



OFFICE OF THE  
**TAX OMBUD**  
*Ensuring fairness*

# TAX OMBUD ANNUAL REPORT

2019/20

ITO SECTION 19 OF THE TAX  
ADMINISTRATION ACT 28 OF 2011 AND  
THE PUBLIC FINANCE MANAGEMENT  
ACT 1 OF 1999





# TABLE OF CONTENTS

<b>HIGHLIGHTS FOR THE 2019/20 FINANCIAL YEAR</b>	<b>i</b>
<b>PART A: GENERAL INFORMATION</b>	<b>1</b>
1. MESSAGE FROM THE MINISTER OF FINANCE	3
2. FOREWORD BY THE TAX OMBUD	5
3. CHIEF EXECUTIVE OFFICER'S OVERVIEW	7
4. STATEMENT OF RESPONSIBILITY AND CONFIRMATION OF ACCURACY FOR THE ANNUAL REPORT	11
5. STRATEGIC OVERVIEW	12
6. LEGISLATIVE AND OTHER MANDATES	13
7. ORGANISATIONAL STRUCTURE	14
<b>PART B: PERFORMANCE INFORMATION</b>	<b>19</b>
1. SITUATIONAL ANALYSIS	20
2. REPORT IN TERMS OF SECTION 19 OF THE TAX ADMINISTRATION ACT	29
3. STRATEGIC OUTCOME-ORIENTED GOALS	42
4. PERFORMANCE INFORMATION BY PROGRAMME	43
<b>PART C: GOVERNANCE</b>	<b>65</b>
<b>PART D: HUMAN RESOURCE MANAGEMENT</b>	<b>73</b>
<b>PART E: FINANCIAL INFORMATION</b>	<b>80</b>
<b>ABBREVIATIONS/ACRONYMS</b>	<b>85</b>

CELEBRATING

7 YEARS

OF FAIRNESS

2013-2020

# HIGHLIGHTS

## FOR THE 2019/20 FINANCIAL YEAR



**10 810**

Queries  
received



**3 372**

Complaints  
received



**1 993**

Finalised  
complaints  
(resolved)



**252**

Education, outreach,  
stakeholder  
engagements,  
advertising and public  
relations activities



**R22 159 424**

PR  
advertising  
value  
received



**98%**

Percentage of  
recommendations  
implemented by SARS

# Over R116 million

Top 10 tax refunds paid to taxpayers through the intervention of the Office of the Tax Ombud (OTO) collectively **exceeded R116 million** as per below table.



Tax type	Refund paid
Value added tax (VAT)	R52 273 305.48
Corporate income tax (CIT)	R35 018 181.00
Corporate income tax (CIT)	R5 751 826.41
Corporate income tax (CIT)	R4 438 951.26
Corporate income tax (CIT)	R4 160 190.70
Corporate income tax (CIT)	R4 158 606.93
Corporate income tax (CIT)	R3 410 250.82
Corporate income tax (CIT)	R2 370 209.44
Pay-as-you-earn (PAYE)	R2 346 306.97
Individual tax (IT)	R2 267 398.08
<b>TOTAL</b>	<b>R116 195 227.09</b>

# PART A



## General Information



## 1. Introduction

The Tax Ombud's 2019/20 Annual Report complies with the Public Finance Management Act 1 of 1999 (PFMA), giving effect to the legislative framework for the regulation of finances in national and provincial government. The Tax Ombud presents the Annual Report in line with Section 19 of the Tax Administration Act (TAA), Section 55 of the PFMA and Section 6.2 of the protocol governing the relationship between the Minister of Finance and the Tax Ombud. In terms of Section 19 (3) of the TAA, the Minister must table this report in the National Assembly.

## 2. Annual reporting period

The reporting cycle of the Office of the Tax Ombud (OTO) is annual, ending 31 March, as prescribed by the PFMA. The OTO compiles and submits quarterly reports 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 2019 to 31 March 2020.

## 3. Scope of the report

The report incorporates financial and performance information based on the approved 2019/20 Annual Performance Plan (APP), which was tabled before Parliament in March 2019. The Annual Report provides performance information and governance reports and incorporates financial information relating to the OTO.

<b>Registered name</b>	Office of the Tax Ombud
<b>Registered office address</b>	Menlyn Corner, 2 <sup>nd</sup> Floor, 87 Frikkie de Beer Street Menlyn, Pretoria
<b>Postal address</b>	PO Box 12314, Hatfield, 0028
<b>Telephone number</b>	012 431 9105
<b>Call centre</b>	0800 662 837
<b>Facsimile</b>	012 452 5013
<b>Email addresses</b>	Complaints@taxombud.gov.za
<b>Website</b>	www.taxombud.gov.za



# 1. MESSAGE FROM THE MINISTER OF FINANCE



Minister of Finance  
Honourable Tito Titus Mboweni MP

This year October marks 7 years since the establishment of the Office of the Tax Ombud (OTO), for the purpose of making a contribution towards the improvement of the country's tax administration system. After this relatively short period, I can confidently state that South Africa has made an excellent investment in establishing this independent and impartial institution that helps resolve taxpayers' complaints against the South African Revenue Service (SARS).

**“As government, we will continue to provide the necessary support to ensure that the OTO not only continues to strengthen the country's tax administration system, but also makes a difference in the lives of taxpayers.”**

Last year, I stated that the OTO helped restore some public confidence in SARS. During the reporting period, both institutions continued to work closely to resolve many of the challenges that taxpayers and tax practitioners encountered daily. This bodes well for both organisations, as well as for taxpayers who have their complaints resolved expeditiously. As government, we will continue to provide the necessary support to ensure that the OTO not only continues to strengthen the country's tax administration system, but also makes a difference in the lives of taxpayers.

**“In these trying times, an institution like the OTO becomes very important in supporting and promoting a culture of tax compliance, as well as in protecting the rights of taxpayers.”**

It might be an understatement to say that this Report is being published during a challenging period, not just for South Africa, but also throughout the global community. Towards the end of the 2019/20 Financial Year in March, our country was confronted with the coronavirus pandemic, which forced many of our institutions

to shut down and many people to work from home. We are yet to quantify the full impact of the pandemic, but we all know that it has been devastating, to say the least. In these trying times, an institution like the OTO becomes very important in supporting and promoting a culture of tax compliance, as well as in protecting the rights of taxpayers.

We are also pleased with the OTO's outreach campaigns, amongst others, they help build mutually beneficial partnerships with stakeholders. These engagements and partnerships have created much needed awareness about the OTO and its services, as evidenced by the ever increasing number of taxpayers seeking assistance with their tax complaints against SARS. Despite the increase in awareness, a lot still needs to be done to ensure that every taxpayer knows that there is recourse outside of SARS in the form of the OTO that is freely available to help resolve their complaints.

In conclusion, I would like to thank the Tax Ombud, Judge Bernard Ngoepe, and his team for their continued commitment to public service, their efforts in contributing towards the improvement of the tax collection system and building tax confidence by resolving some of the tax complaints.



**Honourable Tito Titus Mboweni MP**  
**Minister of Finance**

## 2. FOREWORD BY THE TAX OMBUD



Tax Ombud  
**Judge Bernard Makgabo Ngoepe**

**It is an honour to be presenting my Annual Report for the period 1 April 2019 to 31 March 2020.** I am also gratified that the Minister of Finance continues to have faith in my ability to lead this institution and am highly appreciative of the enormous support the Office has received from National Treasury throughout the seven years of this Office's existence.

Looking ahead, the single most important step towards ensuring that taxpayers continue to have confidence in our work is for the Office to become completely independent from SARS. We have engaged continually with our stakeholders and the Minister of Finance over the question of our structural independence and are eager to gain some forward momentum in this regard.

### Report on systemic investigations

Industry bodies expressed concerns to the OTO about the accuracy of the PAYE statements of account of SARS, caused by changes in the revenue authority's standard operating procedures and system upgrades over several years. Despite several taxpayer engagements with SARS, the problem persisted, prompting my Office to consider an investigation to determine whether SARS was correctly processing the underlying transactions reflected on the statements of account in line with payment allocation rules or if the fluidity of the statements of account was arbitrary.

The background to this was that we were receiving an escalating number of complaints about frequent, unexplained changes to the PAYE statements of account, adding to the ongoing problems around SARS' dispute resolution processes. I made a request to the Minister on 5 July 2018 to investigate these issues to determine if there were any systemic issues behind the complaints. On 10 September 2018, the Minister approved the request, enabling investigations into the entire dispute resolution process. The investigation was concluded in the 2019/20 financial year and the full report on our findings was published on our website and distributed to all stakeholders.

## Serving taxpayers with integrity

Another important priority for the Office in 2019/20 was the energy invested in ensuring its efficiency and effectiveness in the foreseeable future. We envisage continual operational improvements, along with targeted communication and outreach initiatives, to promote the utilisation of the Office among taxpayers and to ensure we continue to be an innovative institution, always looking for a smarter and more expeditious way to resolve tax complaints. We strive for excellence in carrying out our mandate, ensuring that taxpayers have confidence in our work and feel that their complaints are being addressed timeously and efficiently.

“Looking ahead, the single most important step towards ensuring that taxpayers continue to have confidence in our work is for the Office to become completely independent from SARS.”

## Way forward

We recognise that the country is going through rather difficult challenges with the continuous spread of the COVID-19 pandemic. This has adversely affected the economy and employment opportunities, resulting in retrenchments in different industries. As the Office of the Tax Ombud, we will continue to apply stringent health and safety measures

“We strive for excellence in carrying out our mandate, ensuring that taxpayers have confidence in our work and feel that their complaints are being addressed timeously and efficiently.”

to ensure that the taxpayers we engage with and our own employees are protected from the spread of the virus and are well informed of precautionary measures.

In conclusion, I would like to extend my sincere gratitude to our former Acting Chief Executive Officer, Mr Gert van Heerden, as well as to the management and staff of the OTO and to the Commissioner of SARS, its personnel and management for their cooperation in helping to resolve most of the complaints taxpayers have lodged with us. To our stakeholders, including taxpayers and members of Recognised Controlling Bodies, thank you for your support and constructive criticism. I would also like to welcome the appointment of the new Chief Executive Officer (CEO), Professor Thabo Legwaila, who assumed his duties on 1 April 2020. I wish him well on this journey in taking the organisation to another level by ensuring that we continue to serve taxpayers with integrity.



**Judge Bernard Makgabo Ngoepe**  
Tax Ombud



### 3. CHIEF EXECUTIVE OFFICER'S OVERVIEW



Chief Executive Officer  
**Prof. Thabo Legwaila**

The financial year ended 31 March 2020 was a period in which the Office of the Tax Ombud grew in maturity and confidence in our role in promoting tax compliance and protecting taxpayers' rights against unfair treatment by the revenue collector. During the year, in October 2019 specifically, we celebrated our sixth anniversary, representing six years of pursuing excellence in servicing taxpayers and helping improve the South African tax administration system.

The journey so far has not been very long but the contribution we have made is substantial. We have metamorphosed from a small and relatively unknown institution into one that is widely recognised and an influential voice in the tax recourse sphere, changing the lives of many taxpayers and saving them millions of rands. This success has not gone unnoticed; a few other institutions have engaged the OTO to gain knowledge on how to go about establishing an Ombudsman for their spheres of activity.

I cannot say I am excited to present the Tax Ombud 2019/20 Annual Report considering the loss of life and general devastation engulfing the world. It might be an understatement to say that this report is tabled under difficult conditions, not just for the OTO but for the global community. The COVID-19 pandemic has wrought havoc in almost every aspect of our lives; this business unusual caught us by surprise towards the end of the reporting period in March 2020. This is when we were compelled to temporarily close our Office and adhere to lockdown regulations as set by our Government. Understanding the need for the continuity of our services, we introduced measures to ensure taxpayers would be serviced at a time when many institutions had closed. In this way, we continued to fulfil our mandate while promoting the safety of our colleagues and stakeholders, thus actualising our commitment to continue strengthening the tax administration system and revenue collection, which is critical considering the numerous financial and social challenges ahead of the country.

“

**We have metamorphosed from a small and relatively unknown institution into one that is widely recognised and an influential voice in the tax recourse sphere...**

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## Stakeholder engagement

The period under review entailed increased efforts and resources towards engaging our stakeholders, including taxpayers, SARS, Recognised Controlling Bodies (RCB), the media and our Government, to mention a few. We also distributed our quarterly external newsletter (Fair Play) to thousands of stakeholders and used our social media platforms to engage many taxpayers not reachable through traditional communication platforms.

In addition, we delivered presentations to numerous public and private sector institutions, held extensive engagements with media houses and conducted constructive discussions with professional bodies. These engagements, together with educational campaigns on numerous platforms, sought to address concerns that the OTO was still not sufficiently widely known.

The main goal of these engagements was to build new and mutually beneficial partnerships and enrich existing ones, to benefit taxpayers, improve tax compliance and make a positive contribution to the country. We are fully aware that a lot more is required to ensure that the majority of taxpayers who might need our assistance know about the OTO, but we are satisfied with the progress made in the 2019/20 financial year.

## Operational excellence and customer service

When the OTO was launched, one of our objectives was not just to provide excellent service to taxpayers with complaints against SARS but also to increase access to justice for those who feel the revenue collector has treated them unfairly. In the year under review, we received a number of contacts from taxpayers and tax practitioners, indicating a growing

awareness about the Office and the services it offers, as well as growing utilisation of the free and impartial services we render.

In another service excellence initiative, we continued our Customer Satisfaction Survey to monitor and measure taxpayer satisfaction with the services we provide. This survey gave us valuable insight into the challenges that those who contact the OTO for assistance might have. It also helped us to put measures in place to improve our services. An encouraging finding was that about 65% of surveyed taxpayers indicated they were “extremely satisfied” with the assistance they receive.



**This survey gave us valuable insight into the challenges that those who contact the OTO for assistance might have.**



Still, it is clear that we need to strengthen our efforts to deliver excellent service and increase customer satisfaction to at least 80%. It is vital to note that the majority of respondents who were not satisfied with our service were those whose cases we had rejected, either because their complaints were prematurely lodged or fell outside the OTO's mandate. This underlines how important it is to communicate clearly and effectively about what the Office can and cannot do, and how necessary it is to continue with our taxpayer education campaigns.

As an organisation committed to continuous improvement, we have implemented several measures to improve customer-centricity and address service challenges raised by taxpayers, especially around the time it takes to resolve complaints. These measures include constantly engaging the SARS Complaints Management



Office (CMO) with a view to enabling the SARS business units involved with taxpayer complaints to speed up the resolution process. We are also developing an automated complaints form and exploring ways of providing regular and automated feedback on complaints lodged.

