’s services as compared with other users, and we also saw a considerable increase in commendation letters from taxpayers pleased with services rendered.

IMPROVING EFFICIENCY AND PURSUING EXCELLENCE

In pursuit of service excellence, we place great emphasis on the efficiency with which complaints should be reviewed and addressed. The high levels of efficiency in the Office are attributable to the dedication of our team, sound quality management processes implemented, training provided and support from the leadership.

Evidence of our growing success in striving for service excellence is that, despite the large increase in the number of complaints received in the reporting period, the Office remained effective and efficient, dealing with all the complaints received expeditiously, mostly (87%) in favour of the taxpayers. Whenever complaints could not be resolved within the turnaround time, taxpayers were given regular feedback. Such feedback is crucial and it is therefore important to note that the Office relies on SARS to timeously finalise OTO recommendations,

all of which would have been sent to them timeously.

Despite successes and a generally good working relationship with SARS, some areas of our performance needed urgent attention. Delays on the part of SARS in implementing the OTO's recommendations or in giving feedback on matters not finalised, is a serious service matter with reputational risk for the Office. One way of addressing this challenge is to draft a Memorandum of Understanding (MOU) with SARS. The document is at an advanced stage of discussions between the two parties, and will pave the way for the establishment of a detailed Service Level Agreement (SLA).

In addition we trust that our proposal to the Ministry of Finance regarding certain legislative challenges will be received favourably.

As we continue to pursue excellence in servicing taxpayers and contribute to the improvement of the country's tax administration system, we are raising the bar and setting more demanding targets for the coming fiscal year. Our targets in the Annual Performance Plan and Strategic Plan are challenging, and in the 2016/17 financial year we will focus on strengthening taxpayer and stakeholder confidence in the tax system by developing a business case that will properly position the Office as an independent and separate entity from SARS.

INTERNATIONAL BEST PRACTICES

In May/June 2015, a colleague and I undertook a fruitful fact-finding mission to countries on which the Office of the Tax Ombud in South Africa is modelled. The purpose of the study tour was

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to conduct research and benchmarking at the offices of the Tax Ombudsman in Canada, the National Taxpayer Advocate in the United States of America (USA) and the Tax Adjudicator in the United Kingdom (UK).

The tour was insightful and gave us an in-depth knowledge of the different models followed in these countries; this insight was subsequently shared with the rest of the staff. We looked at numerous issues relevant to our institution, including the relationship between the Ombuds and their respective tax office revenue authorities, their Ministers, Parliament and Committees, issues of independence, and funding of the offices. Our Office is in the process of implementing some of the findings focused on efficiency and utilisation.

As part of strengthening public confidence in the tax system, we have made inputs to SARS about the Service Charter to measure levels of service that tax and customs payers can expect from SARS, and provided SARS with a draft Taxpayer Bill of Rights for consideration. Tax and customs payers should be able to see what rights they have in a specific set of circumstances in their dealings with the revenue Authority.

ENGAGEMENT WITH LOCAL OMBUDS

As a country, South Africa has developed a robust Ombud network in various sectors, from consumer credit and pensions to insurance and the general public interest. There is much that we can learn from each other. This network allows the Office to benchmark and determine how best to improve our services.

CONCLUSION

The sustainable success and competitiveness of South Africa as a nation will hinge to a large extent on our collective ability to create jobs, stimulate growth and grow the revenue base. By inspiring greater taxpayer confidence in the tax system, the Office is contributing to a culture of compliance and helping to expand the socio-economic resources available for the

development of the country. We are proud and privileged to be playing our part in promoting fairness and accountability in the fiscal system.

In conclusion, I would like to take this opportunity to express my gratitude towards the Tax Ombud, Judge Ngoepe, for laying a strong foundation for this organisation and for providing exemplary leadership that is enabling this institution to fulfil its mandate and objectives, and in some instances, exceed expectations.

Our Office would not have been able to fulfil its responsibilities without its most important stakeholders, its employees. I would like to extend a word of gratitude to every member of this institution who so often goes beyond the proverbial extra mile to make us shine and provide a service of which taxpayers can be proud.



ADVOCATE HANYANA ERIC MKHAWANE
CHIEF EXECUTIVE OFFICER

6. STATEMENT OF RESPONSIBILITY AND CONFIRMATION OF THE ACCURACY OF THE ANNUAL REPORT

To the best of my knowledge and belief, I confirm the following:

The Annual Report is complete, accurate and free from any omissions.

The Annual Report has been prepared in accordance with the annual reporting guidelines as issued by National Treasury (NT).

The Tax Ombud is responsible for the preparation of the performance information and for the judgments made in respect of this information.

The Tax Ombud is further responsible for establishing and implementing a system of internal control designed to provide reasonable assurance as to the integrity and reliability of the performance information, the human resources information and the financial Information.

In our opinion, the Annual Report fairly reflects the operations, performance information, human resources information and the financial affairs of the Office of the Tax Ombud for the financial year ended 31 March 2016.

Yours faithfully



ADVOCATE HANYANA ERIC MKHAWANE
CHIEF EXECUTIVE OFFICER



JUDGE BERNARD MAKGABO NGOEPE
TAX OMBUD

7. STRATEGIC OVERVIEW

The Office functions within a dynamic socio-economic and legal environment, necessitating a clear understanding of trends and developments influencing the tax and financial services domain. Excellent service delivery lies at the heart of our endeavours, as expressed and entrenched in our vision, mission and values.

VISION:

The vision of the Office of the Tax Ombud is to strengthen taxpayers' confidence in tax administration.

MISSION:

The Office of the Tax Ombud is committed to being an efficient, independent, impartial and fair redress channel for taxpayers.

VALUES:

ACCOUNTABILITY

Taxpayers are entitled to a rational and fair reason for decisions and actions taken.

INDEPENDENCE

In dealing with taxpayers' complaints, the Office of the Tax Ombud operates independently of SARS.

EFFICIENCY

The Office of the Tax Ombud ensures that all taxpayers' complaints are resolved promptly and efficiently.

FAIRNESS

The Office of the Tax Ombud acts in fairness at all times.

CONFIDENTIALITY

The Office of the Tax Ombud holds all communications with taxpayers in strict confidence unless authorised by the taxpayer.

8. LEGISLATIVE AND OTHER MANDATES

The Office of the Tax Ombud complies with the legislative mandates of the Constitution of the Republic of South Africa and the Tax Administration Act No 28 of 2011.

CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, ACT NO 108 OF 1996:

In terms of Section 195 of the Constitution of the Republic, Act No 108 of 1996, public administration must be governed by the democratic values and principles enshrined in the Constitution, including a high standard of professional ethics; efficient, economic and effective use of resources; provision of impartial, fair and equitable service, transparency and accountability. As an agent of public administration, SARS, in its dealing with taxpayers and the OTO, is bound by this Constitutional Mandate. The Office of the Tax Ombud is equally bound by the Constitutional Mandate.

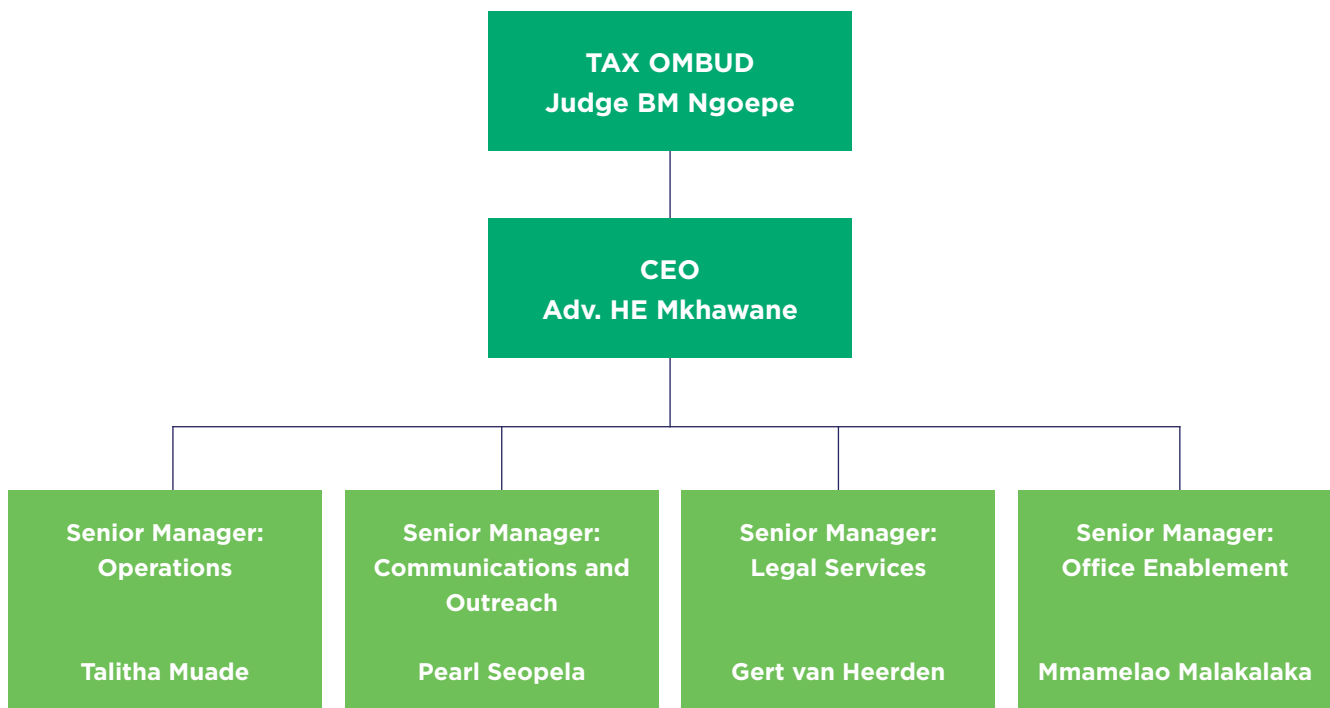
TAX ADMINISTRATION ACT NO 28 OF 2011

Section 16(1) of the Act spells out the Office's mandate, as follows:

"The mandate of the Tax Ombud is to review and address any complaint by a taxpayer regarding a service matter, or a procedural or administrative matter arising from the application of the provisions of a Tax Act by SARS."

9. ORGANISATIONAL STRUCTURE

The Office of the Tax Ombud is led by the Tax Ombud who is supported by the Chief Executive Officer. The Office consists of five business units as per the approved structure. These business units are the Office of the CEO, Operations, Office Enablement (formed in the last quarter of the reporting period and previously in the Office of the CEO), Legal Services, and Communications and Outreach.



OTO LEADERSHIP TEAM



From left, Pearl Seopela – Senior Manager Communications and Outreach; Talitha Muade – Senior Manager Operations; Judge Bernard Ngoepe – Tax Ombud; Mmamelao Malakalaka – Senior Manager Office Enablement; Advocate Eric Mkhawane – Chief Executive Officer; and Gert van Heerden – Senior Manager Legal.



PART B:

PERFORMANCE INFORMATION

10. SITUATIONAL ANALYSIS

10.1 SERVICE DELIVERY ENVIRONMENT

In the previous financial year, the Office developed its Strategic Plan and Annual Performance Plan to clarify overall objectives and plans to deliver on its mandate for the five years from 2016 to 2021. The plans are based on national priorities set in government's National Development Plan, and assist the Office to identify trends, priorities and challenges that the Office needs to respond to in remaining effective, efficient and prompt in resolving taxpayer matters.

Stakeholder engagement

An important way to keep abreast of needs and expectations among taxpayers and professional tax bodies is stakeholder engagement. This also serves to raise taxpayer awareness about the Office's mandate and services - and, just as important, what the Office may and may not do. Thus, considerable emphasis was placed on stakeholder engagement and partnerships during the year under review. The Office's leadership made numerous presentations to high-level audiences from professional tax bodies and academic departments at universities.

International best practice

The international benchmarking exercise undertaken to compare the different Ombud models used internationally has delivered some

useful insights. For example, in other jurisdictions such as Canada and the USA, Ombuds have the power to initiate investigations into any apparent systematic issue. As matters stand, the Tax Ombud lacks such powers in South Africa, no matter how important that matter might be considered to be. The implementation of some of the important aspects that require improvement from the Office in South Africa have been proposed to the Ministry of Finance for consideration to amend the Tax Administration Act.

Governance and reporting

The Office of the Tax Ombud is committed to achieving the highest level of good corporate governance and subscribes to the principles as recommended by the King III report and other legislative requirements. The OTO also complies with all relevant prescripts that seek to promote good governance in the public sector such as the PFMA and Treasury Regulations. The Minister of Finance, who is the Executive Authority, and the Tax Ombud have signed a protocol to govern the working relationship between them. The Office accounts to the Minister through bi-monthly and quarterly reports, as well as an annual report which the Minister tables in Parliament. The OTO is ready to begin the governance process of developing frameworks and policies for risk and compliance.