## The future is digitisation

These times of constant and dynamic change have necessitated that we adopt and embrace new ways, particularly digitisation, to ensure service continuity and enable us to meet evolving taxpayer requirements.

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**We intend migrating to a paperless environment and improving our website to enable taxpayers to lodge complaints online.**

”

The OTO's Strategic Plan 2020–25 sets out our broad approach towards service delivery and business continuity in the next five years. In addition, we have prepared a comprehensive five-year Digital Communications Framework to guide our digital migration over this period. This framework supports the growing need for virtual engagement between complainants and the OTO and has laid the groundwork for the introduction of interactive digital platforms to facilitate easier, quicker and more efficient complaints resolution processes. We intend migrating to a paperless environment and improving our website to enable taxpayers to lodge complaints online without having to complete a physical form, among other improvements.

Introducing these changes will go hand in hand with taxpayer education. For this reason, we have also prepared a Community Outreach Framework that will help improve the quality of our communications engagements with taxpayers and contribute to a more customer-centric organisational culture.

## Complaints management and operational excellence

Throughout the year, we experienced strong demand for our complaints resolution services. Over the 12-month period, we received 10 810 queries and 3 372 complaints, 1 993 of which were finalised within the same period. Some 98% of our non-binding recommendations were accepted by SARS, which is slightly lower than in previous years but is still commendable and confirms that the decisions made about complaints are informed and based on sound principles.

“

**We will continue to invest in taxpayer education and to utilise the mutually beneficial relationships we have formed with our stakeholders.**

”

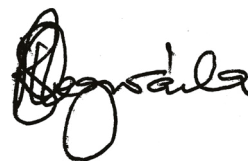
In 2019/20, we conducted over 250 education, outreach, stakeholder engagements, advertising and public relations activities to create greater awareness about the services of the OTO. An important focus was to educate taxpayers about where, when and how to lodge a complaint with the OTO, as well as to clarify the reasons why their complaints might be rejected. We will continue to invest in taxpayer education and to utilise the mutually beneficial relationships we have formed with our stakeholders to empower taxpayers with knowledge.

## Investing in our employees

Our employees are our most important stakeholders and our investment in their development is indicative of their value to the organisation. During 2019/20, five managers enrolled for the Management Development Programme which is a National Qualification Framework (NQF) Level 6 qualification, in partnership with the SARS Institute of Learning. This training was meant to help them gain the relevant knowledge and skills required for career development and prepare them for the next level of management. In the same period, OTO employees spent about 103 working days attending 55 different training interventions. In conclusion, I would like to express gratitude to Judge Ngoepe and his team for a splendid job in growing this very important institution over the past seven years. They have shown

continued commitment to public service, often going the proverbial extra mile to ensure that the organisation delivers an exemplary service of which all South Africans can be proud. I also extend special gratitude to our Senior Manager: Legal Services, Gert van Heerden, for serving as the Acting Chief Executive Officer for much of the financial year. Lastly, I believe we as a country are capable of overcoming any challenges before us, including the COVID-19 pandemic. Let us all work together to make South Africa a better country for all who live in it.

**Yours faithfully**



**Prof. Thabo Legwaila**  
**Chief Executive Officer**



## 4. STATEMENT OF RESPONSIBILITY AND CONFIRMATION OF ACCURACY FOR THE ANNUAL REPORT



### **To the best of our knowledge and belief, we 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.

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

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

In our opinion, the Annual Report fairly reflects the operations, the performance information, the human resources information and the financial affairs of the OTO for the financial year ended 31 March 2020.

**Prof. Thabo Legwaila**  
Chief Executive Officer

**Judge Bernard Makgabo Ngoepe**  
Tax Ombud

## 5. STRATEGIC OVERVIEW

The OTO strives to be exemplary as a fair, impartial and expeditious avenue for taxpayers seeking to resolve complaints relating to SARS. The vision, mission and values of the Office guide the OTO's conduct and interaction with taxpayers, SARS and other stakeholders.

### 5.1. Vision

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

### 5.2. Mission

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

### 5.3. Values

In executing its mandate, the Office's conduct and interactions are based on a set of values that guide all staff at all levels:



#### Accountability

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



#### Independence

In dealing with taxpayers' complaints, 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 Tax Ombud acts in fairness at all times.



#### Confidentiality

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



#### Impartial

The Tax Ombud will review taxpayer complaints fairly.



## 6. LEGISLATIVE AND OTHER MANDATES



The OTO complies with the legislative mandates of the Constitution of the Republic of South Africa and the TAA.

### **Constitution of the Republic of South Africa, Act 108 of 1996:**

In terms of Section 195 of the Constitution of the Republic Act, 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, this Constitutional Mandate is binding on the South African Revenue Service, the subject of the OTO's oversight. Equally, the Constitutional Mandate is binding on the Office of the Tax Ombud.

### **Tax Administration Act, 28 of 2011:**

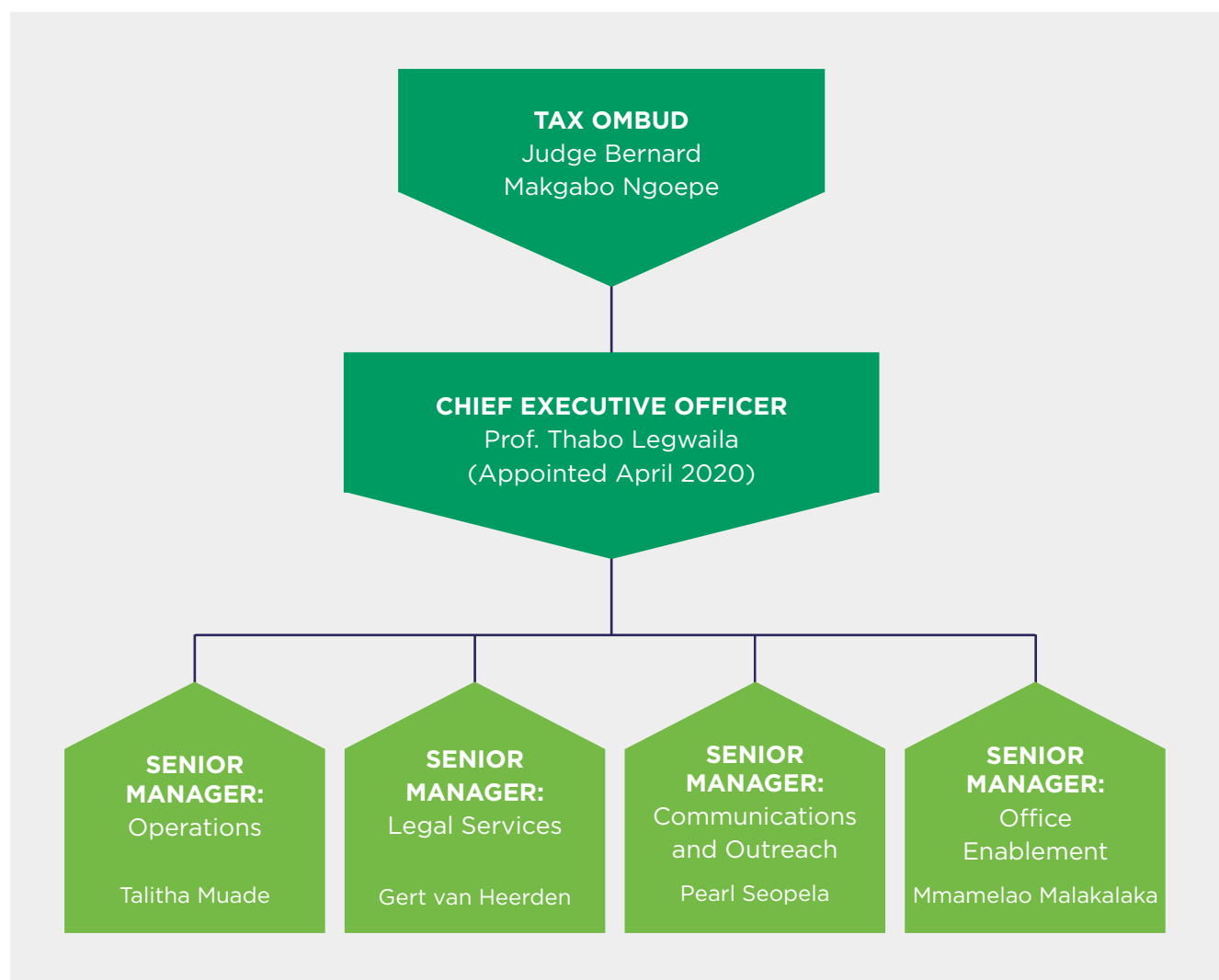
The mandate of the Tax Ombud is to -

- a. 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; and
- b. Review, at the request of the Minister or at the initiative of the Tax Ombud with the approval of the Minister, any systemic and emerging issue related to a service matter or the application of the provisions of this Act or procedural or administrative provisions of a tax Act.

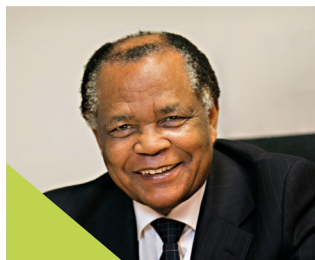


## 7. ORGANISATIONAL STRUCTURE

The OTO 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 Chief Executive Officer, Operations, Office Enablement, Legal Services and Communications and Outreach as depicted below.



# LEADERSHIP OF THE OFFICE OF THE TAX OMBUD



## Tax Ombud

Judge Bernard Makgabo Ngoepe

**BJuRis, LLB, LLD, (h/c) LLD, (h/c) LLD, (h/c), D.Ed (h/c)**

Judge Ngoepe is a former Judge President of the North and South Gauteng High Courts, where he heard and decided seminal cases, including business and tax matters, and was responsible for assigning judges to the Tax Courts. He also acted for a term as a Constitutional Court Judge and as a Judge of the Supreme Court of Appeal. He was a Judge of the African Union's African Court on Human and People's Rights from 2006 to 2014, and was Vice-President of the Court when he left.

Before assuming his role on the Bench, Judge Ngoepe practised as an attorney from 1976 until 1983 when he was admitted as an Advocate of the Supreme Court of South Africa. In 1994, he was appointed Senior Counsel (SC).

Judge Ngoepe has been a member of many democracy-building fora, such as the Amnesty Committee of the Truth and Reconciliation Commission, the Court of Military Appeals

(Chairperson), the Magistrates Commission (Chairperson) and the Judicial Service Commission. He is currently Chairperson of the Appeals Panel of the Press Council of South Africa (a position he has held since 2013); Chairperson of the Appeals Board of the South African Council of Medical Schemes (since 2012); and Chairperson of the Final Appeals Committee of the Advertising Standards Authority – Advertising Regulatory Board (since 2014); and Head of the Cricket SA Investigative Unit since 2016.

His numerous accolades include being made an Honorary Captain of the South African Navy and Honorary Professor of Law. He has received four honorary degrees, comprising three Honorary Doctor of Law degrees and an Honorary Doctorate in Education. He has also received many leadership and human rights awards, including the Duma Nokwe award.



## Chief Executive Officer

Professor Thabo Legwaila

**B Juris, LLB, LLM, Postgraduate Diploma in Tax Law, LLM and LLD**

Prof. Legwaila started his career as a Lecturer and advanced to Senior Lecturer in the Mercantile Law Department at the University of Stellenbosch. He was later invited to Harvard University where he spent time as a Research Fellow in the Harvard University International Tax Program in 2002. He subsequently moved into tax consultancy working for KPMG and later Ernst & Young. In 2006, Prof. Legwaila joined the South African National Treasury as a Director for Business Tax where his role was to develop the South African business tax policy, as well as manage general tax legislative amendments and specific business law amendments.

In 2011 he joined Citibank as Head of Tax for the Africa division. He was appointed as a Professor of Tax Law at the University of Johannesburg in 2014 and as a member of the Davis Tax Committee (DTC)

in 2015 which was set up by the Minister of Finance to assess South Africa's tax policy framework and its role in supporting the objectives of inclusive growth, employment, development and fiscal sustainability. Prof. Legwaila published widely in Tax Law both in accredited and peer-reviewed journals, as well as in magazines and newsletters. He also co-authored the tax textbook *Tax Law: An Introduction* in 2013 which is specifically intended at explaining "a vast terrain of tax law to students" and edited the second edition of the same book that was published in January 2020.

His academic qualifications include the following: B Juris (Venda); LLB (Wits); LLM (Wits); Postgraduate Diploma in Tax Law (UCT); LLM (UCT) and LLD (University of Pretoria).



## Senior Manager: Operations

Talitha Muade

**BCom, MDP, MBA, Postgraduate Diploma in Management Practice**

Talitha Muade has been Senior Manager: Operations at the Office of the Tax Ombud since her appointment in October 2014.

Ms Muade has more than 12 years' experience in management generally, and over five years in senior management at the OTO in particular. She has extensive experience working for government departments and Chapter 9 institutions, as well as experience in the private sector. Her interests

and passion are in operations strategy, customer service strategy and staff empowerment. She is a Conflict Dynamic Accredited Mediator.

She has held many and varied roles in sectors such as finance (Absa Bank) and the petroleum industry (BPSA), and has held the positions of Deputy Manager Finance and Administration at the Independent Electoral Commission (IEC), North West, and Head of the Local Office at

the South African Social Security Agency (SASSA) Madibeng, as well as that of branch manager at the Doringkloof and Pretoria North branches of SARS.

Her academic background includes the following: BCom: Business Management and

Industrial Psychology (University of the North West), Management Development Programme (University of Pretoria), MBA: Operations and Decision Management (University of the North West) and Commercial Mediator Skills Training (Conflict Dynamics).



## Senior Manager: Legal Services

Gert van Heerden

**BCom, LLB, LLM**

Gert van Heerden was appointed as Senior Manager: Legal Services at the Office of the Tax Ombud in May 2015. He has 12 years' post-admission experience in the legal field specialising in taxation. His key areas of interest are tax dispute resolution, debt recoveries and administrative law.

After completing his articles and being admitted as an attorney in 2008, Mr van Heerden joined SARS as a legal advisor in the Legal Delivery and Support Department for the Gauteng Central Region.