Improving efficiency

The Office's Strategic Plan for 2016 - 2021 directs its activities for the five-year period. Among other things, the strategy highlights the importance of using proper governance structures and stakeholder management to effectively and efficiently resolve taxpayer disagreements with SARS. The strategy further seeks to ensure that taxpayers receive the professional service and fair treatment that they are entitled to from SARS.

Staff development was prioritised to improve efficiency and ensure that employees have adequate skills to effectively manage all complaints received. Plans to improve our complaints management system are being implemented, and in the new financial year the Office will move from a manual to an electronic system.

National Development Plan

The Strategic Plan of the Office of the Tax Ombud is congruent with government's high-level planning framework, as expressed in the National Development Plan 2030. In line with the NDP, the OTO ensures all employees are capable of executing the Office's mandate by empowering them through training and development. Similarly, in the interests of an active citizenry, the Office implements extensive communications and awareness campaigns to educate and inform citizens so that they approach tax and customs complaints from an informed position about their rights and responsibilities. Another initiative that will strengthen taxpayer compliance and SARS' accountability and openness towards taxpayers, is the proposed implementation of a Taxpayer Bill of Rights and the Service Charter. This will ensure that taxpayers are aware of their rights and obligations and that SARS delivers on the service promises it makes.

10.2 ORGANISATIONAL ENVIRONMENT

In the previous financial year, the Office more clearly aligned its strategic intent with its vision, which is to strengthen taxpayer confidence in the tax system by offering taxpayers an expeditious, independent, fair and impartial avenue for resolving their disputes with SARS. Excellent service, delivered by skilled, motivated staff using modern, efficient systems, is a key component of fulfilling its vision and strategic intent.

Human resources

The employees of the Office are employed in terms of the SARS Act No 34 of 1997 and seconded to the Office of the Tax Ombud in consultation with the SARS Commissioner. The requirement to consult the Commissioner compromises the independence of the OTO. This matter forms part of the proposals to the Ministry of Finance to strengthen the independence of the Office from SARS, in this case by appointing staff without consulting the Commissioner.

The staff complement has increased from 12 since the beginning of the financial year to 28 as at 31 March 2016. While it is important to have sufficient, suitably skilled staff to deliver services, it is just as important to ensure operational efficiency. For this reason, two new units were established in the 2015/16 year. The Office Enablement unit was established to provide corporate support services and the Legal Services unit to provide an enterprise-wide legal service to all areas of the business. This includes providing legal guidance on cases and ensuring that the recommendations made by the Office of the Tax Ombud are legally correct.

To improve complaints-handling capacity, the Office in 2015/16 appointed an Operations Manager, Operations Specialists, Tax Specialists and a call centre agent.

In addition, two Communications Specialists were appointed in the Communications and Outreach unit.

Financial resources

In accordance with the Tax Administration Act, the expenditure connected to the functions of the OTO is paid out from the funds of SARS. The latter administers all OTO funds and has provided the financial information in this report. The matter of the budget and how the finances of the Office should be allocated and managed have been addressed with the Ministry of Finance with a view to proposing legislative changes. The OTO awaits the outcome of these proposals.

Outreach and stakeholder management

Committed to keeping stakeholders abreast of developments and creating awareness about the utilisation of the Office's service, the Office has a comprehensive communications and outreach strategy. This entails collaborating with industry, professional and academic bodies in the tax sphere, leveraging free publicity resulting from media engagements and stakeholder relations, and establishing a social media presence by using platforms such as Facebook, Twitter and Instagram.

Taxpayer complaints process

Complaints lodged with the OTO by taxpayers must relate to a service matter, procedural or administrative matter arising from the application of the provisions of a Tax Act by SARS. A complaint is accepted if it falls within

the mandate of the OTO in terms of section 16 of the Tax Administration Act. The proviso, however, is that the taxpayer first needs to exhaust SARS' internal complaints mechanisms. If the internal SARS' complaints mechanisms are not exhausted, the Tax Ombud may determine if there are compelling circumstances, based on Section 18(5), to review the complaint.

The complaints resolution process includes acknowledging each taxpayer complaint; determining if it falls within the OTO mandate; investigating the complaint; making a recommendation to SARS on how to resolve the matter; providing the taxpayer with regular feedback on the progress of the complaint until it is finalised; and compiling a finalisation report once the complaint has been resolved.

Taxpayers can submit their complaints through email, fax or post, or by hand delivering them at our offices. All complainants are required to complete a complaints form which is designed to collect as much relevant information as possible about the complaint. Contacts are categorised into enquiries (queries); complaints falling within the mandate of the Office (accepted); complaints falling outside the mandate of the Office (rejected) and those that are terminated before a review is carried out or completed.

Enhancing efficiency and quality

During this reporting period, the Office was using the interim manual complaints management system until 27 September 2015. In order to alleviate the administrative burden, SARS assisted the OTO in developing the Service Manager Complaints Management System (SMCMS), which was implemented on 28 September 2015 and used until 31 October

2015. A decision was then taken to temporarily suspend it due to the challenges it posed to the end users. These challenges have been raised with SARS and are being attended to. Progress has been made in refining the system and the OTO will resume utilising it once the refinements have been completed.

Despite these challenges, the Operations unit focused on improving the quality of case management wherever possible during the year under review.

The following processes were implemented to support this:

- A review committee was formed to enhance complaints case quality management. This committee consists of Operations and Legal Specialists.
- Steps were taken to provide feedback to taxpayers about their outstanding complaints on a regular basis.

The OTO is working with SARS to put plans in place by October 2016 to address the challenges raised around the complaints management system. Once the flaws have been corrected, the usage of the electronic complaints management system will improve data and case management, office efficiency and reporting.

In light of the OTO's commitment to ensure that taxpayer complaints are dealt with effectively and efficiently, an MOU with SARS has been proposed to improve the turnaround time. The OTO and SARS have been working to finalise this MOU, which will guide the finalisation of OTO recommendations and remedies to follow in cases where turnaround times are not met, as this aspect is not addressed by legislation.

Further the legislative amendments proposed to the Minister will address some of the challenges such as the need for SARS to give reasons where the OTO's recommendations are not implemented.

Complaints register

The complaints intake grew from 1 270 in 2014/15 to 2 133 in 2015/16 (68% growth). However, the number of staff dealing with complaints has not increased accordingly. This places considerable pressure on the Operations Specialists: Complaints Resolution and underlines the importance of designing an organisational structure that will provide a reliable indication of the correct number of staff and skills required.

Mode of contacts

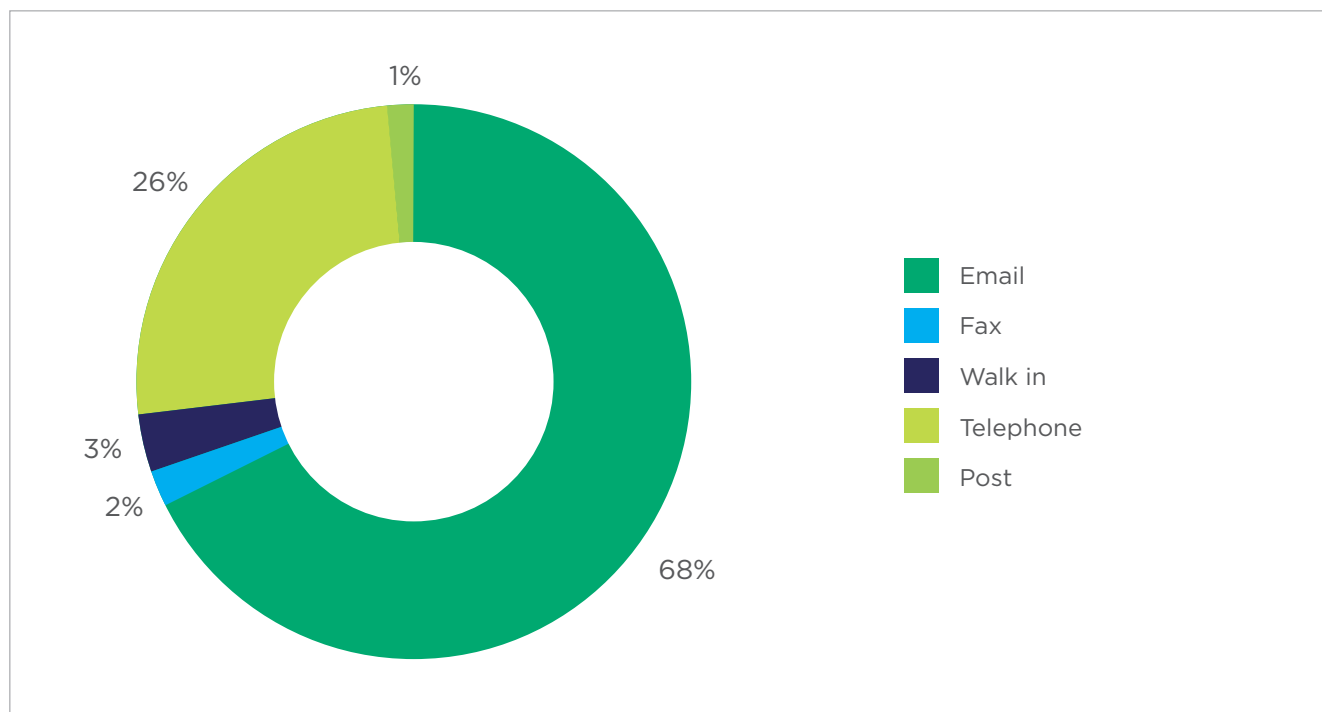
During the reporting period, the OTO received 5 904 contacts. These contacts were mainly received through email (3 992) and telephone calls (1 511). Other channels used by complainants were faxes (125), walk-in visits (196) and the postal service (80). See table 1 and graph 1 below for more details.

Table 1: Details of mode of contacts

CONTACT TYPE	NUMBER
EMAIL	3 992
TELEPHONE	1 511
WALK-IN VISITS	196
FAX	125
POST	80

Sources: CMS and SM

Graph 1: Mode of contact



Sources: Complaints Management System (CMS) and Service Manager (SM)

Types of users who contacted the OTO

During the reporting period, the following categories of users contacted the OTO to lodge their complaints against SARS. More details are provided in table 2 and graph 2 below.

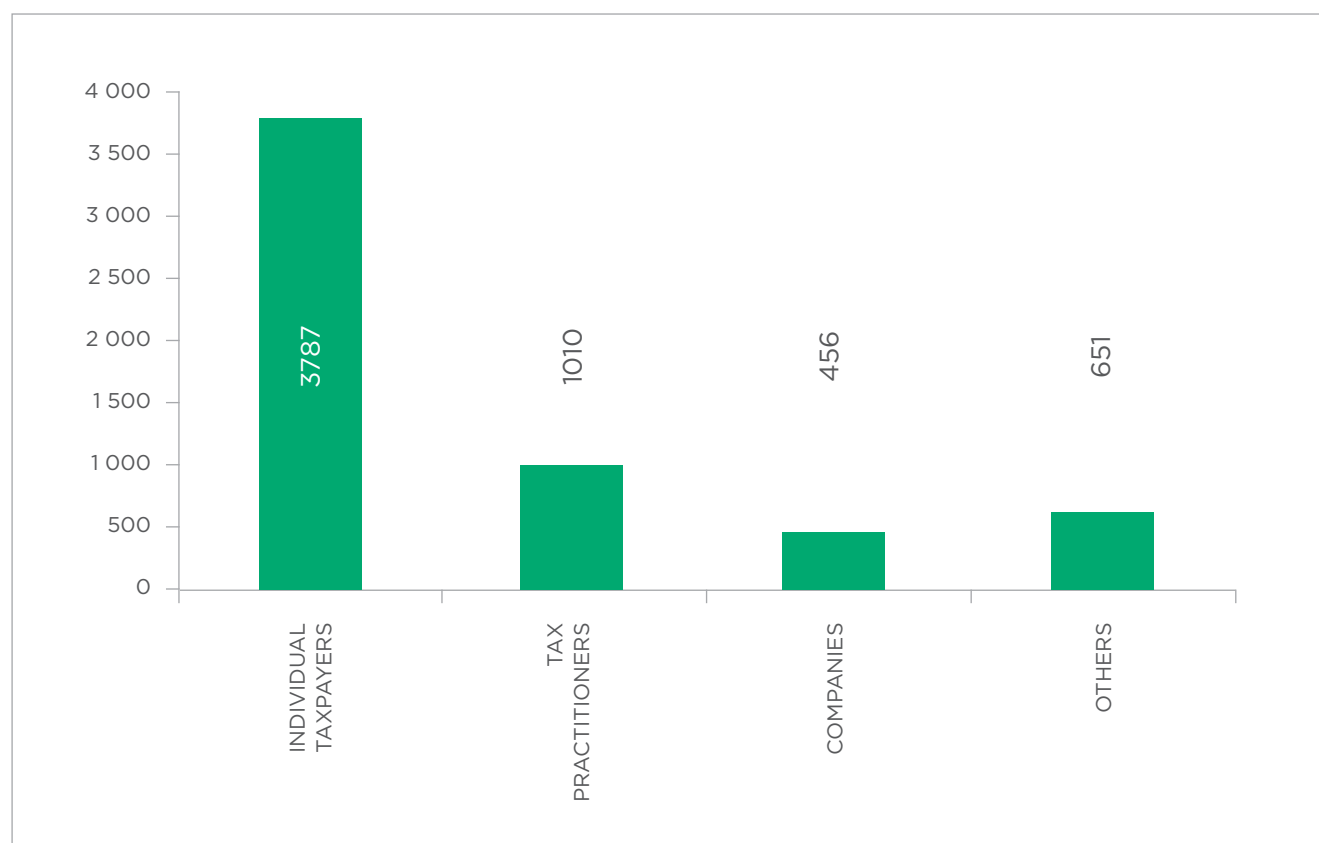
Table 2: Taxpayers contacting the OTO

TYPE OF TAXPAYERS CONTACTING OTO	YTD	%
Companies	456	8%
Other	651	11%
Practitioners	1 010	17%
Individual taxpayers	3 787	64%
TOTAL	5 904	100%

Sources: CMS and SM

Graph 2 below indicates that most of the contacts were made by individuals followed by tax practitioners.