In 2010, he was appointed as the dedicated legal specialist for the High Complex Debt Team based at Megawatt Park in Sunninghill, Johannesburg. In May 2012, Mr van Heerden was appointed as Manager of the Legal Delivery and Support Department in Gauteng Central. In 2014, he joined the legal department of Afrocentric Health (Pty) Ltd, where he was Senior Manager until he joined the Office of the Tax Ombud.

Mr van Heerden's academic background includes the following: BCom, LLB and LLM (International Trade), all from the North-West University.



## Senior Manager: Office Enablement

Mmamelao Moira Malakalaka

**BCompt, Professional Accountant (SA)**

Mmamelao Moira Malakalaka joined the Office of the Tax Ombud in March 2016 as the Senior Manager: Office Enablement. She has more than 15 years' experience in Financial Management and Corporate Services with excellent entrepreneurial and negotiation skills. She has executive management

and strategic and risk management experience coupled with strong knowledge of the various acts governing government institutions.

She completed her articles with the Auditor-General of South Africa. She then worked as the

Chief Financial Officer (CFO) at the National Electronic Media Institute of South Africa (NEMISA), responsible for Finance, Risk Management, Procurement and Corporate Support Services.

Her academic qualifications include BCompt Accounting Science (Unisa) and Professional Accountant in Practice from the South African Institute of Professional Accountants (SAIPA).



## Senior Manager: Communications and Outreach

Pearl Seopela

**BA, BCom Honours, MCom, MDP, MMSM**

Pearl Seopela joined the Office of the Tax Ombud in August 2014 as the Senior Manager: Communications and Outreach. She has more than 15 years' experience in communications and marketing and has a particular passion for consumer communication and consumers' rights to protection. Her key interests lie in the areas of brand strategy, content communication, stakeholder engagement and reputation management.

Ms Seopela's career has encompassed a range of sectors, including medical schemes, telecommunications and public sector auditing, as well as pension fund administration. She is an expert in public relations, corporate communication and reputation management.

During her time in government pensions, Ms Seopela undertook pioneering work in the area of communications engagement with stakeholders such as organised labour,

government departments and members of the Government Employees Pension Fund (GEPF). As a result, the GEPF received the Institute of Retirement Funds' award for Best Communication Strategy in 2009, the special award for pioneering communication engagement with Organised Labour, also in 2009, and the 2008 award for Best Publication in Stakeholder Communication.

Ms Seopela's academic background includes the following: Master's in Management in the Field of Strategic Marketing (University of the Witwatersrand), BA (Communications and Industrial Psychology, Unisa), BCom Honours (Communication Management, University of Pretoria), Masters of Commerce in Communication Management (University of Pretoria), Management Development Programme (University of Pretoria) and a Leadership Certificate (University of Pretoria).



# PART B



## **Performance** Information



# 1. SITUATIONAL ANALYSIS

## 1.1. Service delivery environment



The Office contributes to promoting an active citizenry to strengthen development, democracy and accountability as directed by the National Development Plan 2030. The dynamic environment in which the Office operates presents numerous challenges and opportunities that are required to be addressed in order for it to continue fulfilling its vision of building trust and confidence in tax administration by resolving taxpayers' complaints fairly, swiftly and efficiently.

The COVID-19 pandemic as a health issue continues to evolve, posing many new challenges for South Africans. The Office of the Tax Ombud continues to review its operational arrangements in line with the national Government's lockdown regulations and social distancing measures. This reality entails taking extra precautions to ensure the safety of our employees and taxpayers with whom we engage. The changes to the operations of the Office have been implemented to ensure that the quality services offered are not compromised but rather enhanced.

The Office saw some improvement in the service delivery environment during the 2019/20 financial year with regard to the speed with which SARS implemented the backlog of recommendations on complaints. The recommendations that were not resolved by the end of the financial year have decreased by 56.6% when compared to the recommendations not resolved by the end of 2018/19, when 1 012 open complaints were with SARS.

The government-wide budget cuts have continued to limit the performance of the Office, as some of the services require the availability of budget in order to be realised. This has significantly affected human resources as posts continue to be put on hold due to lack of funding.

## 1.2. Organisational environment

### Governance

The OTO continues to be committed to achieving the highest level of good corporate governance and subscribes to the principles of responsibility, accountability, transparency and fairness as recommended by the King VI Report. The OTO has complied unremittingly with all relevant prescripts that seek to promote good governance in the public sector, such as the Public Finance Management Act and Treasury Regulations.

### Human resources

As at 31 March 2020, the Office had an employee headcount of 40, a decrease of 9.09% compared to the headcount as at 31 March 2019. The racial distribution is 85% African and 15% White with the collective gender distribution being 52.50% females and 47.5% males. There were 11 vacant positions as at 31 March 2020, including the position of the CEO, which had been vacant since 1 April 2019. Prof Thabo Legwaila filled the CEO position from 1 April 2020. The 10 other vacant positions have been put on hold due to the budgetary constraints.

During the year under review, the Office introduced a values-based reward and recognition programme called Anser Indicus for employees who live the OTO values.

### Financial resources

The National Treasury approved a total budget of R40,3 million for the 2019/20 financial year. In October 2019, National Treasury further approved an amount of R5,3 million from the 2018/19 retained surplus. This was granted in terms of section 53(3) of the PFMA. As a result, the budget increased to R45,6 million.

### Continuous improvement

The Office embarked on a number of projects during the reporting period. One of the key projects was the review of all standard operating procedures and guidelines for the Office. Other significant contributions were:

- “How did you hear about us?” monthly reports, summarising how taxpayers using the Office’s services found out about the organisation and its services;
- Customer satisfaction survey monthly reports, ensuring that the Office is aware of service delivery strengths and weaknesses from the perspective of its clients; and
- Footprint expansion research, aimed at gauging taxpayers’ views on the need for the Office to have a physical presence beyond Pretoria in Gauteng.

### Systemic investigation

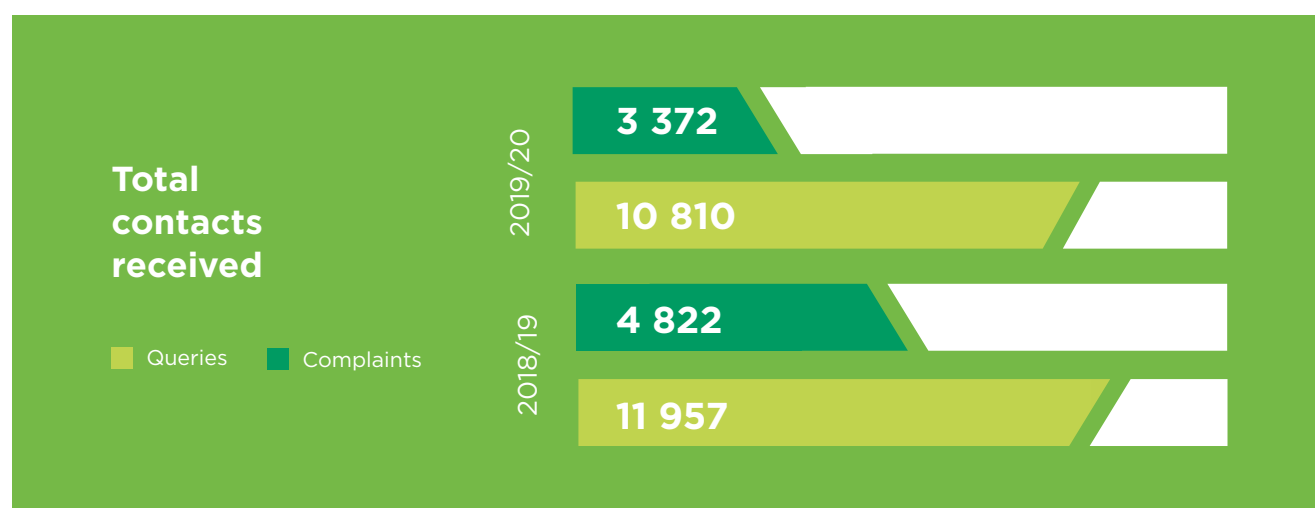
Tax administration or service issues are considered systemic in nature when they are recurring or have the potential to negatively affect a number of taxpayers. During the 2019/20 financial year, the Office, through effective engagement with SARS and monitoring of existing systemic issues, successfully resolved 13 systemic issues, which were then removed from the register.



## Complaints resolution statistical analysis

The number of complaints decreased by 30% from 2018/19 to 2019/20 and queries by 10% for the same period. The Office received 3 372 new complaints.

**Graph 1: Contacts received**



During the reporting period the Office validated 3 278 cases as compared to 4 741 in the 2018/19 financial period. Of the 3 278 complaints validated, administrative matters represented 24.3%, procedural matters 25.2% and service matters 50%, while 0.5% were complaints lodged with the OTO but not concerning SARS, and therefore did not fall into any of the categories.

**Table 1: Type of complaints validated**

Type of complaints validated	Number	Percentage (%)
Service	1 638	50%
<b>Procedural</b>	<b>827</b>	<b>25.2%</b>
Administrative	798	24.3%
<b>Other (complaints not related to SARS)</b>	<b>15</b>	<b>0.5%</b>
<b>TOTAL</b>	<b>3 278</b>	<b>100%</b>

### Categories of validated complaints

The number of accepted complaints decreased from 2 721 in the 2018/19 financial year to 1 644 in the 2019/20 financial year. The Office later terminated 203 of the accepted 1 644 complaints.

The number of rejected complaints came to 1 634 in the 2019/20 financial year compared to 2 021 in the 2018/19 financial year. The high rejection rate reflects a lack of understanding of the OTO mandate and the SARS Complaints Management process on the part of many complainants, which in turn points to the need for renewed taxpayer education.

**Table 2: Outcomes of complaints validated**

Type of complaints validated	Number	Percentage (%)
Rejected	1 634	50%
Accepted	1 441	44%
Terminated	203	6%
<b>TOTAL</b>	<b>3 278</b>	<b>100%</b>

**Table 3: Sub-categories of validated complaints**

The validated complaints can be categorised as indicated in the table below.

Sub-categories of validated complaints	Number	%
Dispute resolution (appeals and objections)	1 119	34.14%
Refunds	698	21.29%
Assessment management (tax directives included)	426	13.00%
Debt management	395	12.05%
General service	194	5.92%
Verification	133	4.06%
Penalties and interest	79	2.41%
Account maintenance	66	2.01%
Unknown	47	1.43%
EFiling	35	1.07%
Fraud investigations	31	0.95%
Portfolio maintenance	28	0.85%
Audit	25	0.76%
Estate	1	0.03%
Voluntary Disclosure Programme (VDP)	1	0.03%
<b>TOTAL</b>	<b>3 278</b>	<b>100%</b>

### Resolution of accepted complaints

In the year under review, 1 993 accepted complaints were finalised as compared to 2 043 complaints finalised in the 2018/19 financial year, representing a decrease of 2.45% in resolved complaints. This was in line with the decrease in the number of complaints validated and accepted and the possible effect of lockdown towards the end of March.

Furthermore, SARS managed to finalise only 11% of accepted complaints within the 15-business day timeframe specified in the Memorandum of Understanding signed with the OTO. The remaining 89% of finalised complaints were dealt with outside the agreed turnaround time.

**Table 4: Period it took SARS to finalise OTO recommendations**

Number of days SARS took to finalise OTO recommendations	Number	Percentage (%)
1 - 15 days	228	11%
16 - 31 days	412	21%
32 - 61 days	355	18%
62 - 91 days	219	11%
Over 92 days	779	39%
<b>TOTAL</b>	<b>1 993</b>	<b>100%</b>

## Categories of users for validated complaints

Individual taxpayers represented 49% of users served in 2019/20 and tax representatives 51%. This is an increase of about 6% in tax practitioners represented as compared to 44.97% in the 2018/19 financial year. User trends are shown in the table below.

**Table 5: Users for validated complaints**

Categories of users for validated complaints	Number	Percentage (%)
Taxpayers	1 622	49%
Taxpayers' representatives	1 656	51%
<b>TOTAL</b>	<b>3 278</b>	<b>100%</b>

## Reasons for rejecting complaints

A significant number of complaints were rejected due to complainants lodging their complaints prematurely with the OTO before first lodging complaints with the SARS CMO. These complaints represented 90.33% of the rejected complaints.





### Geographical spread of complainants

Complaints came from taxpayers in seven of the nine provinces in South Africa during 2019/20, with Gauteng accounting for the majority of complaints (65.71%), followed by the Western Cape (13.79%) and KwaZulu-Natal (10.56%). It is concerning to the Office that no complaints were received from taxpayers in the Northern Cape and North West Province.

Four complaints were received from jurisdictions beyond South Africa's borders, namely Australia, Malawi, Seychelles and Zambia, each with one complaint. All of these complaints were customs complaints.

**Table 6: Geographical spread of validated complaints**

Geographical spread of validated complaints	Number	Percentage (%)
Gauteng	2 154	65.71%
Western Cape	452	13.79%
KwaZulu-Natal	346	10.56%
Eastern Cape	149	4.55%
Free State	110	3.36%
Mpumalanga	57	1.74%
Limpopo	6	0.18%
Zambia	1	0.03%
Seychelles	1	0.03%
Malawi	1	0.03%
Australia	1	0.03%
<b>TOTAL</b>	<b>3 278</b>	<b>100%</b>

## Value of top 10 refunds paid to taxpayers

The top 10 refunds that SARS paid to complainants as a result of the OTO's intervention amounted to more than R116 million, bringing much-needed relief to the entities and individuals concerned.

**Table 7: Top 10 refunds paid to taxpayers through the intervention of the OTO**

Tax type	Refund paid
Value added tax (VAT)	R52 273 305.48
Corporate income tax (CIT)	R35 018 181.00
Corporate income tax (CIT)	R5 751 826.41
Corporate income tax (CIT)	R4 438 951.26
Corporate income tax (CIT)	R4 160 190.70
Corporate income tax (CIT)	R4 158 606.93
Corporate income tax (CIT)	R3 410 250.82
Corporate income tax (CIT)	R2 370 209.44
Pay-as-you-earn (PAYE)	R2 346 306.97
Individual Tax (IT)	R2 267 398.08
<b>TOTAL</b>	<b>R116 195 227.09</b>

## 1.3. Key policy developments and legislative changes

There were no changes in the period under review.

## 2. REPORT IN TERMS OF SECTION 19 OF THE TAX ADMINISTRATION ACT

In terms of section 19(1)(b), the Tax Ombud is required to submit an annual report to the Minister of Finance within five months of the end of SARS' financial year. The report must contain, in terms of section 19(2), a summary of at least 10 of the most serious issues encountered by taxpayers, as well as identified systemic and emerging issues. It must also contain the inventory made of such issues and recommendations, including the administrative action appropriate to resolve the problems encountered by taxpayers.