Graph 2: Taxpayers who contacted the OTO



Individual taxpayers - These individuals represented themselves and constituted 64% of users (3 787 contacts).

Tax practitioners - These practitioners lodged complaints on behalf of their clients and represented 17% of users (1 010 contacts).

Companies - The Office received 456 contacts from companies lodging complaints through their representatives.

Others - These are taxpayers who acted as trustees, liquidators, administrators, curators and executors, media, and the Public Protector. The OTO had 651 contacts from this group.

Type of contacts

Table 3 below indicates that most of the taxpayers who contacted the OTO were making enquiries in an effort to understand the OTO mandate in order to formulate their complaints. These included requests for complaint forms and complaints procedure guides. Taxpayers also enquired about the email, postal and physical addresses of the Office. The 16% of complaints that did not fall within the OTO's mandate had to be rejected. Of the 5 904 contacts received in 2015/16, a total of 3 771 (64%) were enquiries and 2 133 (36%) were complaints.

Table 3: Contacts received

CONTACTS RECEIVED	NO. OF CONTACTS	%
Queries received	3 771	64%
Complaints not falling within OTO mandate – rejected	938	16%
Complaints falling within OTO mandate – accepted	961	16%
Terminated complaints	234	4%
TOTAL	5 904	100%

Sources: CMS and SM

Categories of cases reviewed by OTO (accepted and rejected)

Table 4 below indicates that the majority of the complaints reviewed by the OTO are related to assessments (40%) across all tax types, followed by dispute resolution (18%), refunds (15%) and accounts maintenance (10%). Other types of complaints collectively account for 17%.

Table 4: Categories of cases reviewed by OTO (accepted and rejected)

CATEGORY (ACCEPTED AND REJECTED)	NO OF COMPLAINTS REVIEWED	% COMPLAINTS REVIEWED
Assessments (IT, VAT, PAYE)	856	40.10%
Dispute resolution	373	17.50%
Refund	317	14.90%
Account maintenance	203	9.50%
General enquiry (On the tax status)	124	5.80%
Processing	86	4.00%
Interest and penalties	43	2.00%
Correspondence	32	1.50%
System	29	1.40%
Profile Hijacking	25	1.20%
Debt	19	0.90%
Audit	15	0.70%
Customs dispute	2	0.10%
Transfer duty	2	0.10%
ACAS	3	0.10%
Non adherence to court judgement	1	0.00%
Estate	1	0.00%
Whistle blower	1	0.00%
Registration	1	0.00%
TOTAL	2133	100.00%

Sources: CMS and SM

Geographical spread of the complaints received (accepted and rejected)

The regional distribution of the accepted and rejected complaints is shown in table 5 below. Overall, Gauteng has the highest number (1 197 or 56%) of the complaints evaluated, followed by the Western Cape (257 or 12%) and KwaZulu-Natal (244 or 11%). This indicates that most users of the OTO's services are taxpayers in Gauteng, Western Cape and KwaZulu-Natal. This could point to where footprint expansion and the OTO's outreach programme should be directed in the new financial year.

Table 5: Geographical spread of the complaints received (accepted and rejected)

REGIONS	NO OF CASES	% OF CASES
Lesotho	1	0%
London, UK	1	0%
Northern Cape	18	1%
Free State	72	3%
North West	72	3%
Mpumalanga	80	4%
Eastern Cape	94	5%
Limpopo	97	5%
KwaZulu-Natal	244	11%
Western Cape	257	12%
Gauteng	1 197	56%
TOTAL	2 133	100%

Sources: CMS and SM

Accepted complaints falling within the OTO mandate

These were complaints that fell within the mandate of the OTO. In the reporting period, the OTO accepted 961 complaints and 460 were carried forward to the new financial period as unresolved by SARS; 89% of the complaints carried forward were already outside the turnaround time.

Analysis of accepted cases

Table 6 below indicates that the majority of the accepted complaints that fell within the OTO mandate were service related (64%), followed by procedural (21%) and administrative cases (15%). It should be noted that in 2014/15, the OTO accepted only 409 complaints and that the number increased in 2015/16 to 961. Of the total complaints received, 45% were accepted which shows a good improvement over the 32% of cases accepted during the previous financial year.

Table 6: Analysis of accepted cases

NATURE OF COMPLAINT	NO. OF COMPLAINTS	%
Administrative	140	15%
Procedural	205	21%
Service	616	64%
TOTAL	961	100%

Terminated complaints

Terminated complaints make up 11% of the total complaints received. These were complaints that were terminated during investigations. None of the terminated complaints were accepted during the year. Table 7 below has more details.

Table 7: Terminated complaints

REASON FOR TERMINATION	NO. OF COMPLAINTS	%
Terminated cases finalised before review	212	91%
Terminated withdrawal by complainant	11	5%
Terminated due to non-submission of information	10	4%
Terminated for other reasons	1	0%
TOTAL	234	100%

Rejected complaints

Complaints were rejected when they did not fall within the mandate of the OTO or when taxpayers had not exhausted the SARS complaints resolution mechanism and did not have compelling circumstances for not doing so.

Analysis of rejected cases

Table 8 below indicates that 62% of the complaints rejected were cases that fell outside the mandate of the Office, followed by 38% of cases where taxpayers did not exhaust SARS' complaints mechanisms before lodging complaints with the OTO. Of the total complaints received, 44% were rejected, which shows a good improvement over the 68% of cases rejected during the previous financial year.

Table 8: Analysis of rejected and terminated cases

REASONS FOR REJECTION	NO OF CASES REJECTED	%
Section 16 of TAA (not falling within OTO mandate)	3	0%
Section 18(4) of TAA (the SARS resolution process not exhausted)	354	38%
Section 17 of TAA (limitation on authority)	581	62%
TOTAL	938	100%

A weakness in the current legislation is that the Tax Ombud does not have a mechanism to compel SARS to respond to its recommendations. By the end of the reporting period, a total of 460 complaints had not been finalised by SARS and 86% of these were already outside the turnaround time.

Table 9 below indicates that 28 complaints forwarded to SARS in the 2014/15 financial year and 432 from the reporting period have still not been finalised by SARS. Such delays make it difficult to provide timely feedback to taxpayers. This has been taken up with SARS, which is working with the OTO to finalise an MOU that would also govern response and turnaround times.

Table 9: Age analysis of open cases

FINANCIAL YEAR CASES SENT TO SARS	NO OF CASES	% OF CASES
2014/15	28	6%
2015/16	432	94%
TOTAL	460	100%

Description of open cases

The information below depicts the outstanding cases for the 2014/15 financial year that were not resolved by SARS and have been escalated to the SARS Commissioner.

DATE COMPLAINT FORWARDED TO SARS	ISSUE	AGE AS AT 2016-03-31
2014/07/31	Administrative issue – Banking details were fraudulently changed. Refund amounting to more than R 5 000 went to the wrong account. Taxpayer still has not received his refund.	406
2014/08/15	Notice of appeal (NOA) not attended since July of 2013. To date this is still not finalised.	395
2014/08/28	Judgment taken on debt of R3 million that had been prescribed.	386
2014/09/26	Request for suspension of payment submitted on 6 May 2014 and not finalised by SARS.	366
2014/10/09	PAYE not taken into account which resulted in a debt of more than R10 000.	357
2014/10/20	Two tax reference numbers. Taxpayer was requested by SARS to submit returns on one tax number when the returns had already been submitted on the other tax number. Both tax numbers still active at the end of the reporting period.	350
2014/11/04	Taxpayer was not allowed expenses incurred in the production of income in the tax year 2012. A letter was sent to request SARS to make the necessary adjustments but the declaration was rejected by SARS for the reasons that these expenses were not supported. SARS is rejecting the taxpayer's Notice of objection (NOO) and NOA for the reasons that they were lodged outside the prescribed periods. SARS did not take into account the fact that the taxpayer has actually made a written request within the time allowed him and that he was not provided with proper advice to file an NOO within prescribed timeframes.	339
2014/11/10	Refund of more than R80 000, due to incorrect revised assessments.	335
2014/11/10	No reasons provided to the taxpayer for conducting a further review on the assessment.	335
2014/11/11	Incorrectly rejecting the 2013 NOO.	334
2014/11/26	Delay in finalisation of NOA.	323
2014/11/26	Appeal outcome not communicated by SARS.	323

DATE COMPLAINT FORWARDED TO SARS	ISSUE	AGE AS AT 2016-03-31
2014/12/08	SARS attached the taxpayer's equipment and froze the taxpayer's bank account. The assets that were taken by SARS were sold in order to pay the storage fees. The court ordered that the assets be returned to the taxpayer. OTO rejected the closeout report from SARS and the matter is still not finalised. Taxpayer's debt of more than R200 000.00 still exists and the court order has yet to be adhered to by SARS.	315
2014/12/09	Delay in finalisation of NOA submitted to SARS on 21 August 2014 and rescinding of judgment.	314
2014/12/23	SARS not providing reference numbers for the outstanding cases and payment of the credits to the estates.	305
2015/01/07	Refund amounting to more than R30 000 paid and recalled by SARS on 19 June 2014 from the taxpayer's bank account. Taxpayer lodged complaint with SSMO on 27 June 2014 and SSMO closed it on 21 October 2014; unresolved.	302
2015/01/15	The complaint related to a refund for the 2013/04 to 2014/02 VAT periods which SARS delayed to pay.	296
2015/01/26	Assessment for 2012 and 2013 was assessed on income that the taxpayer did not receive; the taxpayer had been working for intermittent periods and for the other periods the employer did not submit the reconciliation; thus SARS included the income without tax credits. There was an IT88 on the lump sum of the taxpayer to satisfy the tax debt. The taxpayer was then unemployed and not receiving any assistance from SARS for his employer to submit the reconciliation.	289
2015/01/28	Taxpayer's return for 2013 was allegedly submitted by a third party without her knowledge or authorisation. This generated a refund which was paid into a different back account (not her own). Now SARS demands the amount refunded from her.	287
2015/01/29	Taxpayer reported to SARS that his profile had been hijacked on 4 July 2014 but this was not attended to until the complaint was lodged with OTO. In October/November 2015 a refund was due to the taxpayer but he was informed that his account had been blocked.	286

DATE COMPLAINT FORWARDED TO SARS	ISSUE	AGE AS AT 2016-03-31
2015/01/30	Delay on finalisation of ADR1 for 2006/06, 2006/10 and 2006/12 VAT periods which were submitted to SARS.	285
2015/02/16	The dispute relates to the 2007 - 2014 years of assessment in that the full interest income was taxed in the hands of the taxpayer. The taxpayer is married in community of property but since the returns indicated his marital status as out of community of property, the full interest income was taxed in his hands. The 2010 to 2014 assessments were amended under the provisions of Section 93 (1)(d) of the TAA; however the 2009 assessment could not be revised due to prescription.	274
2015/02/27	ADR1 and suspension of payment approved and later lifted by SARS without notice to the vendor.	265
2015/03/05	Refunds not released for periods: 2015/01 – over R300 000 (Stopper on the period)	261
2015/03/09	Taxpayer claims that someone submitted returns on his behalf. Refunds were fraudulently claimed on the return of the taxpayer. He claims that he never received any refunds and does not understand why he now has a debt with SARS. Taxpayer claims that SARS took more than R11, 000 from his bank account.	259
2015/03/16	Support (in the form of Easy-file) to assist the taxpayer with the re-submission of the EMP 501 and for SARS to arrange a meeting with the taxpayer after the EMP 501 is resubmitted so that all the journals processed in the account can be discussed with the taxpayer.	254
2015/03/25	Refunds not released for the following periods: 2014/01 – more than R300 000 2014/03 – more than R250 000 2014/05 – more than R 150 000 2014/09 – more than R250 000	247
2015/04/30	SARS has instructed a bank to freeze the taxpayer's account due to a refund that was paid and recalled by SARS. Matter has not been finalised as yet.	224

10.3 REPORT IN TERMS OF SECTION 19(2)(a)(b) OF THE TA ACT

Section 19(2) requires the Tax Ombud to list and provide details of at least 10 of the most serious issues encountered by taxpayers as well as identified systemic and emerging issues. The table below contains summaries and all details of these issues in compliance with this provision.