Part One of this report introduces systemic issues and examples of identified systemic and emerging issues and Part Two presents a summary of the most serious issues experienced by taxpayers, as well as identified systemic and emerging issues.

### 2.1 Summary of identified systemic and emerging issues

No	1
Issue	<b>DELAY IN PAYMENT OF REFUNDS</b>
Summary	<i>1.1. Failure to link submitted documentation requested by SARS to the main file</i>
Category (serious/systemic/emerging)	Systemic
Action taken by the OTO	Issue removed on 30 March 2020
Action taken by SARS	SARS enhanced the electronic submission of information and has altered the size parameter value of supporting documents from 2MB to 5MB on the eFiling site, which links to the supporting documents component. This change was implemented on 20 April 2018. SARS further indicated that it will confirm through internal communication to officials what procedures and processes SARS staff must follow to retrieve information uploaded by taxpayers
Period in the OTO's inventory	76 months
Result	<b>Finalised</b>

<b>No</b>	<b>1</b>		
<b>Issue</b>	<b>DELAY IN PAYMENT OF REFUNDS</b>		
<b>Summary</b>	<i>1.2 Unwarranted placing of Special Stoppers</i>	<i>1.3. Using the filing of new returns as an excuse to block refunds</i>	<i>1.4. Delay in the lifting of Stoppers and no indication from SARS as to the timeframe for lifting these (not finalising verification within the turnaround time of 21 days)</i>
<b>Category (serious/systemic/emerging)</b>	Systemic	Systemic	Systemic
<b>Action taken by the OTO</b>	Issue removed on 30 March 2020	Issue removed on 30 March 2020	The remedial actions implemented by SARS are noted. The effectiveness of these is being monitored.
<b>Action taken by SARS</b>	<p>SARS indicated that it has reduced the number of staff with access to profiles associated with the placing of Special Stoppers from over 6 000 to fewer than 2 000.</p> <p>Furthermore, SARS confirmed that the main reason for placing Stoppers was banking detail changes. As it has enhanced the matching of banking details, Special Stoppers associated with banking details should be miniscule compared to the 2018 filing season.</p> <p>Lastly, SARS indicated that low-risk Stoppers were bulk removed and the associated cases were closed.</p>	<p>A remedy for VAT was implemented in October 2016. The Income Tax System (ITS) was enhanced to allow payment of refunds or part of the refund for tax years with valid credits not under audit/verification. The partial refund will only be paid if the overall account is in credit. ITS will deduct the amount for the tax year under audit/verification from the credit assessment balance.</p>	<p>So far SARS has identified the backlog to be cleared by looking at a systemic fix for Stoppers placed; an interim process is in place to mitigate the placing of unnecessary Stoppers; however due to the complexity of the matter, further investigation is required before a future design can be approved. (This is an ongoing process).</p>
<b>Period in the OTO's inventory</b>	76 months	76 months	76 months
<b>Result</b>	<b>Finalised</b>	<b>Finalised</b>	<b>Ongoing</b>

No	1			
Issue	DELAY IN PAYMENT OF REFUNDS			
Summary	<i>1.5. Refunds for one period being withheld while an audit/verification is in progress on another period</i>	<i>1.6. Using historic returns to delay the payment of refunds</i>	<i>1.7. Raising assessments to clear unallocated credits</i>	<i>1.8. Requesting further information during audit</i>
Category (serious/systemic/emerging)	Systemic	Systemic	Systemic	Systemic
Action taken by the OTO	Issue removed on 30 March 2020	Issue removed on 30 March 2020	Issue removed on 30 March 2020	Issue removed on 30 March 2020
Action taken by SARS	A remedy for VAT was implemented in October 2016. The ITS was enhanced to allow payment of refunds or part of the refund for tax years with valid credits not under audit/verification. The partial refund will only be paid if the overall account is in credit. ITS will deduct the amount for the tax year under audit/verification from the credit assessment balance.	Enhancements were implemented whereby SARS investigated the misalignment of the Return Control Enquiry (RCE) function and the Return Control Tables (RCT), and the RCE function was enhanced on 20 April 2018. An additional update was done on 3 August 2018 whereby the policy and standard operating procedures (SOPs) regarding the maintenance of the RCT and Provisional Return Control tables was reviewed to align with the current business process.	SARS is ensuring that all assessments that are raised are done in terms of the strict requirements as set out in the Tax Administration Act.  SARS has discontinued the practice as from 21 July 2017.	The SARS correspondence process was amended to be more specific regarding proof required, rather than the existing generic letter that had been issued previously.  With a view to improving communication, SARS will send notifications via SMS and/or email to the taxpayer, advising them of the audit review.
Period in the OTO's inventory	76 months	76 months	76 months	76 months
Result	Finalised	Finalised	Finalised	Finalised

No	1			
Issue	DELAY IN PAYMENT OF REFUNDS			
Summary	1.8. Requesting further information during audit	1.9. Assessments successfully disputed, but refund still not paid out	1.10. Diesel refunds	1.11. Debt set-off and recovery steps taken notwithstanding a request for suspension of payment
Category (serious/systemic/emerging)	Systemic	Systemic	Systemic	Systemic
Action taken by the OTO	Issue removed on 30 March 2020	Issue removed on 30 March 2020	The occurrence and prevalence of the systemic issue is being monitored.  The remedial actions implemented by SARS are noted. The effectiveness of these is being monitored.	The remedial actions implemented by SARS are noted. The effectiveness of these is being monitored.
Action taken by SARS	The SARS correspondence process was amended to be more specific regarding proof required, rather than the existing generic letter that had been issued previously. With a view to improving communication, SARS will send notifications via SMS and/or email to the taxpayer, advising them of the audit review and, when completed, its finalisation. Furthermore, the Service Charter process was implemented on 1 July 2018 to provide clear guidance on turnaround times.	SARS undertook to revise any assessment within 45 days of the resolution/conclusion of a dispute. This period is aligned to the periods in R23(3) and R24(3) of the Dispute Resolution Rules.	SARS indicated on 7 February 2018 that it recognised the industry's preference for separate returns as reflected in the 2017/18 budget review.  SARS also indicated that after significant risks were identified, it increased its focus on the audit of diesel refunds.  SARS further indicated on 12 October 2018 that extensive work was concluded on identifying high-volume, low-risk refunds which have been auto released and that the risk alerts associated with diesel cases have been amended in line with the available capacity; therefore, fewer alerts should be generated.	The suspension of payment application process has been automated and is now a separate process, which has been operational since May 2017.  The debt management process was further enhanced internally on 17 September 2018 to simplify the deferred payment arrangements thresholds, auto issuing of deferral payment termination notices, automation of the issuing and withdrawal of a Third Party Appointment (TPA), etc.
Period in the OTO's inventory	76 months	76 months	76 months	76 months
Result	Finalised	Finalised	Ongoing	Ongoing

No	2	3
Issue	<b>INCORRECT ALLOCATION BY SARS OF PAYMENTS MADE BY TAXPAYERS</b>	<b>TAXPAYERS BEING AFFECTED BY EMPLOYERS' NON-COMPLIANCE WITH LEGISLATION RELATING TO IRP5S</b>
Summary	<i>Payments made by taxpayers are incorrectly allocated, resulting in a debt on SARS' systems. In some instances, SARS institutes collection steps to recover this incorrect debt</i>	<i>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 referring these taxpayers to the employers and the employers sending taxpayers back to SARS. Furthermore, SARS branches are not consistent in attending to these matters</i>
Category (serious/systemic/emerging)	Systemic	Systemic
Action taken by the OTO	Aspects of this systemic issue were investigated and addressed by the Fluidity of the PAYE Statement of Account systemic investigation approved by the Minister of Finance on 10 September 2018.	Issue removed on 8 November 2019
Action taken by SARS	<p>SARS updated both the collection and account guide to ensure alignment with the TAA's requirements and to ensure the correct process will be followed to address incorrectly allocated payments or credits made by taxpayers timeously.</p> <p>On 6 December 2018 and 28 May 2019, the SARS payment rules were updated to ensure alignment across all the tax products. The updated external guide can be accessed via the SARS website: GEN-PAYM-01-G01 – SARS Payment Rules – External Guide.</p> <p>There are specific rules regarding the making of a payment (quote the correct 19-digit PRN) to ensure that the payments are easily identified and allocated to the correct account. Unallocated payments and credits are also visible on the Statement of Account of the various tax products.</p>	<p>To assist employees with the alternative process to be followed if they do not receive IRP5s from their employer, SARS revised the standard procedure (Internal Annexure – Guidelines for finalisation of PIT Compliance Audits IT – AV – 20 SOP01_A09) and FAQs, and published these on the SARS website.</p> <p>SARS emphasises that the employer has a duty to prepare and submit an IRP5 to SARS on a taxpayer's behalf.</p>
Period in the OTO's inventory	48 months	50 months
Result	<b>Ongoing</b>	<b>Finalised</b>

			6 DISPUTE RESOLUTION
No	4	5	6.1
Issue	<b>INCONSISTENCY BY SARS IN PROVIDING TAXPAYERS WITH TIMELINES FOR FINALISATION OF AUDITS/VERIFICATIONS</b>	<b>VICTIMS OF IDENTITY THEFT BEING HELD LIABLE FOR TAX DEBTS</b>	<b>NON-ADHERENCE BY SARS TO DISPUTE RESOLUTION TURNAROUND TIMES</b>
Summary	<i>When phoning the SARS contact centre, taxpayers are given different turnaround times for completion of an audit/verification. The turnaround times are extended every time the taxpayer follows up after expiry of the initial turnaround time</i>	<i>SARS holds taxpayers liable for the tax debt if they were victims of identity theft and more than one individual is allocated the same identity number and multiple IRP 5 certificates are included on the income tax assessment. This applies even in instances where SARS was aware of the alleged fraud and was investigating it</i>	<i>On many occasions, SARS does not adhere to the dispute resolution turnaround timeframes as envisaged in chapter 9 of the TAA and under the rules for Dispute Resolution as promulgated under section 103 of the Act</i>
Category (serious/systemic/emerging)	Systemic	Systemic	Serious/systemic
Action taken by the OTO	Issue removed on 4 June 2019	Issue removed on 8 November 2019	A recommendation was made for SARS to adhere strictly to the alternative dispute resolution (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. The provisional report was issued to SARS for response on 28 November 2019.
Action taken by SARS	SARS has published the Service Charter to address the different timeframes pertaining to the audit/verification processes.	SARS has put processes in place to assist taxpayers who are victims of fraud. Furthermore, due to the increase in fraudulent activities on eFiling, the implementation of stricter risk management processes was required. SARS has enhanced the authentication process to safeguard information provided to taxpayers. SARS is making regular efforts to avert identity theft through enhancements such as EDNA. In the 2019 tax season, authentication enhancements on eFiling will also be implemented.	SARS is in the process of automating its objection and appeal processes for the different tax types. By April 2019 the automation was limited to companies and individuals. SARS intended to provide this for all tax types in future.  SARS is expected to respond to the provisional report issued on 28 November 2019.
Period in the OTO's inventory	38 months	64 months	58 months
Result	<b>Finalised</b>	<b>Finalised</b>	<b>Ongoing</b>



6 DISPUTE RESOLUTION			
No	6.2		7
Issue	INSUFFICIENT INFORMATION ON THE OUTCOME OF AN OBJECTION LETTER PERTAINING TO ADMINISTRATIVE PENALTIES	SARS INCORRECTLY INVALIDATING THE NOTICE OF OBJECTION AND THE NOTICE OF APPEAL	SARS DOES NOT TAKE INFORMATION AT ITS DISPOSAL INTO ACCOUNT DURING AUDIT/ VERIFICATION/OBJECTION
Summary	<i>The disallowance or partial disallowance of an objection against the administrative penalties letter does not include the date of the notice. This makes it difficult for taxpayers to lodge an appeal within the prescribed turnaround times</i>	<i>In some instances, SARS requests additional information and then proceeds to incorrectly invalidate the objection instead of taking a decision on the objection considering the information at hand</i>	<i>In some instances, SARS requests information during audit/verification/objection procedures and makes decisions without taking the information submitted by the taxpayer into account</i>
Category (serious/ systemic/ emerging)	Serious/systemic		Systemic
Action taken by the OTO	The draft report on the systemic investigation into non-adherence to the dispute resolution timeframes was issued to SARS on 28 November 2019. All dispute resolution concerns will be addressed in the final report.		Issue removed on 8 November 2019.
Action taken by SARS	<p>SARS has welcomed the investigation and is currently cooperating with the OTO.</p> <p>SARS is of the view it adheres to legislative requirements. Various enhancements were implemented to address concerns raised about the dispute resolution process. If any new issues are identified after the implementation of the enhanced dispute process, these will be investigated and addressed accordingly.</p>		Each case will be addressed on its own merits and, depending on the specific issue, SARS will request additional information. SARS correspondence was amended to be very specific, rather than generic, which will also address the issue. SARS makes use of third party data and, where there are mismatches, will request supporting documents to mitigate the risk.
Period in the OTO's inventory	23 months	21 months	43 months
Result	Ongoing	Ongoing	Finalised