	ISSUE	SUMMARY	CATEGORY (SERIOUS/SYSTEMIC/EMERGING)	ACTION TAKEN BY THE OTO	ACTION TAKEN BY SARS	PERIOD IN THE OTO'S INVENTORY	RESULT
1	Delay in payment of refunds.	Delays on the part of SARS in paying refunds to taxpayers without any communication or notice to taxpayer. Even in some cases where no verification/audit is in process or where a verification/audit has been finalised with no adverse findings, stoppers are put in place to hold the refunds until taxpayers lodge complaints.	Serious/Systemic	Recommendation made for SARS to ensure that after audits have been finalised, all risks identified to be cleared and the refund stoppers simultaneously lifted; the refund SLA is to be adhered to at all times. SARS to communicate with affected taxpayers the reasons for withholding refunds.	SARS has implemented stringent refund rules to mitigate its risk due to fraud previously experienced. SARS refund rules are consistently revised to cater for taxpayer behaviour and trends. There are ongoing enhancements to SARS refunds systems which allow for the immediate processing of a refund and will improve turnaround times. This will include ensuring people are not stopped repeatedly with no result. SARS further indicated that empirical evidence has indicated that almost 90% of all refunds are paid within 60 days of submission.	16 months	Ongoing
2	Failure by SARS to update banking details	Bank account details have been updated by the taxpayers but not effected by SARS. This resulted in the refunds being paid into the incorrect bank accounts.	Serious/Systemic	Recommendations made for SARS to pay the refunds to the correct bank account.	SARS Responded by setting out certain criteria under which they will refund taxpayers under these circumstances.	11 months	Ongoing

	ISSUE	SUMMARY	CATEGORY (SERIOUS/SYSTEMIC/EMERGING)	ACTION TAKEN BY THE OTO	ACTION TAKEN BY SARS	PERIOD IN THE OTO'S INVENTORY	RESULT
3	Incorrect allocation of payments received by SARS	Payments made by taxpayers or collected through third party appointments by SARS were incorrectly allocated resulting in a debt on SARS' systems. On many occasions SARS instituted collection steps to recover this incorrect debt.	Serious/ Emerging	Recommendation made for SARS to ensure that payments made to SARS are allocated correctly and timeously.	Correct allocations were done, apology letter sent to taxpayer; however SARS has indicated that in future it will do correct allocations and taxpayers need to use the correct PRN number in order to avoid misallocations.	7 months	Ongoing
4	Delays in issuing tax clearance certificates	Many taxpayers depend on the tax clearance certificates for the continued operation of their businesses. In cases where SARS delays in issuing these certificates without good reason it impacts negatively on taxpayers.	Serious	SARS to ensure that TCC applications are dealt with in the provided timeframes	SARS indicated that it was in the process of implementing a new Tax Compliance Status system which aims to systemically ease any potential delays experienced with TCCs. This will include TCCs for Tenders, Good Standing, Foreign investment and emigration. This was to be rolled out in April 2016.	1 month	Ongoing
5	Taxpayers being affected by employers' non-compliance with legislation relating to IRP5 certificates	While employers have a legal obligation to submit reconciliations, issue IRP5s and correct incorrect IRP5s there is no mechanism to enforce this. This results in SARS sending these taxpayers to the employers and the employers sending taxpayers back to SARS. Furthermore SARS branches are not consistent in attending to these matters.	Serious/ Systemic	Recommendation made for SARS to enforce the legislation to ensure that employers reconcile their PAYE and hold them accountable for non-compliance. The development of a standard operating procedure is advised to assist SARS employees to be consistent in dealing with taxpayers who do not have IRP5 certificates due to these issues.	SARS maintains the responsibility of issuing correct IRP5 certificates remains with the employer as does the submission of the PAYE reconciliation. Where an employee has not received an IRP5, there is an alternative process at SARS to assist in this regard. SARS did however note that it is considering certain options to enforce the Schedule 4 obligations of employers.	7 months	Ongoing

	ISSUE	SUMMARY	CATEGORY (SERIOUS/ SYSTEMIC/ EMERGING)	ACTION TAKEN BY THE OTO	ACTION TAKEN BY SARS	PERIOD IN THE OTO'S INVEN- TORY	RESULT
6	Inconsistency by SARS in providing taxpayers with time-lines for finalisation of audits/verifications	Taxpayers are given different turnaround times for completion of an audit/verification when phoning the SARS contact centre. The turnaround times are extended every time the taxpayer follows up after expiry of the initial turnaround time.	Serious	Recommendation made for SARS to ensure that auditors adhere to similar turnaround times and for these turnaround times to be published on the SARS website for taxpayers to be aware of them.	Turnaround times for the completion of audits cannot be pre-determined as it depends on the nature of the case. SARS said it is not possible for contact centre agents to provide possible turnaround times for audits being conducted.	11 months	Ongoing
7	Victims of identity theft being held liable for tax debts	SARS holds taxpayers who were victims of identity theft liable for the tax debt even in instances where SARS was aware of the alleged fraud and was investigating same.	Serious	Recommendation made for SARS to investigate and assist taxpayers who have proved to be victims of identity fraud.	No action taken by SARS	13 months	Ongoing
8	Non-adherence by SARS to dispute resolution turnaround times	On many occasions SARS does not adhere to the dispute resolution turnaround time frames as envisaged in chapter 9 and under the rules for Dispute Resolution as promulgated under section 103 of the TAA.	Serious/ Systemic	Recommendation made for SARS to strictly adhere to the ADR rules at all times and provide taxpayers with reasons in cases of non-adherence. The outcome of each objection and appeal must be implemented correctly and timeously.	SARS is in the process of automating its objection and appeal processes for the different tax types. By April it was limited to companies and individuals. SARS intends to provide this for all tax types.	16 months	Ongoing

	ISSUE	SUMMARY	CATEGORY (SERIOUS/SYSTEMIC/EMERGING)	ACTION TAKEN BY THE OTO	ACTION TAKEN BY SARS	PERIOD IN THE OTO'S INVENTORY	RESULT
9	Failure by SARS to respond to requests for reasons for assessments raised	Where taxpayers request reasons for an assessment and SARS fails to respond taxpayers are disadvantaged as they are not put in a position to decide whether they agree with the assessment or not. If the reasons for the assessment are not clear the taxpayer is not able to formulate proper grounds for an objection.	Serious	Case specific recommendations made for SARS to respond to the specific requests for reasons for the assessments.	No action taken by SARS	10 months	Ongoing
10	SARS' failure to take information at its disposal into account	On many occasions SARS requests information during audit/verification/objection procedures and takes decisions without taking the information submitted by the taxpayer into account.	Serious	Recommendation made for SARS to ensure that assessments are corrected in accordance with the supporting documents submitted.	In reported cases where supporting documents were already submitted, SARS finalised the complaints and taxpayer notified accordingly.	5 months	Ongoing
11	SARS taking collection steps when legally barred from doing so	In many cases where taxpayers have submitted requests for suspension of payment, SARS takes recovery steps before a decision is taken on the request regardless of an express prohibition to do so in section 164(6).	Serious	Recommendation made for SARS to ensure adherence to the legislative provisions relating to requests for suspension of payment.	SARS indicated that suspension of payment requests have been dealt with manually. SARS is in the process of rolling out suspension requests on eFiling. This is limited to income tax but will in future include all tax types to ensure they are attended to on SARS' systems.	13 months	Ongoing

	ISSUE	SUMMARY	CATEGORY (SERIOUS/ SYSTEMIC/ EMERGING)	ACTION TAKEN BY THE OTO	ACTION TAKEN BY SARS	PERIOD IN THE OTO'S INVEN- TORY	RESULT
12	Revision of tax as- sessment without in- forming the taxpayer	Assessments are being revised without any notification sent to the relevant taxpayers.	Systemic	SARS to notify affected taxpayers and communicate the outcomes to them.	On complaints that have been lodged with OTO, taxpayers were communicated with and apologies given in some instances.	12 months	Ongoing
13	Non-re- sponse by SARS on Taxpayer requests/ queries/ correspond- ence	On many occa- sions SARS does not respond to taxpayer re- quests/queries/ correspondence.	Systemic	Case specific recommenda- tions made for SARS to respond to the specific re- quests/ queries/ correspondence.	No action taken by SARS	20 months	Ongoing
14	Personal liability of members/ directors for a CC/Com- pany's tax debts	SARS Debt Management has held members/di- rectors liable for CC's/Companies' tax debts without applying the rel- evant legislation correctly.	Systemic	Recommenda- tion made to SARS to comply with legislation.	Judgments issued on the relevant cases were withdrawn by SARS.	17 months	Ongoing
15	Hijacking of e-Filing profile	Taxpayers' e-Filing profiles are being hijacked by fraudsters. These fraudsters then change the taxpayer's banking details to their own and file fraudulent returns creating refunds and where identified as such by SARS, the latter creates unintended tax debts for taxpayers.	Systemic	SARS to conclude the investigation and assist the taxpayers who have been victims.	SARS indicates that its systems and processes have since been enhanced to the effect that changes to a taxpayer's ID number and/or bank details can only be effected at a Branch Office and can no longer be done on a taxpayer's income tax return on eFiling.	20 months	Ongoing

	ISSUE	SUMMARY	CATEGORY (SERIOUS/ SYSTEMIC/ EMERGING)	ACTION TAKEN BY THE OTO	ACTION TAKEN BY SARS	PERIOD IN THE OTO'S INVEN- TORY	RESULT
16	SARS esca- lations and complaint manage- ment procedures confuse taxpayers and SARS staff fail to inform taxpayers of the correct procedure to lodge complaints	SARS in many instances fails to advise taxpayers of the correct procedures to follow when they want to lodge complaints. This results in tax- payers following up repeatedly or using the incor- rect procedures thereby never gaining access to the internal SARS Complaints Man- agement Office.	Systemic	Recommend- ation made for SARS to educate taxpayers on the correct proce- dure to lodge complaints. Criteria were es- tablished for the OTO to accept complaints under these circum- stances where the internal SARS complaints mechanism was not exhausted under s18(5).	SARS undertook to provide taxpayer education.	2 months	Ongoing

10.4 KEY POLICY DEVELOPMENTS AND LEGISLATIVE CHANGES

There were no key policy developments and legislative changes.

10.5 STRATEGIC OUTCOME-ORIENTED GOALS

The OTO has four strategic outcome-oriented goals. Progress has been made towards achieving the goals. These overall goals also form the basis for performance indicators of the Office's four programmes as depicted below;

STRATEGIC OUTCOME-ORIENTED GOAL 1	WORK WITH SARS TO ENSURE THAT TAXPAYERS' COMPLAINTS ARE FAIRLY RESOLVED
GOAL STATEMENT	Taxpayers' individual complaints will be resolved in a manner that ensures that justice is done in an effective and fair manner. This will be achieved through applying relevant legislation, complaints management systems, procedures and standard operating models.
PROGRESS MADE TOWARDS THE ACHIEVEMENT OF GOALS	Implementation of the service management system is still in progress. The system was introduced in 2015/16 but was found to have several shortcomings and thereafter temporarily suspended.

STRATEGIC OUTCOME-ORIENTED GOAL 2	WORK WITH SARS TO ENHANCE THE TAX OMBUD'S RECOMMENDATIONS AND RESPONSES.
GOAL STATEMENT	The Office of the Tax Ombud is responsible for identifying systemic and serious issues as a result of investigations, and reporting these to SARS. On the basis of related recommendations, SARS is expected to respond by making changes to its systems where necessary and providing feedback to the Tax Ombud.
PROGRESS MADE TOWARDS THE ACHIEVEMENT OF GOALS	Quarterly reports are sent to the Commissioner as required by the Act. The OTO is still negotiating a Memorandum of Understanding with SARS.

STRATEGIC OUTCOME-ORIENTED GOAL 3	INCREASE TAXPAYERS' ACCESS TO THE OFFICE OF THE TAX OMBUD
GOAL STATEMENT	<p>The Office of the Tax Ombud is accessible and is able to engage taxpayers through different modes of contact. This includes access to the contact centre, website, fax, email, one-on-one engagement and the use of diverse languages to enhance understanding on the part of taxpayers. In due course, the Office of the Tax Ombud will expand its physical presence to other areas.</p>
PROGRESS MADE TOWARDS THE ACHIEVEMENT OF GOALS	<p>The Complaints guide and website were reviewed to improve understanding and further translated into all 11 official languages to improve accessibility.</p> <p>The stakeholder collaborations and public relations efforts resulted in more visibility and engagements in favour of the Office.</p> <p>The number of taxpayers contacting the Office increased from 670 in 2013/14 to 5 904 in 2016/17.</p>

STRATEGIC OUTCOME-ORIENTED GOAL 4	PROMOTE STAKEHOLDER ENGAGEMENT AND PUBLIC AWARENESS
GOAL STATEMENT	<p>Implement stakeholder collaboration and educational public awareness campaigns to inform stakeholders and taxpayers about the Office and services offered by the Tax Ombud.</p>
PROGRESS MADE TOWARDS THE ACHIEVEMENT OF GOALS	<p>Stakeholder engagement has been expanded to include academia, professional bodies, private and public institutions.</p> <p>The Office has initiated media "meet and greet" sessions, introducing itself to South Africa's key stakeholders and obtaining commendations from role players. Feedback on events has played a role in improving the work of the OTO and has further resulted in more requests from stakeholders to collaborate with the Office of the Tax Ombud in educating taxpayers about its mandate.</p>



PERFORMANCE INFORMATION BY PROGRAMME/OBJECTIVES



CEO, ADVOCATE ERIC MKHAWANE

11.1 PROGRAMME 1: OFFICE OF THE CEO

Strategic objective 1.1: *Performance Management System*

Output statement: Provide the overall strategic management for the Office of the Tax Ombud and ensure that the performance management and reporting system supports management decision-making that enables the Tax Ombud to comply with internal and external accountability reporting in line with legislative requirements.

Strategic objective 1.2: *Optimise the size of the organisation to accommodate demand for services*

Output statement: The Office of the Tax Ombud is still relatively new and is experiencing increasing demand for its services, which is likely to continue over the period of the strategic plan. The size of the organisation needs to be optimised in order to manage this demand.

Strategic objective 1.3: *Improve business support systems for an efficient and effective operation*

Output statement: The Office of the Tax Ombud has an appropriate complaints management system that supports quality assurance of processes and products.

Strategic objective 1.4: *Optimise the footprint of the organisation to improve access*

Output (objective) statement: The Office of the Tax Ombud is still relatively new and is experiencing increasing demand for local service access points. The footprint of the organisation needs to be optimised in order to manage this demand.

PROGRAMME 1: OFFICE OF THE CEO						
INDICATOR	PERFORMANCE INDICATORS	ACTUAL ACHIEVEMENT 2014/15	PLANNED TARGET 2015/16	ACTUAL ACHIEVEMENT 2015/16	DEVIATION FROM PLANNED TARGET TO ACTUAL ACHIEVEMENT FOR 2015/16	COMMENT ON DEVIATIONS
STRATEGIC OBJECTIVE 1.1: PERFORMANCE MANAGEMENT SYSTEM						
1.1.1	Strategic and Annual Performance Plans are developed, revised and published as required.	Not planned for 2014/15	1	Completed	None	APP 2016-2017 and Strategic Plan 2016-2021 were submitted and tabled in Parliament
1.1.2	In-year reporting as per protocols	Not planned for 2014/15	6 bi-monthly 4 quarterly	4 bi-monthly 4 quarterly	2 bi-monthly reports were suspended.	It was agreed with the Ministry's office to suspend two (2) bi-monthly reports

PROGRAMME 1: OFFICE OF THE CEO						
INDICATOR	PERFORMANCE INDICATORS	ACTUAL ACHIEVEMENT 2014/15	PLANNED TARGET 2015/16	ACTUAL ACHIEVEMENT 2015/16	DEVIATION FROM PLANNED TARGET TO ACTUAL ACHIEVEMENT FOR 2015/16	COMMENT ON DEVIATIONS
STRATEGIC OBJECTIVE 1.2: OPTIMISE THE SIZE OF THE ORGANISATION TO ACCOMMODATE DEMAND FOR SERVICES						
1.2.1	Approved staffing growth plan and associated budget	Not planned for 2014/15	Have an approved staffing growth plan and associated budget by the third quarter	Completed	None	Approved structure
STRATEGIC OBJECTIVE 1.3: IMPROVE BUSINESS SUPPORT SYSTEMS FOR AN EFFICIENT AND EFFECTIVE OPERATION						
1.3.1	The Service Manager system is fully operational	Not planned for 2014/15	Have the Service Manager system fully operational	Completed	System was suspended	The system was completed and subsequently suspended due to various problems that remained unresolved by SARS.
STRATEGIC OBJECTIVE 1.4: OPTIMISE THE FOOTPRINT OF THE ORGANISATION TO IMPROVE ACCESS						
1.4.1	Approved footprint growth plan with associated budget	Not planned for 2014/15	Approved footprint growth plan with associated budget	Not achieved	The footprint and growth plan were not done due to capacity and budget constraints.	Lack of capacity in establishing the main office

The purpose of the Office of the CEO

The purpose of the Office of the CEO is to provide overall leadership and support for the Office of the Tax Ombud and the business units that fall within it.

In response to the increased demand for its services, the OTO has recognised the importance of achieving responsible growth by optimising the size of the organisation to accommodate demand for services and ensure efficiency. The Office staff complement increased by an additional 16 employees since the start of the financial year.

On 30 November 2015, the Office relocated to Menlyn Corner, 87 Frikkie de Beer Street, Menlyn in the east of Pretoria.

Challenges

The OTO will continue to play a significant role in inspiring taxpayer confidence in the tax administration system. In doing so, however, the Office faces certain challenges and constraints:

- Section 15(4) of the Tax Administration Act states that the expenditure connected with the functions of the OTO is paid out of the funds of SARS. There were certain challenges in regard to allocation of funds from SARS. Although it has since been resolved, the process of budgeting and funding of the OTO needs to be reviewed.
- Section 15(1) of the Tax Administration Act stipulates that the staff of the Office of the

Tax Ombud must be appointed in terms of the SARS Act and shall be seconded to the OTO in consultation with the SARS Commissioner. The challenge in this process is that there must be consensus between the Tax Ombud and the Commissioner. Although there have never been disagreements between the two parties, this arrangement needs to be reviewed.

- There is a need to capacitate the Office to ensure that the Office meets the demand for its services.

Way forward

- A proposal was made to the Minister to amend the legislation to ensure that the OTO's budget is approved directly by the Minister of Finance and is ring-fenced within the SARS budget since the OTO is not a legal entity. The OTO would maintain control over its own budget.
- It has been proposed that the Tax Administration Act be amended in order to give the OTO powers to directly employ its own staff. The OTO takes charge of all the steps in the recruitment process of all staff appointed in the Office.
- Concluding an MOU with SARS could streamline operational, legal and support services to ensure that the Office has control over its own business.
- Establishing a governance structure for compliance, risk management and internal audit is in the pipeline. The Legal Services unit would also assist in ensuring compliance at both strategic and operational levels.



SENIOR OPERATIONS MANAGER, TALITHA MUADE

11.2 PROGRAMME 2: OPERATIONS

Strategic objective 2.1: Completed investigations of complaints

Output (objective) statement: Taxpayers complete a complaints form which has been designed to collect as much relevant information as possible about their complaints, and these are investigated by the Office of the Tax Ombud. Feedback is given monthly to the complainants and recommendations are sent to SARS for attention.

PROGRAMME 2: OPERATIONS						
INDICATOR	PERFORMANCE INDICATORS	ACTUAL ACHIEVEMENT 2014/15	PLANNED TARGET 2015/16	ACTUAL ACHIEVEMENT 2015/16	DEVIATION FROM PLANNED TARGET TO ACTUAL ACHIEVEMENT FOR 2015/16	COMMENT ON DEVIATIONS
STRATEGIC OBJECTIVE 2.1: COMPLETED INVESTIGATIONS OF COMPLAINTS						
2.1.1	Percentage of validations of complaints completed within three working days	Not planned for 2014/15	80% of validations of complaints completed within three (3) working days	(3 670/4 943) 74.25%	-6%	It takes longer to validate complaints due to the quality measures implemented. A revised timeframe of five days has been proposed in the 2016/17 reporting period due to the many cases that must be validated before they are either accepted or rejected, and the small number of staff working on the cases.
2.1.2	Percentage of recommendations sent to SARS within the standard turnaround time	Not planned for 2014/15	70% of recommendations sent to SARS are sent within the standard turnaround time.	(541/979) 55.26%	-15%	This variance is due to high volumes of complaints received during the filing season, December holidays and office relocation.

The purpose of the Operations unit

The purpose of the Operations unit is to review and address complaints raised by taxpayers against SARS, and to make recommendations on how to address these complaints.

The table on the previous page illustrates the annual performance of the Operations unit. The target of 80% was not met as complaints took longer than three days to validate, and high volumes of cases were received during the filing season and in December and January due to holidays. The implementation of the Service Manager Complaints Management System in September 2015 also affected these deliverables negatively, because of the challenges it brought to the end users. Several quality measures were then introduced to improve the quality of work produced. These measures included establishing the review committee, which reviews all cases before a decision can be taken to either reject or accept them.

All letters going to taxpayers were subjected to quality management processes to ensure consistency and accurate recording of facts. All these quality mechanisms increased the time taken to validate complaints.

The three-days timeframe measurement was based on the 2014 intake, which means that as the number of complaints grows, the measurement will need to be revised in line with the resource base number. Therefore, an interim revised timeframe of five days has been proposed for the 2016/17 financial year due to the many cases that must be validated before being accepted

or rejected. This is supported by the statistical, numerical increase in complaints accepted by the Office since 2014/15; the number of accepted complaints grew from 409 in that year to 961 in 2015/16, an increase of over 100%. A time motion study will be conducted to determine accurate targets.

At the end of the reporting period, the OTO was using a manual Complaints Management System because of the problems experienced with the electronic system. This makes statistical reporting on the activities of the Office cumbersome because statistics have to be drawn manually.

The intention is to reintroduce the Service Manager Complaints Management System from June 2016, which means all complaints have to be captured in to the system before the operations specialists can evaluate them. Currently this function is being temporarily performed by call centre agents; an organisation design is to be done to determine the number of staff to be appointed as this will affect quality and division of duties.

The re-introduction of the Service Manager Complaints Management System will benefit the Office in numerous ways. Statistical reporting will no longer be manual and can be drawn any time of the day, with improved data quality. Performance monitoring will be easier and the team members will be able to monitor their own performance. Cases viewed and monitored on the system will be tracked, and any updates to the complaint by either SARS or OTO authorised personnel will be viewable immediately and taxpayers updated accordingly. Lastly, case management quality will be enhanced.

Challenges affecting the OTO turnaround time of 15 working days, as promised to taxpayers

- SARS does not implement OTO recommendations on time and does not give feedback on those not finalised.
- The OTO has no mechanism to require SARS to implement recommendations and to give timeous feedback. (This is one of the limitations of the Tax Administration Act.)
- The absence of a SARS Service Charter makes it difficult to measure the level of service to taxpayers.
- The OTO is dependent on SARS IT to implement the Complaints Management System, which may not be a priority for SARS.

Way forward / recommendations

- The OTO is currently engaging SARS to finalise a Service Level Agreement (SLA) and this issue has been raised with the Commissioner.
- SARS has committed to addressing the challenges around the OTO's Complaints Management System by October 2016.
- The Office has made proposals for legislative amendments that will require SARS to give reasons for not implementing recommendations, instead of not responding. Receiving reasons will assist the OTO in providing reasons to taxpayer on unresolved complaints.