No	8	9	10
<b>Issue</b>	<b>DELAYS IN EFILING PROFILE TRANSFER BETWEEN TAX PRACTITIONERS DUE TO SYSTEM ERROR (THE TAX PRACTITIONER WAS ADVISED THAT SARS WAS WAITING FOR THE SYSTEM DEVELOPER TO DO REPAIRS ON THE SYSTEM)</b>	<b>NON-ADHERENCE TO LEGISLATIVE REQUIREMENTS IN RELATION TO THE FINAL DEMAND</b>	<b>SARS PROVIDING INCORRECT CORRESPONDENCE RELATING TO CONDONATION OF LATE FILING OF OBJECTION</b>
<b>Summary</b>	<i>A recommendation was made to SARS to assist the taxpayer by finding a solution to the system issue and, further, to communicate the date when the system issue will be resolved or to communicate the decision taken.</i>	<i>The SARS Debt Management - Final Demand template has not been updated to accommodate the amendment of the TAA S179 (5); therefore, the template is not compliant with legislation. The possible effect of this could be to invalidate Final Demands, and consequently also the associated TPAs and TPA collections</i>	<i>A formal recommendation was sent to SARS on 20 December 2016, recommending the following:</i> <ol style="list-style-type: none"> <li>1. That SARS apply the rules consistently;</li> <li>2. That the relevant SARS officials be properly informed and trained to ensure the correct application of the rules to objections where condonation is involved;</li> <li>3. That the relevant SARS officials be properly informed and trained to ensure the correct outcome is communicated to taxpayers and to advise them of the correct process to follow;</li> <li>4. That the relevant SARS officials take decisions previously made by their counterparts into account when dealing with subsequent matters</li> </ol>
<b>Category (serious/systemic/emerging)</b>	Systemic	Systemic	Systemic
<b>Action taken by the OTO</b>	Issue removed on 4 June 2019	Issue removed on 4 June 2019	Issue removed on 4 June 2019
<b>Action taken by SARS</b>	Since this matter was raised by the Office of the Tax Ombud, no further complaints relating to this concern were received. It therefore appears that this could have been an isolated case. Furthermore, this concern did not relate to instances where one tax practitioner would refuse to release an eFiling profile to the new tax practitioner owing to outstanding fees by the taxpayer.	SARS provided a response on 28 February 2017, acknowledging that there were deficiencies in the Final Demand letters and that active measures had been taken to review and correct the letters.	SARS implemented system updates to correctly address dispute condonation cases.
<b>Period in the OTO's inventory</b>	32 months	29 months	32 months
<b>Result</b>	<b>Finalised</b>	<b>Finalised</b>	<b>Finalised</b>

No	11	12	13
Issue	NUMEROUS FOLLOW UPS.	REFUNDS PAID INTO THE WRONG BANK ACCOUNTS.	INABILITY ON THE PART OF SARS TO CONFIRM MANUAL CORRESPONDENCE WAS SENT.
Summary	<i>SARS not attending to taxpayers' requests even though the taxpayer repeatedly followed up</i>	<i>This is due to failure by SARS to update banking details timeously, which often results in refunds being paid into the wrong bank accounts</i>	<i>Where taxpayers allege that they did not receive correspondence from SARS, the revenue collector simply responds by providing them with a copy of the letter but fails to provide proof that the correspondence was indeed sent to them on the specified date. It should be noted that the concern raised is not applicable to correspondence that was electronically issued</i>
Category (serious/systemic/emerging)	Systemic	Systemic	Systemic
Action taken by the OTO	Issue removed on 4 June 2019	Issue removed on 4 June 2019	<p>It was recommended that SARS ensure it keeps records of all correspondence sent to taxpayers, and also ensure that the correspondence was received by the recipient.</p> <p>SARS' response was noted. The OTO still sought further clarity on the process that SARS will follow in cases where the taxpayer has elected to receive all communication via post. It is important to know what audit trail is kept in these cases to ensure that documentation is indeed posted.</p> <p>In its further response on 31 October 2019, SARS stated that it was considering a proper record system that can withstand legal scrutiny.</p> <p>The OTO will continue to monitor the systemic issue. In the interim, SARS was putting in place a manual record system that demonstrates delivery to the post office with the correct postal address. SARS said it was discussing this system with its Innovation Hub team and would advise the OTO of the outcome.</p> <p>Furthermore, SARS stated that it was looking at ensuring that the primary channel of communication is electronic (email, lithotech, etc) and that the postal service is used only when electronic channels are not available.</p>
Action taken by SARS	SARS has publicised its Complaints Management Office service on numerous platforms, including the SARS Service Charter and the SARS website.	The issue raised has been satisfactorily addressed since the one bank responsible for recycling account numbers no longer does so.	SARS indicated it will make sure that the letters sent outside the Service Manager system are sent via email and are also attached to a created case. SARS is of the view that this will enable it to prove that correspondence was indeed sent.
Period in the OTO's inventory	62 months	44 months	42 months
Result	Finalised	Finalised	Ongoing

No	14	15
Issue	EFILING PROFILE HIJACKING	TAX COMPLIANCE SYSTEM (TCS)
Summary	<p><i>Taxpayers' eFiling profiles were hijacked by fraudsters. These fraudsters then changed the taxpayers' banking details to their own, filed fraudulent returns and created refunds. SARS subsequently corrected the assessments, resulting in a liability that needs to be paid by the taxpayer.</i></p>	<p><i>There are various factors that could lead to the taxpayer's compliance being non-compliant instead of compliant. These include: (i) outstanding debts even when the outstanding amount is R1; (ii) outstanding returns; (iii) non-submission of certain relevant material requested by SARS, and (iv) any transgression that is deemed to be non-compliance by SARS. There are, however, certain challenges that are causing undue hardship to various taxpayers owing to the manner in which the system was designed.</i></p> <p><i>Some taxpayers had a non-compliant tax status in the following cases:</i></p> <ol style="list-style-type: none"> <li><i>Where there was an outstanding liability of R1.00;</i></li> <li><i>When taxpayers are still within time to submit a specific return and make payment, but the system already reflects this as outstanding.</i></li> <li><i>Where a debt emanates from fraudulent activities conducted by SARS or ex-SARS officials, which contributes to taxpayers being non-compliant and not obtaining a tax clearance certificate.</i></li> <li><i>The system is unable to reflect compliance in cases where payment arrangements are in place, including approved suspension of any debt.</i></li> <li><i>Taxpayers encounter challenges with PINs related to emigration matters. The PIN received from SARS only reflects the details of the main applicant and not those of the spouse. This resulted in the emigration process being unnecessarily delayed, with financial implications for the affected taxpayers.</i></li> </ol>
Category (serious/systemic/emerging)	Systemic	Systemic
Action taken by the OTO	Issue removed on 8 November 2019	The OTO welcomes the implementation of the "override" functionality. Case XXXXXXXXX has reference. The Tax Compliance System (TCS) initially reflected as non-compliant when the taxpayer had submitted the income tax return and SARS had not yet issued the assessment.
Action taken by SARS	SARS indicated that its systems and processes have since been enhanced so that changes to a taxpayer's identity 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. Furthermore, SARS indicated that it has implemented additional validations and security measures to stop fraud. With the 2019/20 eFiling, enhancement risks will be further eliminated.	SARS indicated that various updates were implemented in September 2017 to the standard operating procedures and Tax Compliance system, addressing most of the issues identified. There is also a function available for taxpayers to request an "override" and SARS will investigate and confirm the approval in exceptional cases. Furthermore, SARS indicated that taxpayer education is a key factor in the resolution of this matter as its system is built for the majority of taxpayers and not on the basis of exceptions.
Period in the OTO's inventory	67 months	26 months
Result	Finalised	Ongoing

No	16	17	18	19
Issue	<b>RAISING ASSESSMENTS PREMATURELY</b>	<b>FLUIDITY OF THE PAYE STATEMENT OF ACCOUNT</b>	<b>SARS ISSUING DUPLICATE INCOME TAX NUMBERS</b>	<b>PROCESS FOLLOWED BY SARS IN CORRECTING THE RETIREMENT ANNUITY CONTRIBUTION (RAF) CARRIED FORWARD AMOUNTS</b>
Summary	<i>The notification of verification, as well as the request for additional information, allows the taxpayer 21 days to submit the relevant information. In some instances, SARS issues additional assessments without affording the taxpayer 21 days.</i>	<i>SARS processes journals in the PAYE, Unemployment Insurance Fund (UIF) and Skills Development Levy (SDL) accounts, without informing taxpayers or providing reasons. This results in endless reconciliation issues for taxpayers.</i>	<i>SARS incorrectly issues more than one tax number to one ID number. This causes great frustration to taxpayers awaiting a lump sum payment, since the directive cannot be issued if there is more than one active income tax number.</i>	<i>The complaint related to a revised assessment issued by SARS for the 2005 to 2017 income tax years. SARS had disallowed RAF without any prior notice and without requesting supporting documentation. It must be noted that the above is limited only to matters related to RAF wherein SARS revised assessments without any prior communication with the affected taxpayers.</i>
Category (serious/systemic/emerging)	Systemic	Serious/systemic	Systemic	Systemic
Action taken by the OTO	It is recommended that SARS cancel the additional assessment raised under these circumstances. This will be further monitored with cases that might follow from the past 2019 eFiling season.	The provisional report was issued to SARS on 28 November 2019 for comment.	Issue removed on 8 November 2019	Issue removed on 4 June 2019
Action taken by SARS	SARS introduced various enhancements for the 2018 eFiling season to address shortcomings and improve service and communication. Internal processes and various standard operating procedures were updated to ensure alignment and SARS' adherence to legislative requirements. Previous issues escalated were addressed and SARS said it is not aware of new issues identified.	SARS has welcomed the investigation and is currently cooperating with the OTO. Some enhancements were implemented to address issues identified for PAYE and the Employee Tax Incentive process; these enhancements have been operational since August 2017 and further improvements to the new layout were also released from 12 May 2019 to address the issue. SARS is expected to respond to the provisional report.	SARS indicated that there is an existing process in place to identify and reject duplicate registrations.	The issue was monitored and all indications are that SARS has stopped this practice.
Period in the OTO's inventory	23 months	23 months	17 months	12 months
Result	<b>Ongoing</b>	<b>Ongoing</b>	<b>Finalised</b>	<b>Finalised</b>

No	20	21	22	23
Issue	<b>RAISING OF ASSESSMENTS WITHOUT ISSUING A LETTER OF FINDINGS</b>	<b>FAILURE TO RESPOND TO THE REQUEST FOR A DEFERRED PAYMENT ARRANGEMENT WITHIN THE PRESCRIBED TURNAROUND TIME OF 21 DAYS</b>	<b>FAILURE TO RESPOND TO THE REQUEST FOR A COMPROMISE WITHIN THE PRESCRIBED TURNAROUND TIME OF 30 DAYS</b>	<b>FAILURE TO RESPOND TO REQUESTS FOR A SUSPENSION OF PAYMENT WITHIN THE PRESCRIBED TURNAROUND TIME OF 21 DAYS</b>
Summary	<i>A large number of taxpayers are affected by the lack of communication from SARS when the verification process is completed. SARS fails to issue letters of findings and the current notices of assessment (IT 34 and VAT 217) do not provide sufficient information about the reasons for the revised assessment.</i>	<i>We have noticed an increase in complaints about SARS failing to respond to these requests. This negatively affects taxpayers seeking to become compliant and is also problematic for SARS as it results in delayed revenue collection.</i>	<i>We have noticed an increase in complaints pertaining to SARS failing to respond to requests for a compromise. This has a negative impact on taxpayer compliance and SARS' revenue collection.</i>	<i>There has been a similar increase in these complaints, which again negatively affects taxpayers and SARS.</i>
Category (serious/systemic/emerging)	Systemic	Systemic	Systemic	Systemic
Action taken by the OTO	Issue removed on 4 June 2019	SARS has included the specific turnaround times in the Service Charter but this does not address the underlying root cause of SARS' non-adherence. Formal recommendations are to be drafted and issued to SARS.	The specific turnaround times are included in the Service Charter, but this does not address the root cause of the non-adherence. Formal recommendations are to be drafted and issued to SARS.	The specific turnaround times are included in the Service Charter, but this does not address the root cause of the non-adherence. Formal recommendations are to be drafted and issued to SARS.
Action taken by SARS	SARS issued a formal response in April 2019, providing reasons why the recommendations of the Office of the Tax Ombud will not be implemented.	The matter is being monitored.	The matter is being monitored.	The matter is being monitored.
Period in the OTO's inventory	12 months	19 months	19 months	19 months
Result	<b>Finalised</b>	<b>Ongoing</b>	<b>Ongoing</b>	<b>Ongoing</b>

No	24	25
Issue	<b>SARS LEVYING ADMINISTRATIVE PENALTIES ON TAXPAYERS WHO ARE NOT REQUIRED TO FILE RETURNS</b>	<b>SARS INCORRECTLY INVALIDATING REQUESTS FOR REMISSION OF PENALTIES AND/OR INTEREST</b>
Summary	<i>SARS is levying administrative penalties on taxpayers that meet the requirements not to file income tax returns. There have also been reported instances where SARS proceeds to issue third party appointments to recover the debt that arose from these incorrectly levied administrative penalties.</i>	<i>SARS provided inaccurate reasons for invalidating the requests. In one case, SARS indicated that the taxpayer should pay the capital before the application could be considered. The taxpayer did so but the payment was allocated to penalties and interest first, which was not the correct response.</i>
Category (serious/ systemic/ emerging)	Systemic	Systemic
Action taken by the OTO	Issue removed on 4 June 2019	Issue removed on 8 November 2019
Action taken by SARS	SARS has indicated that it faces challenges when attempting to verify whether the taxpayer has earned any additional income over and above the salary reflected on the IRP5. The OTO has decided to remove this matter as a systemic issue in order to eliminate any possible error of judgment due to the limited access to third party data.	It appears that these could have been isolated incidences
Period in the OTO's inventory	9 months	14 months
Result	<b>Finalised</b>	<b>Finalised</b>

# 3. STRATEGIC OUTCOME-ORIENTED GOALS

The vision of the OTO is to strengthen taxpayers' trust and confidence in tax administration by providing an impartial mechanism for dispute resolution. Four strategic goals have been identified to achieve the desired levels of trust and confidence.

Strategic outcome-oriented goal	Goal statement
<b>Accountability</b> Rational and fair application of the tax administration process	It is important to continuously provide rational and fair reasons for recommendations and action taken, while also ensuring that complainants understand the rationale and feel that the process has provided sufficient opportunity for their case to be reviewed fairly and impartially.
<b>Independence</b> Structurally independent Tax Ombud	By becoming truly independent, structurally and operationally, it will be possible for the OTO to limit the risk of perceived bias.
<b>Efficacy</b> Prompt and efficient resolution of complaints	<p>The objective is to become truly taxpayer-centric by providing a consistently high-quality service at no cost to the taxpayer, with specific attention to:</p> <ul style="list-style-type: none"> <li>• Consistently achieving a taxpayer service promise;</li> <li>• Meeting the specific needs of taxpayer segments (practitioners, individuals, businesses, corporates);</li> <li>• Enabling taxpayers to access services through the channel of their choice;</li> <li>• Engaging taxpayers through easy-to-understand, simple, transparent and quick processes;</li> <li>• Ensuring all complainants (whether their complaints are valid or not) trust the tax administration system;</li> <li>• Ensuring staff are customer orientated, technically proficient and professional; and</li> <li>• Adopting technologies that make processes easy and convenient for taxpayers and staff.</li> </ul>
<b>Security and confidentiality</b> All information is secure and treated in strict confidence	It is vital to continuously address the evolving threats associated with ensuring all information, data and communications remain confidential.