SENIOR MANAGER COMMUNICATIONS AND OUTREACH, PEARL SEOPELA

11.3 PROGRAMME 3: COMMUNICATIONS AND OUTREACH

Strategic objective 3.1: *Communications and Outreach*

Output (objective) statement: Communicate and increase public awareness of the Office of the Tax Ombud's services and utilisation.

PROGRAMME 3: COMMUNICATIONS AND OUTREACH						
INDICATOR	PERFORMANCE INDICATORS	ACTUAL ACHIEVEMENT 2014/15	PLANNED TARGET 2015/16	ACTUAL ACHIEVEMENT 2015/16	DEVIATION FROM PLANNED TARGET TO ACTUAL ACHIEVEMENT FOR 2015/16	COMMENT ON DEVIATIONS
STRATEGIC OBJECTIVE 3.1: COMMUNICATIONS AND OUTREACH						
3.1.1	Number of outreach, communication and education activities	Not planned for 2014/15	Four outreach, communication and education activities	70	66	More emphasis was placed on outreach. The unit successfully leveraged the public relations and stakeholder collaborations conducted, which resulted in over achievement.
3.1.2	Number of engagements/collaborations with key stakeholders	Not planned for 2014/15	Four engagements/collaborations with key stakeholders	57	53	Stakeholder engagements were emphasised to promote education and awareness of the Office including leveraging on public relations.
3.1.3	Number of surveys on stakeholder trust and confidence	Not planned for 2014/15	One survey on stakeholder trust and confidence	N/A	N/A	No research was conducted; the organisation is too new for informative research and results. Stakeholder feedback was relied on.

The purpose of the Communications and Outreach unit

The purpose of the Communications and Outreach unit is to promote stakeholder engagement and raise public awareness to ensure the efficiency and accessibility of the Office of the Tax Ombud. The main objective for the year under review was to communicate and increase public awareness of the Office of the Tax Ombud's services and promote its functions and utilisation.

Achievements

Communications and Outreach plays a pivotal role in raising awareness about the existence of the Office and further building relationships with key stakeholders. During the period under review, the unit continued to pursue excellence in delivering on its core activities, which include promoting the efficiency, utilisation and accessibility of the Office of the Tax Ombud. More efforts were made to reach out to professional bodies, academia, taxpayers and tax practitioners. The communication material was reviewed and translated into different languages to assist taxpayer understanding and increase accessibility. In addition, the unit leveraged on stakeholder collaborations and public relations initiatives.

Public relations

During the year under review, the unit succeeded in gaining free publicity through media engagements with different journalists resulting in the OTO being featured in several broadcasts, online and print media.

This coverage included:

Power FM, Ikwekwezi FM, Lotus FM, SA FM, Classic FM and Radio 2000, Voice of Tembisa, Radio 702, Lesedi FM, Radio Zibonele, Lotus FM, Munghana Lonene FM, Vuma FM, Tru FM, YFM, Voice of Cape Town, Soshanguve FM and East Coast ,ENCA, CNBC Africa, Business Day TV, ANN7, SABC Channel 404, and SABC 3, Pretoria News, The Citizen, City Press, Business Day, Herald, Mangaung Issue, Daily Dispatch, Daily News, Daily Sun, Sowetan, City Press and Drum Magazine. This coverage had an advertising value equivalent of over R80 million.

Advertising campaigns

Several educational advertising campaigns were conducted on radio, print, outdoor and online media. These campaigns were solely to create awareness and educate taxpayers about the mandate, relocation of the Office and utilisation of services. The campaign was conducted in the country's 11 official languages.

The campaign was carried on 30 commercial and community radio stations, online media adverts on IOL News, News 24, Mail & Guardian, Money Web, The Daily Maverick, SABC News, Times Live and Sowetan Live as well as print adverts in Beeld, Sowetan, Business Day, The Citizen, Daily Sun, Business Report (The Star, Pretoria News, Natal Mercury, Cape Times) and by flighting an outdoor billboard.

Stakeholder engagements and collaborations

A concerted effort was made to engage and collaborate with recognised professional bodies, academia and other stakeholders. The purpose of these engagements, conducted by the Office's leadership, was to share information with tax practitioners, tax specialists and taxpayers about the mandate of the OTO and to establish mutually beneficial relationships.

The organisations involved included the University of Johannesburg (UJ), South African Institute of Chartered Accountants (SAICA), South African Institute of Professional Accountants (SAIPA), South African Institute of Tax Professionals (SAIT), Chartered Secretaries of South Africa, Deloitte School of Tax, South African National Consumer Union (SANCU), Fiduciary Institute of Southern Africa (FISA), The American Chamber of Commerce, Pro Bono organisations run by Edward Nathan Sonneberg Africa (ENSA) and KwaZulu-Natal Heads of Department.

In addition the Office was given an opportunity to speak and/or exhibit at various events organised by academia, and recognised controlling bodies. These included the Tax Indaba, Consumer Goods Council of South Africa Summit, Institute of Municipal Finance Officers and SAIPA Conference, Rand Easter Show and South African Institute of Tax Professionals webinars, the universities of Witwatersrand and Johannesburg.

International engagements

Tax Ombud Judge Bernard Ngoepe was given an opportunity to present a paper at the international Conference of Tax and Good Governance in Africa, held in Vienna, Austria in October 2015, and CEO Advocate Eric Mkhawane was invited to present a paper at the inaugural international Conference on Taxpayers Rights in Washington DC in November 2015. More than 170 government officials, scholars and practitioners from 22 countries exchanged ideas as to how taxpayer rights function as the foundation for effective tax administration.

Further the Office continues to partner with industry bodies by contributing articles for their respective newsletters.

Social media

In June 2015 the Office launched its social media platform with Facebook and Twitter accounts. The platforms have been very popular with taxpayers in general, and also among recognised controlling bodies and respected tax experts, who have become the OTO's ambassadors. The platforms have served to communicate important messages about OTO events, its mandate and services and are also a conduit for feedback from stakeholders. Over 800 messages were posted on both platforms during 2015/16; and more than 500 people followed the OTO's Twitter account. The Office follows more than 1 000 "who's who" experts in the tax sphere, including tax honours students, tax practitioners

and heads of respected tax bodies. The unit recently launched an Instagram page which will feature pictures from the organisation's events and other engagements with stakeholders.

Rebranding

A major rebranding initiative was also carried out in the year under review to position the OTO in the market as trusted and respected by consumers to deliver on its promises of impartiality and fairness. The Office undertook a rebranding exercise to convey a consistent, vibrant visual execution and tone. This resulted in a new look and feel, with a corporate identity manual (a marketing reference book) being developed for all the communication and outreach activities as well as branding and advertising collateral.

Another important initiative was the revamp of the organisation's website which saw a user-friendly, informative and interactive website being launched. The website is used as a channel for promoting awareness about the Office and offering taxpayers and other stakeholders easy access to its services.

Language

The Office of the Tax Ombud has adhered to the government language policy and has engaged interested parties in the development of the policy. As part of promoting easy access to knowledge and information about the Office, the OTO's Complaints Guide has been translated into the country's 11 official languages. This has

ensured that the general public, taxpayers and tax practitioners, have a proper understanding of what the OTO is and its mandate and services, in their respective languages.

Social responsibility initiatives

The Office continues to support social responsibility initiatives and celebrated several events aligned to the South African government calendar, using these events to educate taxpayers about its existence. These initiatives included the following:

Cell C Take a Girl Child to Work Day Campaign

In May the Office participated in the Cell-C Take a Girl Child to Work Day event. This entailed hosting 14 girls from high schools such as Mamelodi High School, Ribane-Laka High School, Soshanguve East Secondary School, Soshanguve High School and Mapetla High School.

Nelson Mandela International Day

Nelson Mandela International Day was celebrated on 18 July. In honour of Madiba, the OTO donated groceries, clothes and furniture worth more than R10 000 to the Bramley Child and Youth Care Centre in Brooklyn in Pretoria, and to Mofumahadi Wa Tshepo Children Centre in Kgabalatsane in the North West. This was in addition to assisting with cleaning and gardening. In addition the staff of the OTO also visited Potters House, a home for abused and destitute women in Pretoria, and donated clothes and shoes.

Other commemorations included the June 16 Youth Day celebrations, and Heritage Day in September.

Employee engagement and communication

The period also saw the birth of the Office's internal newsletter *Perspective*, in October 2015. This monthly newsletter is aimed at keeping OTO employees abreast of events and other interesting developments, including engagements with stakeholders. *Perspective* also served as a platform to profile the organisation's successes and individuals espousing OTO values. *Perspective* has grown into an informative publication which solicits inputs from OTO employees, with contributions not limited to the Communications and Outreach team. The platform was supplemented by *Internal Communique*, a channel which saw over 800 updates on important matters sent to OTO employees in the year, ensuring that all employees are kept up to date on important developments.

Challenges

The main challenge is to identify segments of the tax base that are not currently being reached, and to deepen taxpayers' understanding of what the Office can and cannot do in assisting with their complaints against SARS.

Way forward

In the coming 2016/17 financial year, the unit will focus on taking the OTO's services to the communities and continue to build new and mutually beneficial partnerships with stakeholders, including recognised controlling bodies, fellow Ombud bodies, trade unions and other government departments and entities. Existing partnerships will not be abandoned as concerted efforts will be applied to ensure these are nurtured. More efforts will also be geared towards engaging the public and taxpayers in particular through planned outreach events and other educational programmes.



SENIOR MANAGER LEGAL SERVICES, GERT VAN HEERDEN

11.4 PROGRAMME 4: LEGAL SERVICES

Strategic objective 4.1: Legal Services

Output statement: Ensuring that the recommendations made by the Office are legally correct.

PROGRAMME 4: LEGAL SERVICES						
INDICATOR	PERFORMANCE INDICATORS	ACTUAL ACHIEVEMENT 2014/15	PLANNED TARGET 2015/16	ACTUAL ACHIEVEMENT 2015/16	DEVIATION FROM PLANNED TARGET TO ACTUAL ACHIEVEMENT FOR 2015/16	COMMENT ON DEVIATIONS
STRATEGIC OBJECTIVE 4.1:LEGAL SERVICES						
4.1.1	Percentage of cases where legal service is rendered within the standard turnaround times	Not planned for 2014/15	80% of cases where legal service is rendered are addressed within the standard turnaround times	98.97%	+18.97%	The planned target was exceeded.

The purpose of the Legal Services unit

The purpose of the Legal Services unit is to provide an enterprise-wide legal service to all areas of the business, including legal guidance on complaints. This is to ensure that the recommendations made by the Office of the Tax Ombud are legally correct. The performance of the unit is measured by the percentage of cases where legal advice is rendered within the standard turnaround time.

Legal Services started operating on 1 May 2015 when the Senior Specialist: Legal was appointed. On 1 October 2015 a Specialist: Legal was also appointed, bringing the Legal Services department to full capacity in terms of the current organisational structure. Due to Legal Services not being operational prior to 1 May 2015, no matters were brought forward from the previous financial year and the unit operated for 11 months during the 2015/16 financial year.

A total of 394 work items were received during this period and 391 matters were finalised. Three work items could not be finalised due to internal discussions that need to take place and which are carried forward into the new financial year. A total of 387 of the work items that were finalised during the financial year were finalised within the 14-business day standard turnaround time, resulting in 98.97% of Legal Services' matters being finalised within target. Legal Services has therefore exceeded the target of 80% set in the strategic objectives of the OTO and on average was able to attend to all work items in just over one day.

Approximately 66% of inflow within the Legal Services unit originates from Operations and is related to specific complaints whereas the remaining 34% emanates from other business units.

Strategies to address areas of general under performance

KPI NO.	INDICATOR	CORRECTIVE ACTION
1.4.1	Approved footprint growth plan with associated budget	The Office to capacitate its head office and ensure that additional funding is obtained from National Treasury. In addition proposal of legislation changes for financial independence from SARS.
2.1.1	Percentage of validations of complaints completed within three working days.	A study to be conducted to determine targets and the capacity requirements to address inflow of complaints.
2.1.2	Percentage of recommendations sent to SARS within the standard turnaround time.	A study to be conducted to determine targets and the capacity requirements to address inflow of complaints.

11.5 OVERALL CHANGES TO PLANNED TARGETS

The targets below were removed for the period under review due to the following:

Programme 3: Communications and Outreach indicator 3.1.3 whereby one survey on stakeholder trust and confidence was to be conducted; this indicator was suspended as the organisation is still relatively new and it would be premature to conduct an informative research and results.





SENIOR MANAGER OFFICE ENABLEMENT, MMAMELAO MALAKALAKA

PART C:

CORPORATE GOVERNANCE

12.1 INTRODUCTION

Corporate governance embodies processes and systems by which the Office is directed, controlled and held accountable. In addition to legislative requirements based on the Tax Administration Act 28, of 2011 (founding legislation), corporate governance with regard to the OTO is applied through the precepts of the Public Finance Management Act (PFMA) and run in tandem with the principles contained in the King Report on Corporate Governance, as well as the protocol governing the relationship between the Minister of Finance and the Tax Ombud. The OTO will, in the 2016/17 financial year, prioritise the process of setting up proper governance structures and tools to ensure that it fulfils its legal mandate. A process of developing tools such as governance policies and frameworks, compliance management frameworks and policies, as well as risk management and internal control frameworks is already underway and will be completed during the 2016/17 financial year. The OTO continues to comply with the protocol governing the relationship between the Minister of Finance and the Tax Ombud, and has submitted all reports as required by the protocol as well as the strategic documents such as the Annual Performance Plan and the Strategic Plan.

12.2 EXECUTIVE AUTHORITY

The Minister of Finance is the Executive Authority of the OTO. The Minister of Finance appoints the Tax Ombud for a term of three years, which term may be renewed, under such conditions regarding remuneration and allowances as the Minister may determine. The Tax Ombud may be removed by the Minister of Finance for misconduct, incapacity or incompetence. The Minister of Finance and the Tax Ombud have agreed on the Protocol governing their working relationship.

12.3 ACCOUNTING AUTHORITY

The Tax Ombud is the Accounting Authority in terms of section 49 of the PFMA, and is responsible for all duties and responsibilities as described in section 50 and 51 of the PFMA. The role and responsibilities of the Tax Ombud include:

- Absolute responsibility for the delivery of performance to ensure that the OTO delivers on its mandate;
- Ensuring full and effective control over the organisation;
- Ensuring compliance with applicable laws, regulations and government policy;
- Ensuring the preparation of reports and financial statements

- Formulation, monitoring and review of the corporate strategy, major plans of action, budgets and plans;
- Ensuring an adequate and effective risk management framework; and
- Development of a clear definition of materiality.

All reports and plans that are required by the Minister and Parliament were submitted to National Treasury within the prescribed time. To execute his duties, the Tax Ombud is assisted by the Chief Executive Officer and Senior Management Committee.

12.4 RISK MANAGEMENT

The Tax Ombud and Senior Management made a decision to consider risk management as an important element of governance, which can help in ensuring the continued sustainability of the OTO and the achievement of its strategic objectives. During the final month of the year under review, the OTO started with the process of developing a full governance infrastructure comprising frameworks, policies and procedures. This process is expected to be finalised during the 2016/17 financial year.

12.5 CONFIDENTIALITY

All the officials of the Office of the Tax Ombud take an oath or solemn declaration undertaking to comply with the secrecy provisions set out in chapter 6 of the Tax Administration Act, before commencing duties or exercising any powers under a Tax Act.

In addition, the Tax Ombud and any person acting on the Tax Ombud's behalf

may not disclose information of any kind that is obtained by or from information obtained by or on behalf of the Tax Ombud, to SARS, except to the extent required for the performance of the functions and duties under the Act.

12.6 INTERNAL CONTROL

The Office of the Tax Ombud has put a number of internal control measures in place to ensure that the quality of its work is of a desired standard.

Complaints Review Committee

The Complaints Review Committee has been established to improve quality in the review of the complaints the Office receives. It consists of both Operations and Legal Services management. All the complaints received are presented by the Operational Specialists to the committee after investigation; the committee evaluates the facts presented and the recommendations put forward and then decides whether to accept, terminate or reject the complaint.

Senior Management Committee

The Senior Management Committee (SMC) was formally established in the fourth quarter of the year under review. The committee meets twice a month to discuss and make decisions on all matters relating to the daily management of the organisation. This ensures that the discussions and decisions made are formal. As a result, it is now easy to follow up the implementation of resolutions made. The Senior Management Committee is made up of the Chief Executive Officer and Senior Managers of all four business units.

Continuous improvement

Continuous improvement is responsible for developing and maintaining standard operating procedures, case quality management, performance standards, norms and knowledge management.

The OTO has appointed a Continuous Improvement Specialist whose role is to ensure that the quality of investigations and correspondence with taxpayers is of the desired standard.

12.7 INTERNAL AUDIT AND AUDIT COMMITTEE

Internal audit and an audit committee were yet to be established. In the next financial year, clarity on the status of the OTO in regard to internal audit and an audit committee will be obtained.

12.8 COMPLIANCE WITH LAWS AND REGULATIONS

The OTO reports on compliance with the Public Finance Management Act, 1999 (Act No 1 of 1999) and Treasury Regulations in its quarterly reports submitted to the National Treasury.

A governance calendar which records all the compliance requirements has been developed and approved. The calendar assists the organisation to keep track of dates for submitting all statutory reports and other required documents. During the year under review, all statutory reports were submitted to the Executive Authority. The medium-term Strategic Plan and the Annual Performance Plan were also submitted and tabled in Parliament.

Efforts were made to have the performance against predetermined objectives audited; however, this could not be done pending a legal opinion outcome. The OTO will continue to engage with the AGSA in order to ensure that the performance against predetermined objectives will be audited from the 2016/17 financial year going forward.

A comprehensive compliance framework that will define the compliance universe and will provide for compliance monitoring and reporting is to be developed in the next financial year together with other governance tools.

12.9 CODE OF CONDUCT

The staff of the OTO is employed in terms of the SARS Act as per section 15 of the Tax Administration Act; as such the OTO has adopted SARS' code of conduct regulating to matters of employment relating and conflict of interest.

12.10 HEALTH, SAFETY AND ENVIRONMENTAL ISSUES

The Office of the Tax Ombud is committed to the fulfilment of the requirements stipulated in the Occupational Health and Safety Act, and to this end, it has established a Health and Safety Committee to monitor its employees and their environment. Members of the committee were trained except for one member who will be trained in the next financial year. A total of six meetings which include health and safety workshops, inspections and induction sessions were held during the year under review.



PART D:

HUMAN RESOURCES MANAGEMENT

13.1 OVERVIEW

The total headcount of the OTO as at 31 March 2016 was 28 employees appointed, with three vacancies (Senior Manager: Office Enablement, Manager: Operations and HR Business Partner) filled during the fourth quarter.

The Office has grown by an additional 16 employees since the beginning of the 2015/16 financial year. The size of the organisation needs to be optimised in order to manage increasing demand for services. The headcount of OTO indicates that management represents 25% of the staff complement, which includes 17.9% senior managers and 7.1% middle managers. Specialists represent 53.6% of the staff complement while support staff represents 10.7%. With the envisaged geographical footprint expansion, the Office of the Tax Ombud will continue to grow in the coming years. This growth plan is captured in the current Strategic Plan for 2016-2021. The issue of independence can best be resolved by amending the Tax Administration Act, our governing legislation. Apart from bolstering the Office's independence in terms of funding and staff appointments, the current limitations on the authority of the Office of the Tax Ombud should also be revisited.

13.2 HUMAN RESOURCES OVERSIGHT STATISTICS

Table 1: Personnel cost by programme/activity/objective

PROGRAMME/ ACTIVITY/ OBJECTIVE	TOTAL EXPENDITURE FOR OTO (R'000)	PERSONNEL EXPENDITURE (R'000)	PERSONNEL EXPENDITURE AS A % OF TOTAL EXPENDITURE	NO OF EMPLOYEES	AVERAGE PERSONNEL COST PER EMPLOYEE (R)
Office of the Tax Ombud	30 969	18 672	60.29	28	666 857

For the year under review, employees of OTO spent about 133 man days attending 60 different training interventions; (see table below). This is all internal training done through the SARS Institute of Learning, hence there is no direct cost to it. As indicated above, Operations Management has spent about 129 man days attending training.

Currently, OTO has seven employees who are studying through the SARS internal Bursary Programme. An amount of R207 010.65 has been set aside for this, 90% of which is towards post-graduate qualifications.

Table 2: Training Information

PROGRAMME/ACTIVITY/OBJECTIVE	NUMBER OF TRAINING EVENTS	NUMBER OF TRAINING MAN DAYS
Office of the CEO	3	4
Operations	57	129
Grand Total	60	133

Table 3: Employment and vacancies per programme

PROGRAMME/ACTIVITY/OBJECTIVE	2014/15 NO OF EMPLOYEES	2015/16 APPROVED VACANT POSTS	2015/16 NO OF EMPLOYEES	2015/16 VACANCIES
Office of the CEO	5		5	0
Operations	6	11	16	1
Communications and Outreach	1	2	3	0
Legal Services	0	2	2	0
Office Enablement		3	2	1

Table 4 below indicates that the staff complement of OTO increased by 16 employees during this period under review. Three appointments were finalised in the last quarter of the financial year and two vacancies which were at advanced stages of recruitment were carried over to the new financial year.

Table 4: Employment and vacancies salary band

SALARY BAND	2014/15 NO OF EMPLOYEES	2015/16 APPROVED POSTS	2015/16 NO OF EMPLOYEES	2015/16 VACANCIES
Top Management	2	0	2	0
Senior Management	2	2	4	0
Professional qualified	6	12	18	2
Skilled	2	2	4	0
Semi-Skilled	0	0	0	0
Unskilled	0	0	0	0

Table 5: Employment changes

SALARY BAND	EMPLOYMENT AT BEGINNING OF PERIOD	APPOINTMENTS	TERMINATIONS	EMPLOYMENT AT END OF THE PERIOD
Top Management	2	0	0	2
Senior Management	2	2	0	4
Professional qualified	6	15	1*	19
Skilled	2	1	0	3
Semi-Skilled	0	0	0	0
Unskilled	0	0	0	0

*transferred to SARS

Table 6: Reasons for staff leaving

REASONS	NUMBER	% OF TOTAL NO. OF STAFF LEAVING
Death	0	0%
Resignation	0	0%
Retirement	0	0%
Ill Health	0	0%
Expiry of Contract	0	0%
Other (Transfer)	1	3.57%

Table 6 indicated that during this period under review, OTO experienced no resignations, retirements, ill-health or death. Only one employee was transferred back to SARS as per the agreement between SARS and the OTO.

Employee relations: misconduct and disciplinary actions

There were no cases of employee misconduct and disciplinary action in the period under review.

Table 7: Employment Equity targets and status - Male

LEVELS	MALES							
	AFRICAN		COLOURED		INDIANS		WHITES	
	CURRENT	TARGET	CURRENT	TARGET	CURRENT	TARGET	CURRENT	TARGET
Top Management	2	0	0	0	0	0	0	0
Senior Management	0	0	0	0	0	0	1	0
Professional qualified	8	1	0	1	0	1	1	1
Skilled	1	1	0	0	0	0	0	0
Semi-Skilled	0	0	0	0	0	0	0	0
Unskilled	0	0	0	0	0	0	0	0
TOTAL	11	2	0	1	0	1	2	1

Tables 7 and 8 illustrate that the OTO Employment Equity representation was stable; however the inclusion of other race representation will be monitored closely. The OTO black representation is 89.29%, whilst male representation is 46.43% and female representation is 53.57%. Females at senior management and professional qualified level stand at 60%. Efforts will be made to attract candidates from other races in order for the OTO to achieve its employment equity targets. This plan will be in line with the geographical footprint expansion.

Table 8: Employment Equity targets and status – Female

LEVELS	FEMALES							
	AFRICAN		COLOURED		INDIANS		WHITES	
	CURRENT	TARGET	CURRENT	TARGET	CURRENT	TARGET	CURRENT	TARGET
Top Management	0	0	0	0	0	0	0	0
Senior Management	3	0	0	0	0	0	0	0
Professional qualified	8	2	0	1	0	1	1	1
Skilled	2	2	0	1	0	1	0	0
Semi-Skilled	1	0	0	0	0	0	0	0
Unskilled	0	0	0	0	0	0	0	0
TOTAL	14	4	0	2	0	0	1	1

Disability

In the absence of a work skills plan the Office currently has 0% of people with disability. With the proposed organisational structure, all efforts will be directed towards recruiting and appointing someone with a disability.





13
20
24

11 701

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379

118

PART E:

FINANCIAL INFORMATION

Expenditure relating to the Office of the Tax Ombud

The Office of the Tax Ombud (OTO) was established in October 2013 in terms of the Tax Administration Act, Act No 28 of 2011. Section 15(4) of this act provides that the expenditure connected with the functions of the Tax Ombud is paid out of the funds of SARS. Therefore, the OTO is highly dependent on SARS for budgeting and expenditure processing.

The purpose of the financial report is to provide an overview of the financial expenditure in the OTO for the period 1 April 2015 to 31 March 2016.

The information that is outlined in the tables and graphs shows the expenditure for the year per cost element. Comparisons have also been made to show the expenditure growth patterns between the 2014/15 and 2015/16 financial years; as well as actual versus budgeted expenditure.