# 4. PERFORMANCE INFORMATION BY PROGRAMME

## 4.1 Programme 1: Accessibility and Operations

### Programme purpose

To review and address complaints in a fair, efficient and impartial manner.

### Strategic objectives

- Create an agile organisation able to efficiently scale to meet demand.
- Provide and maintain a high standard of service in the OTO's interaction with taxpayers.

### Highlights

At the beginning of the financial year, a total of 1 012 open accepted complaints were brought forward from the 2018/19 financial year as they had not yet been finalised by SARS. In response, governance structures were implemented at the SARS Complaints Management Office. These structures proved effective, resulting in a 56.6% reduction in open complaints by the end of 2019/20, when only 439 open complaints were carried forward to the new financial year. This was a significant improvement and brought relief to 573 taxpayers who had been waiting for their complaints to be finalised.

SARS implemented 98% of the OTO recommendations, which was testimony to the quality of recommendations made and the effectiveness of the OTO staff in resolving taxpayers' complaints.

## Key performance indicators, planned targets and actual achievements

### Programme 1: Accessibility and Operations

Strategic objectives	Provide and maintain a high standard of service in the OTO's interaction with taxpayers	Create an agile organisation able to efficiently scale to meet demand			
Performance indicator	Percentage of customers satisfied with the OTO complaints resolution process based on taxpayer survey results	Percentage of recommendations implemented by SARS	Percentage of close-out reports received from SARS and actioned within four days of receipt	Percentage of complaints reviewed within eight days of acknowledgement of receipt	Percentage of taxpayer complaints acknowledged within two business days of receipt
Actual achievement 2016/17	Target not planned	Target not planned	Target not planned	Target not planned	Target not planned
Actual achievement 2017/18	0%	Target not planned	Target not planned	Target not planned	Target not planned
Actual achievement 2018/19	60%	Target not planned	Target not planned	Target not planned	Target not planned
Planned target 2019/20	80%	90%	90%	80%	80%
Actual achievement 2019/20	66%	98%	83%	94%	94%
Indicator status	Not achieved	Achieved	Not achieved	Achieved	Achieved
Deviation from planned target to actual achievement for 2019/20	-14%	8%	-7%	14%	14%
Comment on deviations	The customer satisfaction results are based on feedback from complainants whose complaints are finalised, including those whose complaints were rejected. These cases account for at least 40% of validated complaints, which affects the ratings given to the Office as complainants whose cases are rejected tend to be among the most dissatisfied. Participation in the customer satisfaction surveys also tends to be low. The feedback from some complainants is that the Office takes too long to resolve their complaints. The fact is that SARS does not always adhere to the timeframes set for resolving complaints.	Standardisation of process, quality management and staff development improved the quality of recommendations sent to SARS.	The finalisation of close-out reports is sometimes dependent on complainants' confirmation that SARS has successfully resolved their matters. This process can be protracted when taxpayer representatives have to confirm with their clients.	Standardisation of process, quality management and staff development led to greater efficiency in validating complaints.	Improved processes for capturing complaints and queries.

## Strategy to overcome areas of underperformance

Underperformance indicators	Strategies to address underperformance
Percentage of close-out reports received from SARS and actioned within four business days of receipt	The Office will review the process followed to finalise close-out reports and develop a quality matrix to minimise or streamline confirmation with taxpayers.
Percentage of customers satisfied with the OTO complaints resolution process, based on taxpayer survey results	The Office will review the current customer satisfaction survey to include different categories of complaints and improve the participation of complainants in the survey.

## Way forward

The OTO's strategic vision for the next five years is to provide efficient, quality service to taxpayers, including by providing useful feedback on the resolution of their complaints. The customer survey questionnaire will be reviewed in order to address the different categories of complaints in the resolution process. Another area for improvement for the Office is to provide better, more informative feedback to complainants about the progress of their complaints. This will contribute to greater tax compliance as taxpayers will perceive the tax administration to be fair, with access to free and impartial recourse when needed.

The table below outlines how the OTO intends achieving this:

Goals	Strategic objective	Objective statement	Planned activities
<b>Accountability</b>	Review and address complaints by taxpayers against SARS as per mandate.	The OTO will review 98% of complaints received from taxpayers within eight working days from the date the complaint is captured and communicate the outcome within four days of receiving the close-out report from SARS.	Implement an efficient complaints review plan that will ensure complaints are reviewed within eight days.
			Implement a complaints management framework that will improve the feedback provided to taxpayers.
<b>Efficacy</b>	Create an agile organisation that can scale efficiently to meet taxpayer demands.	Provide an efficient, high-quality, real-time communication process that is responsive and promotes clarity of information.	Implement a feedback plan that will assist taxpayers to understand the outcome of their complaints.
			Develop a five-year quality matrix document that will improve the quality of service provided to taxpayers.
			Implement a monitoring and evaluation plan that will assist the OTO to understand customer needs and effective communications.
<b>Independence</b>	Enhance and strengthen the mandate of the Office of the Tax Ombud.	Ensure that the Office of the Tax Ombud becomes structurally and operationally independent.	Enter into memorandums of agreement, service level agreements or formal interventions with various stakeholders to optimise engagement.



## 4.2 Programme 2: Systemic Investigation

### Programme purpose

To identify and review systemic and emerging issues related to service matters or the application of the provisions of the Tax Administration Act or procedural or administrative provisions of a tax Act that impact negatively on taxpayers.

### Strategic objectives

- Provide reports on systemic investigations requested by the Minister and/or initiated by the Tax Ombud.
- Identify and investigate systemic issues from complaints received.

### Highlights

The OTO initiated two systemic investigations with the Minister's approval, which was granted on 10 September 2018. The investigations were complex, required highly detailed and extremely large data sets, and necessitated a secondary request for information and clarification from SARS. The data collection was finalised at the end of May 2019. The analysis was completed and preliminary observations were sent to SARS on 28 November 2019 for final comments in a draft report format. A response was received on 28 April 2020 and the final draft of the report has been released.

The implementation of the Memorandum of Understanding between SARS and the OTO was monitored. The OTO observed significant reduction in the number of open cases compared to previous years.

As no major new systemic issues were identified, priority was given to actively monitoring and pursuing the resolution of the 23 main systemic issues already identified. Through effective engagement with SARS and monitoring of existing systemic issues, the Office successfully resolved and removed 13 systemic issues from the register during the financial year. Through active monitoring, the OTO confirmed that no additional complaints relating to the finalised systemic issues were received.

The table below lists the issues that were resolved, as well as those not resolved:

No	Systemic issue	Status as at 31/03/2020	Corresponding number on S19 Report
1.	Delay in payment of refunds	Ongoing	1
2.	Incorrect allocation by SARS of payments made by taxpayers	Ongoing	2
3.	Taxpayers being affected by employers' non-compliance with legislation relating to IRP5s	Finalised 8 November 2019	3
4.	Inconsistency by SARS in providing taxpayers with timelines for finalisation of audits/verifications	Finalised 4 June 2019	4
5.	Victims of identity theft being held liable for tax debts	Finalised 8 November 2019	5
6.	Dispute resolution	Ongoing	6
7.	SARS' failure to take information at its disposal into account	Finalised 8 November 2019	7
8.	Tax Compliance System (TCS)	Ongoing	15
9.	Non-adherence to legislative requirements in respect of letters of Final Demand / Third Party Appointment (TPA) in terms of section 179(5) of the TAA	Finalised 4 June 2019	9
10.	Numerous follow-ups (this systemic issue excludes situations where taxpayers are represented by tax professionals)	Finalised 4 June 2019	11
11.	PAYE Statement of Account (SOA)	Ongoing	17
12.	SARS revising assessment without issuing a letter of findings	Finalised without resolving	20
13.	Refunds paid into the wrong bank accounts	Finalised 4 June 2019	12

No	Systemic issue	Status as at 31/03/2020	Corresponding number on S19 Report
14.	EFiling profile hijacking	Finalised 8 November 2019	14
15.	Delays in eFiling profile transfers between tax practitioners due to a system error. (Tax practitioners were advised by SARS that it was waiting for the system developer to undertake system repairs.)	Finalised 4 June 2019	8
16.	Incorrect correspondence relating to condonation of late filing of objection from the previous year or years.	Finalised 4 June 2019	10
17.	Inability on the part of SARS to confirm manual correspondence was sent.	Ongoing	13
18.	SARS incorrectly invalidating requests for remission of penalties or interest.	Finalised 8 November 2019	25
19.	SARS levying administrative penalties on taxpayers who were not required to file returns.	Finalised 4 June 2019	24
20.	Failure to respond to requests for a deferral of payment, or compromise or suspension of payment, within the prescribed turnaround time of 21 days.	Ongoing x 3	21, 22, 23
21.	SARS raising assessments prematurely.	Ongoing	16
22.	SARS issuing duplicate income tax numbers.	Finalised 8 November 2019	18
23.	Process followed by SARS in correcting the Retirement Annuity Contribution (RAF) amounts carried forward.	Finalised 4 June 2019	19

## Key performance indicators, planned targets and actual achievements

### Programme 2: Systemic Investigation

<b>Strategic objectives</b>	Identify and investigate systemic issues from complaints received.	Provide reports on systemic investigations requested by the Minister and/or initiated by the Tax Ombud .
<b>Performance indicator</b>	% of systemic issues identified and investigated within three months.	% of systemic investigations approved by the Minister of Finance completed within an agreed upon turnaround time.
<b>Actual achievement 2016/17</b>	Target not planned	Target not planned
<b>Actual achievement 2017/18</b>	Target not planned	Target not planned
<b>Actual achievement 2018/19</b>	100%	100%
<b>Planned target 2019/20</b>	100%	100%
<b>Actual achievement 2019/20</b>	100%	0
<b>Indicator status</b>	Achieved	Not achieved
<b>Deviation from planned target to actual achievement for 2019/20</b>	0%	-100%
<b>Comment on deviations</b>	No new systemic issues were identified and investigated during the financial year. The extra available time and effort was dedicated to ensuring the resolution of systemic issues already identified.	Information requests had to allow sufficient time for SARS to compile data sets necessitated by the scope and complexity of the two investigations. Analysis of extensive data sets was time consuming.



## Strategy to overcome areas of underperformance

Underperformance indicators	Strategies to address underperformance
Percentage of systemic investigations approved by the Minister of Finance completed within an agreed turnaround time.	The complexity and scope of investigations cause significant delays in obtaining credible data and conducting value-adding analysis thereof. Consideration will be given to limiting the scope or breaking down complex systemic issues into more focused components.

## Way forward

The focus will be on finalising the PAYE and Dispute Resolution Report and monitoring the existing list of systemic issues with the objective of ensuring that they are resolved and that issues on the list do not stagnate.



## 4.3 Programme 3: Awareness and Education

### Programme purpose

To promote awareness about the services of the Office of the Tax Ombud.

### Strategic objectives

Improve taxpayers' awareness of the services of the OTO.

### Highlights

The communication activities of the OTO are aligned to the OTO Annual Performance Plan and guided by a Communication Strategy aimed at ensuring the Office and its services are accessible, credible and easily understandable. Various communications platforms were used to position and shape the reputation of the OTO and promote its services. Considerable emphasis was placed on thought leadership engagements, creating awareness through outreach programmes in the provinces and building and strengthening relationships with stakeholders.

In 2019/20, the Office undertook 252 activities. This was 92 above the set target of 160. The activities entailed partnerships, presentations and the use of advertising and media to create awareness about the services the OTO offers. In addition, free publicity was generated in the form of thought leadership content, newsworthy events, exhibitions to encourage interactions with taxpayers, media releases and interviews on broadcast and print media. This publicity delivered public relations value worth more than R22 million.

## Communications, outreach campaigns and stakeholder engagements

Awareness and education in the OTO play a fundamental supporting role to ensure that both internal and external stakeholders are well informed about its mandate and services. During the year, various communications, outreach campaigns and stakeholder engagement activities were conducted to promote awareness and sound relations with internal and external stakeholders.



## Employee communications

Employee communications is aimed at promoting the sharing of information, collaboration and two-way communication, particularly about the Office's strategic intent and performance. Employee communication channels include an internal newsletter, employee communications, leadership face-to-face briefings and meetings.

## Outreach campaigns

The Office held community outreach campaigns in township and urban areas to create awareness of the OTO's services and how township and urban residents can access the services. The community outreach was conducted in different private and public institutions in Gauteng, Limpopo and North West.

The community outreach campaigns were held in the format of presentations, exhibitions and distribution of electronic leaflets in various institutions as follows:



### Presentations

The OTO regularly conducted educational presentations about its services to taxpayers and tax practitioners in various industries. The following **presentations** took place during the reporting period.

### Public sector

- Capricorn District Municipality
- Chris Hani Baragwanath Academic Hospital
- City of Tshwane Metropolitan Municipality
- Department of Arts and Culture
- Department of Basic Education
- Department of Environment, Forestry and Fisheries
- Department of Mineral Resources and Energy
- Department of Planning, Monitoring and Evaluation
- Department of Rural Development and Land Reform
- Department of Social Development
- Department of Telecommunications and Postal Services
- Department of Tourism
- Department of Transport
- Department of Water and Sanitation
- Edenvale Hospital
- Gauteng Department of Economic Development
- Government Communications and Information System
- Leratong Hospital
- Limpopo Department of Education
- Limpopo Department of Health
- Limpopo Department of Transport
- Limpopo Economic Development Agency
- Limpopo Office of the Premier
- Louis Trichardt Hospital
- Mamelodi Hospital
- Maria Rantho Health Centre in Soshanguve
- Mopani District Municipality
- Pietersburg Hospital
- SABC Limpopo

- SARS
- Seshogo Hospital
- Small Enterprise Development Agency
- Soshanguve Police Station
- South African Local Government Association
- South African National Roads Agency
- State Information Technology Agency
- The Presidency
- Tshwane District Hospital
- Unemployment Insurance Fund

## Private sector

- Absa Bank
- Accounting Indaba
- Cape Town Chamber of Commerce and Industry
- Capricorn FM
- Health and other Services Personnel Trade Union of South Africa
- KPMG
- Life The Glynnwood Hospital
- Norland Products Inc
- South African Institute of Professional Accountants
- Tax Indaba



## Distribution of electronic marketing material

The Office distributed an educational **electronic infographic** marketing leaflets as part of awareness and education about its services. The leaflets were distributed at the following institutions:

- Department of Human Settlements
- Department of Social Development
- Life Carstenhof Hospital
- Life Flora Hospital
- Life Poortview Hospital
- Life Wilgeheuwel Hospital
- South African Qualifications Authority



## Exhibitions

The Office held **exhibitions** for taxpayers in government entities and the private sector. In the year under review, 14 exhibitions were held in Limpopo, Gauteng and North West at the following events or organisations:

- Life Brenthurst Hospital
- Life Fourways Hospital
- Life Kensington Hospital
- Life River Field Mental Health Hospital
- Madibeng Local Municipality
- Mall of the North
- MTN Walk the Talk
- SAIPA East Rand District Convention
- Savannah Mall
- Small Enterprise Development Agency
- South African Police Service in Randburg
- Tax Indaba
- World Consumer Rights Day Exhibition at Soshanguve Crossing

## Stakeholder engagements

Stakeholder partnerships have been a highlight in assisting the OTO to achieve its objectives and initiatives. These initiatives positioned the OTO as an organisation that is able to collaborate and ensure that taxpayers are able to access the OTO in various formats. Below are the OTO stakeholder partnerships that have been highlights during the period.