As shown in Table 2, our 2015/16 expenditure doubled compared to the 2014/15 financial year; this is due to an increase in the staff complement, the move to new office premises and communication costs to create public awareness about the OTO.

Table 1 illustrates the expenditure utilisation of the budget for the past two financial years, which was within the allocated budget in both years.

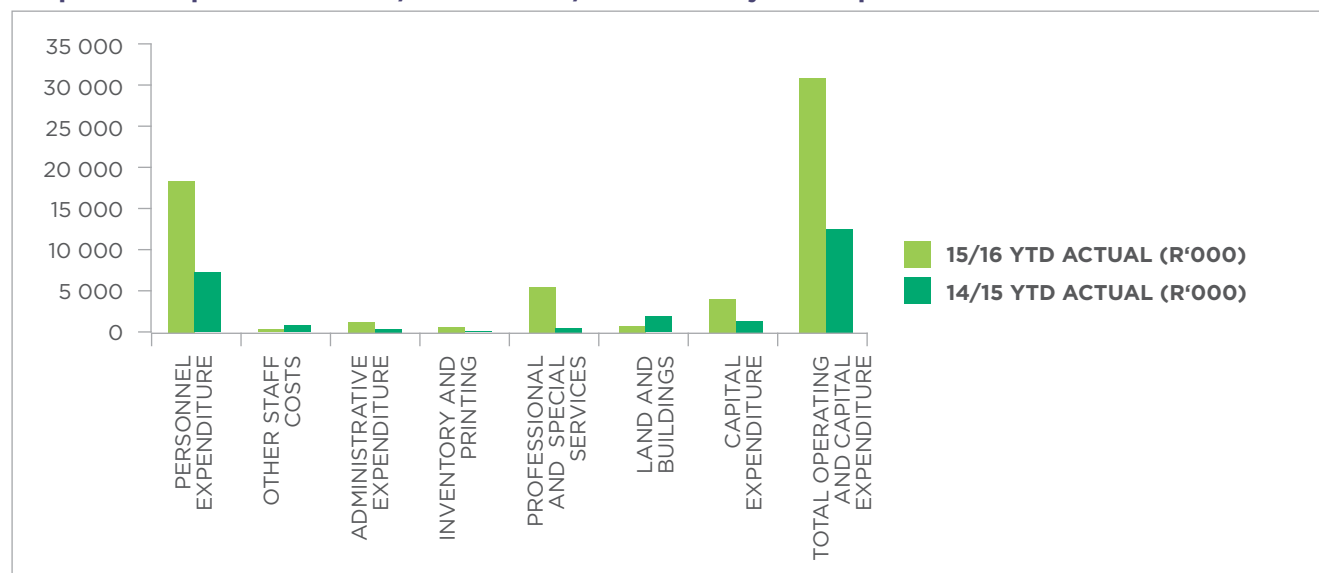
Table 1: Comparison of actual expenditure and budgeted expenditure

FINANCIAL YEAR	ACTUAL (R'000)	BUDGET (R'000)	UTILISATION OF THE ALLOCATED BUDGET
2014/15	30 723	31 274	98%
2015/16	12 406	14 244	87%

As mentioned above, the Office continues to grow as it is capacitated with skilled individuals who will assist in achieving the Office's mandate. The staff complement grew by 16 employees and communication and marketing costs also increased from the prior year.

Graph 1 below shows the movement in expenditure between the 2014/15 and 2015/16 financial years, per cost element.

Graph 1: Comparison of 2015/16 and 2014/15 financial years expenditure



Overall, the significant increases were in personnel and expenditure, professional and special services and capital expenditure.

Table 2: Financial results per cost element

COST ELEMENT	2015/16				2014/15				% VARIANCE FOR 2015/16 VS 2014/15
	2015/16 YTD ACTUAL (R'000)	BUDGETED (R'000)	VARIANCE (R'000)	% VARIANCE	2014/15 YTD ACTUAL (R'000)	BUDGETED (R'000)	VARIANCE (R'000)	% VARIANCE	
Personnel Expenditure	18 427	23 472	5 045	21.49	7 322	4 707	-2 615	-55.56	151.67
Other Staff Costs	245	309	64	20.71	824	471	-353	-74.95	-70.27
Administrative Expenditure	1 169	1 728	559	32.35	306	1 751	1 445	82.52	282.03
Inventory and Printing	656	421	-235	-55.82	132	271	139	51.29	396.97
Professional and Special Services	5 569	4 530	-1 039	-22.94	592	3 739	3 147	84.17	840.71
Land and Buildings	715	255	-460	-180.39	1 863	2 179	316	14.50	-61.62
Capital expenditure	3 942	559	-3 383	-605.19	1 367	1 126	-241	-21.40	188.37
Total Operating and Capital Expenditure	30 723	31 274	551		12 406	14 244	1 838		

Commentary per cost element

Personnel cost:

Personnel costs increased by 151% from the prior year, due to an increase in the head count from 12 to 28 staff members.

Administrative costs:

The 282% increase in administrative costs resulted from the international travel that was moved from the 2014/15 financial year to the 2015/16 financial year.

Inventory and printing:

The costs increased due to an increase in the number of staff members, as well as the printing of promotional material for advocacy and awareness.

Professional and special services:

The increase of 840% is due to increased costs in advertising in creating awareness of the organisation.

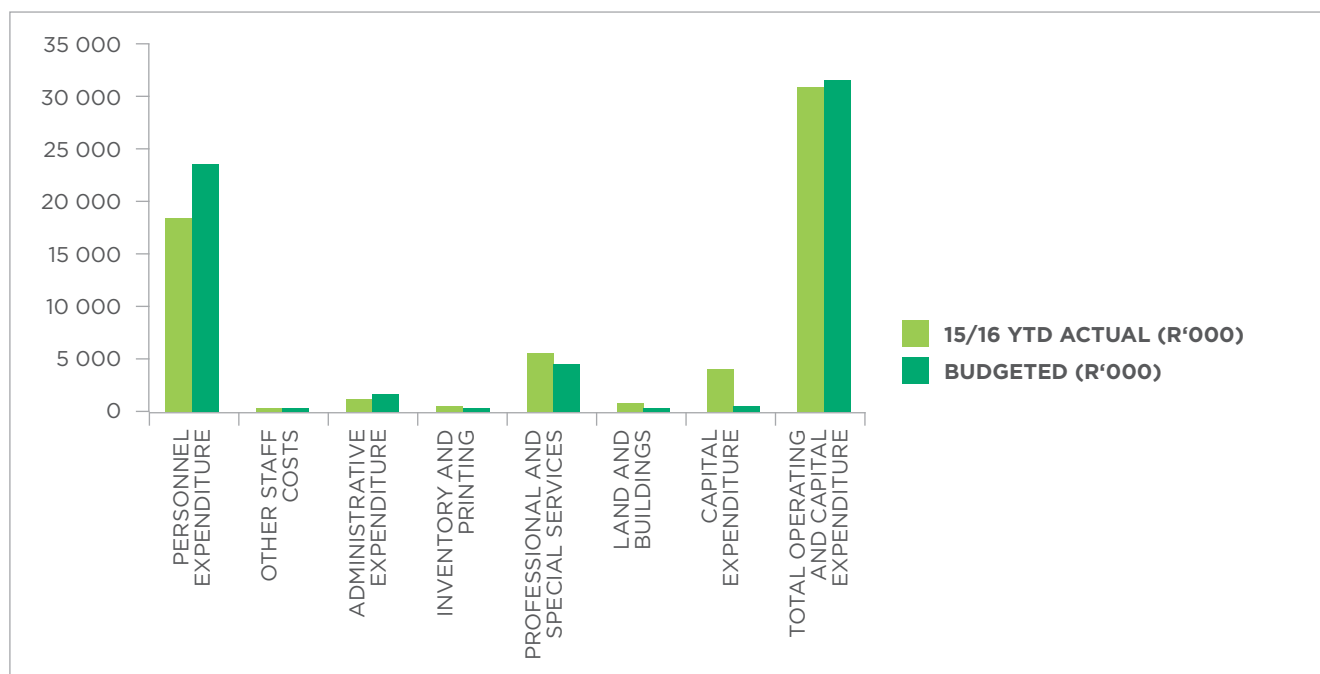
This was in the form of media space purchased, creative advertising, as well as communication management costs.

Capital expenditure:

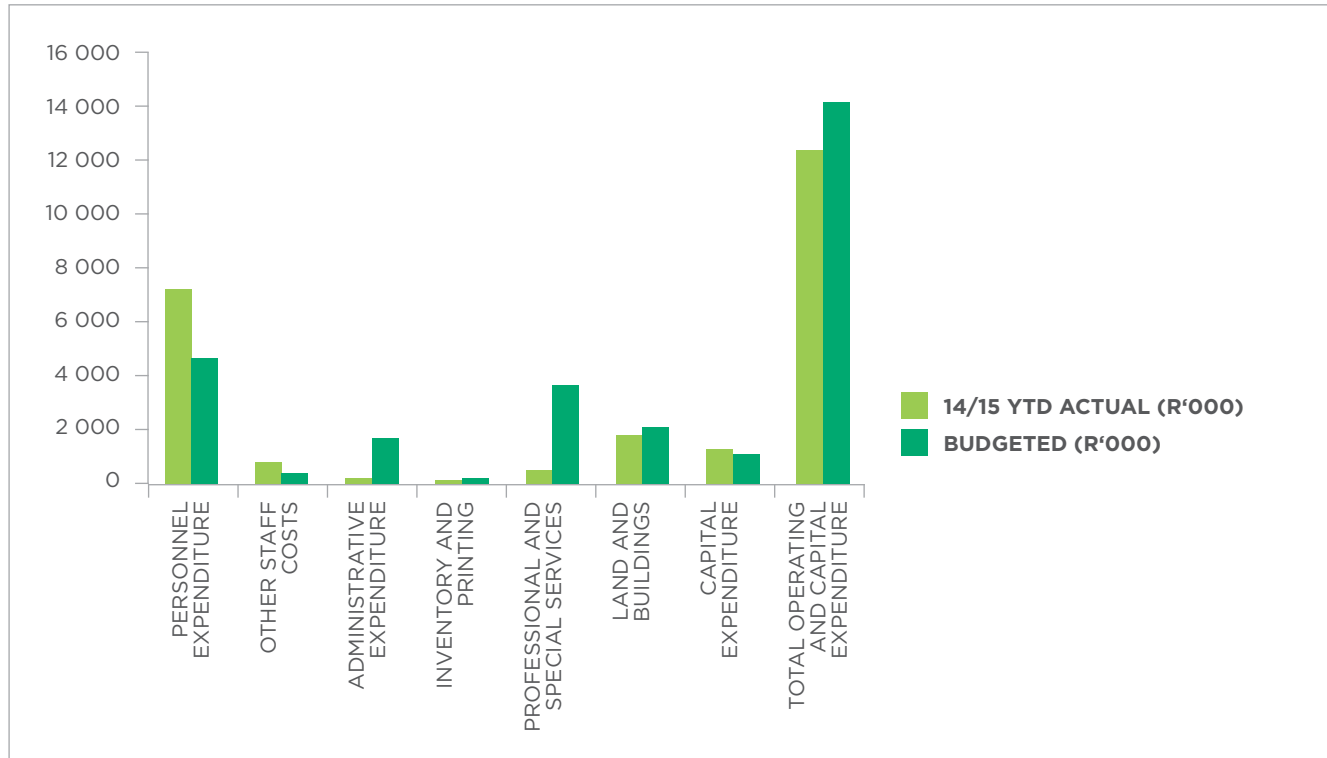
Increased costs were incurred on office furniture and equipment for the new office premises.

Graphs 2 and 3 below illustrate the actual expenditure compared to the budget for the past two financial years

Graph 2: 2015/16 actual to budget comparison:



Graph 3: 2014/15 actual to budget comparison:



Graphs 2 and 3 indicate the movement in expenditure and the budget over the past two years. In the 2015/16 financial year, the budget was exceeded in some of the cost elements. The over-spending in inventory and printing is a result of the increase in printing which is linked to professional and special services – raising public awareness. The over-spending in land and buildings came as a result of the increase in rental expenditure as a result of the move to new premises. The move also impacted on capital expenditure. On the whole, the office spent within its allocation, as depicted in Table 1.

In 2014/15, the major over-spending was on personnel expenditure, which was due to the increase in the number of staff members. The overall budget was also not exceeded.

It is envisaged that expenditure will continue to grow as creation of public awareness intensifies, with the result that more members of the public will use the services of the OTO and the Office will have to be capacitated both in operations and support services, as demand for OTO services increases.



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