### Dialogue with the Tax Ombud

The Tax Ombud, Judge Bernard Ngoepe, led two dialogues around taxpayers' rights and challenges in relation to SARS. The first dialogue was conducted in Polokwane in partnership with media house Tiso Blackstar in July, and attended by taxpayers, government representatives, tax practitioners and small, medium and large enterprises. The second dialogue was held in partnership with the Mail & Guardian Critical Thinking Forum in February 2020 in Johannesburg. This dialogue was an opportunity for stakeholders such as SARS, industry experts, taxpayers, media and other Ombuds to discuss the OTO's structural independence from the revenue authority.

### Launch of the Tax Ombud's Annual Report

In October 2019, the Tax Ombud 2018/19 Annual Report was launched in partnership with the University of Cape Town and supported by media house Tiso Blackstar. The thought leadership event was also part of the OTO's sixth anniversary celebrations and was attended by industry experts, media, academics, taxpayers and representatives from small, medium and large businesses. This event attracted considerable media coverage on numerous platforms.

### Webinars

The OTO conducted a number of webinars, using platforms organised by the South African Institute of Tax Practitioners (SAIT) and the Financial Planning Institute (FPI). These webinars enabled the OTO to interact with tax practitioners and consultants around pertinent matters concerning SARS and the OTO's processes and procedures.

### Stakeholder newsletter

The OTO used the quarterly external stakeholder newsletter (Fair Play) to engage stakeholders by featuring articles on its strategic intent, tax-related issues and other matters relevant to taxpayers and tax practitioners. During 2019/20, four issues of Fair Play were published, made available to stakeholders, placed on the Office's website and communicated on the OTO social media platforms.

## Social media

The OTO continued to utilise its social media accounts on Twitter, Facebook, LinkedIn and Instagram to not only engage and educate stakeholders about services offered but also to provide direct and speedy responses to taxpayer enquiries posted on these platforms. The targeted educational messages and live coverage of OTO events generated significant growth in the use of these platforms. This growth was above that experienced by similar Ombuds institutions in South Africa. The growth analysis in comparison to other Ombuds was done through desktop research when posting content for OTO on social media platforms. The current financial year also featured the development of the OTO's Social Media Guidelines, an important document that creates awareness of some of the opportunities that social media present for the OTO, as well as making employees aware of how to manage the risks associated with the use of this kind of technology.

Social media growth was more significant on Twitter where the Office gained 1 314 unique followers (in the space of 12 months), most of whom are important stakeholders in the tax sphere. On Facebook, the organisation posted 277 new messages that were shared hundreds of times weekly. As of 31 March 2020, Instagram had 440 followers, and LinkedIn had 517 unique followers with an average of 30% of page visitors being from the accounting profession followed by 18% from the legal profession. Twitter was the most interactive platform as per the table below:

**Table 1: Twitter performance for 2019/20 financial year**

Quarter (Q)	New tweets	Impressions	Visits	New followers
Q1	144	80 200	1 772	417
Q2	145	69 900	1 587	505
Q3	204	213 300	3 173	65
Q4	123	139 100	1 827	327
<b>TOTAL</b>	<b>616</b>	<b>502 500</b>	<b>8 359</b>	<b>1 314</b>

An OTO Digital Communications Framework has been developed and details how the OTO plans to grow its social media presence and influence, as well as other platforms that will be introduced in the next five years. Social media are an important element of the OTO's digital transformation to meet present and future stakeholder expectations about how they prefer to engage with the Office and receive information.

## Website

The OTO website [www.taxombud.gov.za](http://www.taxombud.gov.za) continues to be an important tool that the organisation utilises to engage with stakeholders. It is an easily accessible repository where taxpayers and other stakeholders can find simplified information about the Office of the Tax Ombud, its services, as well as the complaint lodging process. In the year under review, there were 99 325 page visits and 32 067 users.

Plans are in the pipeline, as per the Digital Communications Framework, to improve the customer-centricity of the website, including the automation of the complaints lodgement process to facilitate easy access to OTO services. This is expected to greatly improve website traffic.

## Public relations

The OTO used media interviews, media releases and advertising channels to create awareness about its services and strategic intent. This resulted in the OTO receiving coverage in the below platforms:



### Radio

- Bush Radio
- Capricorn FM
- Classic FM
- Energy FM
- Ligwalagwala FM
- Munghana Lonene
- Phalaphala FM
- Power FM
- Radio 702
- Radio 786
- SAFM Radio
- Thobela FM
- Tshwane FM
- Voice of Cape Town



### Television coverage

- CNBC Africa Power Lunch
- ENCA News bulletin
- Newzroom Africa
- SABC 1, 2, 3 news bulletin
- SABC channel 404 news bulletin
- SABC Morning live
- Yilungelo Lakho



## Print coverage

- Bonus
- Business Day
- Capricorn Voice
- City Press
- Daily Dispatch
- Daily Sun
- Mail & Guardian
- Polokwane Observer
- Pretoria News
- Sowetan
- The Citizen
- The Star
- Volksblad



## Digital coverage

- Business Day
- City Press
- ENCA
- Eyewitness News
- Fin 24
- Herald Live
- Independent Online
- MoneyWeb
- SABC News Online
- SowetanLIVE
- Sunday World Live
- The Citizen

## Advertising campaigns

Advertising was used as a communication tool to create awareness and reach out to taxpayers whom the OTO were not able to reach through traditional platforms and to increase accessibility. In the year under review, various paid educational advertising campaigns were flighted in various platforms to create awareness during SARS Tax Filing Season.

The OTO launched its educational awareness campaign in Polokwane in June 2019 to ensure that taxpayers, who were not able to attend physical events were informed through radio, print and out of home advertising. The other activity that followed during the educational awareness effort was the advertising of the Tax Ombud's dialogue in partnership with Tiso Blackstar in Polokwane where taxpayers were informed through print media on the upcoming event and its key points after the event.

The OTO further positioned its services through advertising on Radio 702 at the annual MTN Walk the Talk 702 race event that was held in Johannesburg in July 2019.

As part of sharing information about its reporting, the OTO used various advertising platforms to launch the Tax Ombud 2018/19 Annual Report in Cape Town in October 2019. In February 2020, the OTO as part of its call to action, used advertising to publicise its dialogue in partnership with Mail & Guardian Critical Thinking Forum in Johannesburg. The paid advertising was in the form of print, broadcast and sponsored social media. In addition, to ensure that the OTO continued to have brand presence and created awareness on digital platforms during the festive season, a digital advertising campaign was flighted in December 2019 and January 2020.





## Radio advertising

- Cape Talk
- Capricorn FM
- Energy FM
- Munghana Lonene FM
- Phalaphala FM
- Radio 702
- Thobela FM



## Print advertising

- Bonus
- Business Day
- Cape Argus
- Cape Times
- Capricorn Voice
- Die Burger
- Financial Mail
- Mail & Guardian
- Personal Finance
- Polokwane Observer
- Pretoria News
- Review
- Sowetan
- Sunday Times
- The Mercury
- The Star



## Digital advertising

- Beeld
- Bonus
- Capricorn FM
- Capricorn Voice
- City Press
- Die Burger
- Energy FM
- Google ads
- Kick Off
- Mail & Guardian
- Netwerk 24
- Polokwane Observer
- Rapport
- Review
- Soccer Laduma
- Son
- Volksblad



## Paid social media advertising

- Business Live Facebook and Twitter
- Capricorn FM Twitter and Facebook
- Energy FM Twitter and Facebook
- Facebook
- Instagram
- LinkedIn
- Mail & Guardian Facebook and Twitter
- Radio 702 Twitter and Facebook
- Tiso Blackstar Events Facebook and Twitter
- Twitter
- YouTube

## Key performance indicators, planned targets and actual achievements

### Programme 3: Awareness and Education

<b>Strategic objectives</b>	Improve taxpayers' awareness of the services of the OTO	
<b>Performance indicator</b>	Number of external newsletters published	Number of educational outreach campaigns and stakeholder engagements, media engagements advertising conducted
<b>Actual achievement 2016/17</b>	Target not planned	139
<b>Actual achievement 2017/18</b>	Target not planned	194
<b>Actual achievement 2018/19</b>	Target not planned	326
<b>Planned target 2019/20</b>	4	160
<b>Actual achievement 2019/20</b>	4	252
<b>Indicator status</b>	Achieved	Achieved
<b>Deviation from planned target to actual achievement for 2019/20</b>	0	92
<b>Comment on deviations</b>	N/A	<p>This was due to the collaborations and demand for OTO services by stakeholders and concerted efforts in securing presentations from both private and public sector institutions. Newsworthy thought leadership content and growing interest among the media about the OTO generated extra media coverage.</p> <p>Negotiations with media owners for additional airtime enabled the OTO to obtain more advertising exposure on various platforms.</p>

## Way forward

In preparation for the next five years as per the Strategic Plan 2020 – 2025, the OTO has developed a Digital Communications Framework, Stakeholder Engagement Framework and Community Outreach Framework. These frameworks are aimed at facilitating the digital transformation of the OTO as well as improving its engagements with stakeholders in the public and private sectors, including taxpayers and Recognised Controlling Bodies. The intention is to facilitate improved and easier access to OTO services and thus customer-centricity and user-experience.

The next five years will also see the OTO placing more emphasis on providing an efficient real-time quality communication process that is responsive and promotes clarity of information, as well as on creating opportunities and implementing stakeholder engagements and collaborations.

The Stakeholder Engagement Framework will assist the OTO to analyse the target audience segmentation and the messages will be tailor-made for each audience to ensure that the messages have an impact and encourage taxpayers to access the services of the OTO. The framework also aims to develop a communication action plan that will enable the public to access OTO information via print and broadcast media (regional and national) and distribution of educational marketing collateral on the work of the OTO. This framework will include stakeholder mapping (target audiences), identify key messages and suitable communication channels, and propose specific communication and stakeholder participation activities to be implemented as part of the OTO five-year strategic plan. In addition, the OTO will use digital platforms as per the digital framework to promote awareness, accessibility and education.

## 4.4 Programme 4: Legal and Support Services

### Programme purpose

In support of the strategic goals, Legal and Support Services will ensure the highest level of corporate governance, including financial management, strive for the relevant legislative and structural changes for independence, ensure performance management throughout the organisation and build a culture of professionalism and excellence.

### Strategic objectives

- Provide effective, good-quality recommendations on complaints presented to the case review committee.
- Develop OTO employment equity numerical targets (EE, gender and disability).
- Effectively and economically reduce the cost of reviewing and addressing complaints.

### Highlights

During the year under review, the Office introduced a reward and recognition programme called Anser Indicus, which is a values-based reward system to inspire employees to achieve excellence in their work and to enhance employee morale.

During the year, five managers enrolled for the Management Development Programme, which is an NQF Level 6 qualification, in partnership with the SARS Institute of Learning. For training and development more broadly, employees of the OTO spent about 103 training days attending 55 different training interventions.

## Key performance indicators, planned targets and actual achievements

### Programme 4: Legal and Support Services

Strategic objectives	Effectively and economically reduce the cost of reviewing and addressing complaints.	Develop OTO employment equity numerical targets (EE, gender and disability).			Provide effective, good-quality recommendations on complaints presented to the review committee.
Performance indicator	Average cost reduction per complaint, year on year	Percentage of black employees employed by the OTO	Percentage of females employed by the OTO	Percentage of disabled persons employed by the OTO	Number of committee review decisions overturned by the appeals committee
Actual achievement 2016/17	Target not planned	Target not planned	Target not planned	Target not planned	Target not planned
Actual achievement 2017/18	-100%	Target not planned	Target not planned	Target not planned	Target not planned
Actual achievement 2018/19	0%	112%	102.5%	0%	Target not planned
Planned target 2019/20	1%	90%	51%	2%	8
Actual achievement 2019/20	75%	85%	52.5%	0%	4
Indicator status	Not achieved	Not achieved	Achieved	Not achieved	Achieved
Deviation from planned target to actual achievement for 2019/20	76%	-5%	1.5%	-2%	4
Comment on deviations	The cost of finalising a complaint for the financial year was R3 044. The employee costs increase every year as a result of annual salary increases. The number of complaints decreased during the third and fourth quarter of the 2019/20 financial year.	There were no new posts available due to funding challenges. Only two employees resigned during 2019/20.	The Office's recruitment drive has always been focused on females.	The OTO recruitment processes encouraged people with disabilities to apply for positions; however, when positions were advertised, the Office did not receive applications from people with disabilities.	A cross-functional committee with different areas of expertise and experience ensures cases are evaluated and reviewed from different perspectives, thereby mitigating the risk of incorrect decisions being made about complaints.

## Strategy to overcome areas of underperformance

Underperformance indicators	Strategies to address underperformance
Percentage of black employees employed by the OTO	The Office had suspended the filling of vacant posts due to budget constraints. The existing vacancies were due to the two resignations during the financial year. The Office is committed to complying with the employment equity target set.
Percentage of disabled persons employed by the OTO	The Office had suspended the filling of vacant posts due to budget constraints. The existing vacancies were due to the two resignations during the financial year. The Office is committed to complying with the employment equity target set. The Office will be engaging with SARS to enable it to have its own recruitment process aligned to best practice in recruiting persons with disabilities.
Average cost reduction per complaint, year on year	In the Strategic plan 2025, the Office has committed to the realignment of its resources by introducing a digital complaints resolution and human resources framework to maximise efficiency. This will enable the Office to become more agile and be able to meet its demands.

## Way forward

The OTO is committed to providing a consistently high-quality service that is taxpayer-centric and provided at minimal cost, and has decided on the following action steps, included in the Strategic plan 2025, to achieve these service levels:

- Develop and implement a human resources strategy that encourages a level of professionalism and high performance by OTO employees;
- Develop and implement a training plan for staff members;
- Conduct a capacity study on a five-year plan to determine the OTO's ability to meet future demand for its services;
- Develop and implement an independent governance framework with efficient and effective governance structures, including internal and external assurance mechanisms;
- Develop and implement a risk management framework, and
- Maintain an unqualified audit report record for performance and financial information.
- A possible compendium of taxpayer rights and obligations will be researched and developed over the next medium term strategic framework period.
- Legislation that relates to the OTO will be considered on an annual basis going forward and proposals for amendments will be made should the need arise to strengthen or enhance the mandate of the OTO.
- Current service level agreements (SLAs) and memoranda of understanding (MOUs) must be maintained and improved, if required, in line with their respective review clauses.
- The normal day-to-day support activities that both Legal Services and Systemic Investigation provide to the other divisions within the OTO will continue.
- An electronic template will be introduced for the review committee to make the evaluation of complaints more efficient and economical.
- Opinions, drafting, vetting and advice will continue as and when needed.

# PART C



## Governance



# 1. INTRODUCTION

The main statutes that govern the Office of the Tax Ombud are the Tax Administration Act 28 of 2011 and the Public Finance Management Act 1 of 1999. In addition, the Office subscribes to the principles contained in the King IV Report on Corporate Governance and is bound by various other South African government prescripts that govern the functioning of public institutions.

The Office will continue to improve its control environment to ensure it utilises public resources with due care and accountability in the interests of delivering the best possible services to stakeholders.

# 2. PORTFOLIO COMMITTEES

The Tax Ombud and the Acting CEO of the Office attended two parliamentary portfolio committee meetings during the 2019/20 financial year.

**Table 1: Portfolio committee dates**

Name of the committee	Date	Details
Standing Committee on Finance	20 August 2019	Financial Family Parliamentary Induction Workshop
Standing Committee on Finance	25 November 2019	Finance meeting



## 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 described in section 50 and 51 of the PFMA.

### The role and responsibilities of the Tax Ombud include:

- Absolute responsibility for organisational performance in line with the OTO's 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;
- Formulating, monitoring and reviewing the corporate strategy, major plans of action, budgets and plans;
- Ensuring an adequate and effective risk management framework, and
- Developing a clear definition of materiality.

The Tax Ombud is appointed by, and reports to, the Minister of Finance. The Tax Ombud and the Minister of Finance have agreed on the protocol governing their relationship and defining the roles and functions of the Tax Ombud.

In 2019/20, all reports and plans that were required by the Minister and Parliament were submitted to National Treasury within the prescribed time, with the exception of the draft Tax Ombud Annual Report. To execute his duties, the Tax Ombud is assisted by the Chief Executive Officer and Senior Management.

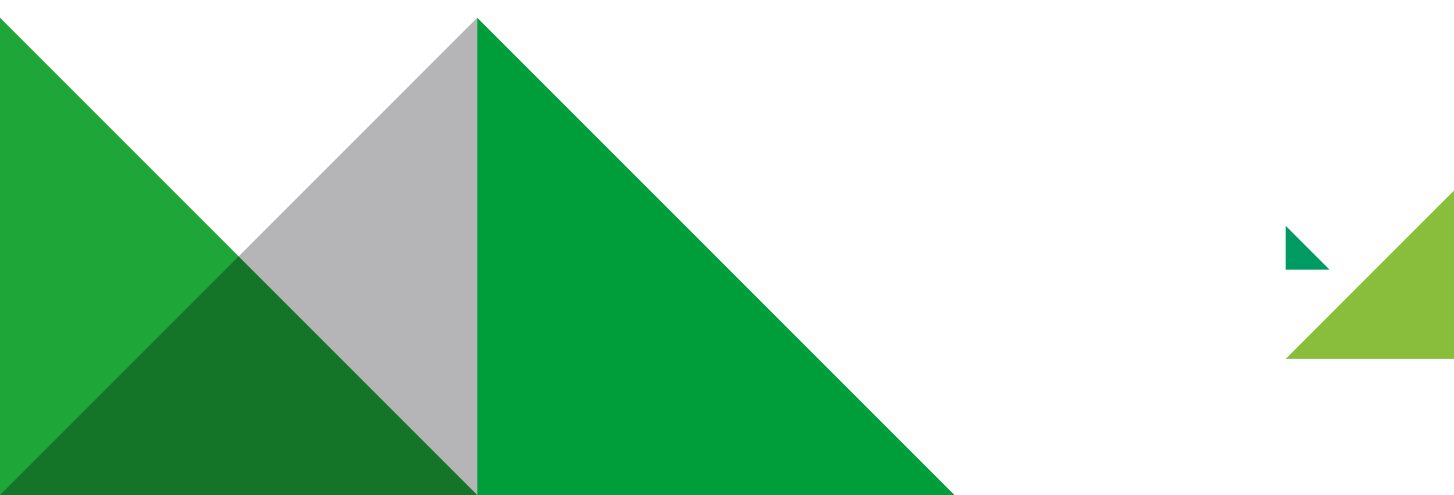
## 4. RISK MANAGEMENT

The OTO considers risk management as an important tool of governance, which helps ensure the continued sustainability of the OTO and the achievement of its strategic objectives. The Office reviewed its strategic risks and operational risk (table 2) during the year under review to identify areas of focus that can possibly hinder the achievement of the performance objectives.

**Table 2: Risk assessments**

Description	Date
<b>Strategic risk assessment</b>	28 and 29 October 2019
<b>Operational risk assessment:</b> Office Enablement	11 November 2019
<b>Operational risk assessment:</b> Legal and Support Services and Systemic Investigation	12 November 2019
<b>Operational risk assessment:</b> Operations	13 November 2019
<b>Operational risk assessment:</b> Communications and Outreach	14 November 2019

The Office does not have an internal risk committee; however, the Senior Management Committee monitors risks on a quarterly basis.



## 5. INTERNAL CONTROL

The OTO has put a number of internal control measures in place to strengthen governance, and to ensure that the quality of its work is of the desired standard.

### Senior Management Committee (SMC)

As stipulated in the terms of reference of this committee, the CEO chairs the Office of the Tax Ombud SMC. The committee exists to support the Tax Ombud in executing the mandate of the Office.

From 1 April 2019 to 31 March 2020, the Senior Manager: Legal, Mr Gert van Heerden, served as Acting CEO and chair of the SMC. The committee held nine meetings, including meetings to finalise the Strategic Plan and Annual Performance Plan.

**Table 3: Senior Management Committee meetings held in 2019/20**

Member	Position	Number of committee meetings attended
<b>Gert van Heerden</b>	Acting CEO and Chairperson of the SMC	9
<b>Mmamelao Malakalaka</b>	Senior Manager: Office Enablement	7
<b>Talitha Muade</b>	Senior Manager: Operations	9
<b>Pearl Seopela</b>	Senior Manager: Communications and Outreach	9
<b>Fundiswa Ngqeleni</b>	Acting Senior Manager: Legal	7
<b>Frik Pretorius</b>	Acting Senior Manager: Legal	1

After financial year-end, the SMC welcomed the newly appointed CEO, Prof. Thabo Legwaila, who joined the Office on 1 April 2020.

### Management Committee (MANCO)

The Management Committee was established to enable the first level of management to be involved in the operation of the business as whole, including the planning and implementation of the objectives of the Office.

The committee is chaired by the Senior Managers on a rotational basis. The committee held nine meetings during the 2019/20 financial year.



## 6. CODE OF CONDUCT

The OTO's employees are employed in terms of the SARS Act as per section 15 of the TAA. As such, the OTO has adopted the SARS Code of Conduct regulating employment matters.

## 7. CONTINUOUS IMPROVEMENT

The Office of the Tax Ombud, through its Continuous Improvement unit, embarked on a project to review all standard operating procedures and guidelines during the year as part of ensuring that effective processes are in place to increase efficiency in the Office. The purpose of the project was to ensure that all OTO employees are working on updated and approved documents. Other significant contributions made by Continuous Improvement were as follows:

### **Monthly survey on 'How did you hear about us?'**

The purpose of the monthly "how did you hear about us" survey was to assess the most effective marketing channels used to market the Office. By knowing how OTO customers are discovering the OTO brand, the Office can focus marketing and customer service efforts on channels and audiences that are best for the organisation. The results of the survey were shared with the Communications and Outreach business unit as a contribution to the OTO marketing strategy.

### **Customer satisfaction survey monthly reports**

The surveys assess the percentage of customers satisfied with the OTO complaints resolution process. The reports on the survey results were shared with the Operations business unit, together with recommendations to improve the survey questionnaire.

### **Footprint expansion research**

The purpose of the research was to establish if there was a need for the footprint of the OTO to be expanded to other geographical areas of South Africa. The research entailed examining the internal and external factors that should be taken into account in decisions on the Office's presence in the provinces and to identify geographical areas where the OTO should be represented. The findings were presented to the Senior Management Committee on 29 October 2019.



## 8. HEALTH, SAFETY AND ENVIRONMENTAL ISSUES

The Health and Safety Committee has been constituted to manage, avoid and control measures for the prevention of hazardous exposures and for protecting workers' health.

The Health and Safety Committee had three formal meetings during the 2019/20 financial year, one of which was postponed, as the quorum requirement was not met. A fire drill with evacuation was conducted on 3 July 2019.

When the President of South Africa announced and declared a national state of disaster toward the end of March 2020, the OTO closed its office from Thursday, 26 March 2020 to observe the nationwide 21-day lockdown in terms of the Disaster Management Act, and implemented steps to deal with the coronavirus outbreak. The OTO employees worked remotely from home, and the Office remained available remotely.

The Health and Safety team continued to monitor the spread of COVID-19 and provided updates to employees on emerging or identified risk areas related to the pandemic.

## 9. SOCIAL RESPONSIBILITY

The Office of the Tax Ombud continues to embrace Ubuntu and the spirit of giving to celebrate Nelson Mandela International Day on 18 July.

During the 2019/20 financial year, the OTO and its employees contributed generously to the commemoration of this important international initiative. Over the years, employees have donated furniture, food parcels, clothes, money and bedding in addition to cleaning schools and homes for those in need. On 18 July 2019, OTO spent 67 minutes making scarves and blankets to donate to a home for elderly people, the Eersterust Welfare Organisation for the Aged.

The money raised by OTO employees was spent on materials for making the scarves and blankets, as well as on purchasing toiletries and other basic items that were donated to the home.

# PART D



## **Human resource** management



# 1. INTRODUCTION

## 1.1. Overview

The OTO's human resources (HR) function provides HR services in line with the SARS HR Business Partnering model. HR function supports the goals and strategies of the institution, ensuring that HR planning and practices are applied consistently across the Office.

The majority of the employees within the OTO are in the Professional Qualified Occupational category, ensuring that specialists with the appropriate technical competencies deal with taxpayers' complaints. The total headcount of the OTO as at 31 March 2020 was 40 employees, compared to 44 at the end of March 2019.

The Office had 11 vacancies, as follows: Chief Executive Officer; Specialist: Corporate Editing and Publications; Specialist: Digital Media; four Operational Specialists: Complaints Resolution; Manager: Contact Centre, and three Graduate Trainees.

### Employee wellness

The Employee Wellness Programme is multi-faceted in the sense that it is geared towards ensuring holistic support for employees, including life management support services and stress reduction at work and at home, leading to improved employee retention, engagement and performance. The programme is known as "Kulani no Hlayisa".

## 1.2. Human resource oversight statistics

Personnel expenditure remains the main cost driver, representing 88% of the Office's total expenditure for the 2019/20 financial year.

**Table 1: Personnel cost by programme**

Programme	Total expenditure for the entity (R'000)	Personnel expenditure (R'000)	Personnel cost as a % of total expenditure	No of employees	Average personnel cost per employee (R'000)
Office of the Tax Ombud	40 916	36 145	88%	40	904





**Table 2: Training costs**

Programme	Number of training events	Number of training days
Office of the CEO	3	3
Office Enablement	11	17
Operations	31	67
Communications and Outreach	4	7
Legal	6	9
<b>TOTAL</b>	<b>55</b>	<b>103</b>

For the year under review, employees of the OTO spent 103 training days attending 55 different training interventions (table 2). This is internal training done through the SARS Institute of Learning and so there is no direct cost to the OTO. The main contributor as indicated in table 2 is the Operations unit, whose staff spent 67 training days attending training.

**Table: 3 Employment and vacancies by programme**

Programme	2018/19 no of employees	2019/20 approved posts	2019/20 no of employees	2019/20 vacancies	% of vacancies
CEO's office	5	5	4	1	20%
Office Enablement	12	13	12	1	7.69%
Operations	18	22	16	6	27.27%
Communications	5	7	4	3	42.86%
Legal	4	4	4	0	0%
<b>TOTAL</b>	<b>44</b>	<b>51</b>	<b>40</b>	<b>11</b>	<b>21.57%</b>

For the 2019/20 financial year, the OTO headcount decreased by four employees. Three were Graduate Trainees who resigned before their contracts expired in May and June 2020.

**Table 4: Employment and vacancies by levels**

Levels	2018/19 no of employees	2019/20 approved posts	2019/20 no of employees	2019/20 vacancies	% of vacancies
Top Management	2	2	1	1	50%
Senior Management	4	4	4	0	0%
Professional qualified	26	33	26	7	21.21%
Skilled	11	11	8	3	27.27%
Semi-skilled	1	1	1	0	0%
Unskilled	0	0	0	0	0%
<b>TOTAL</b>	<b>44</b>	<b>51</b>	<b>40</b>	<b>11</b>	<b>21.57%</b>

**Table: 5 Employment changes**

Salary band	Employment at beginning of period	Appointments	Terminations	Employment at end of the period
Top Management	2	0	1	1
Senior Management	4	0	0	4
Professional qualified	26	1	1	26
Skilled	11	0	3	8
Semi-skilled	1	0	0	1
Unskilled	0	0	0	0
<b>TOTAL</b>	<b>44</b>	<b>1</b>	<b>5</b>	<b>40</b>

During the year under review, there were five resignations, comprising the Chief Executive Officer, Specialist: Editing and Publications, and three Graduate Trainees.

**Table 6: Reasons for staff leaving**

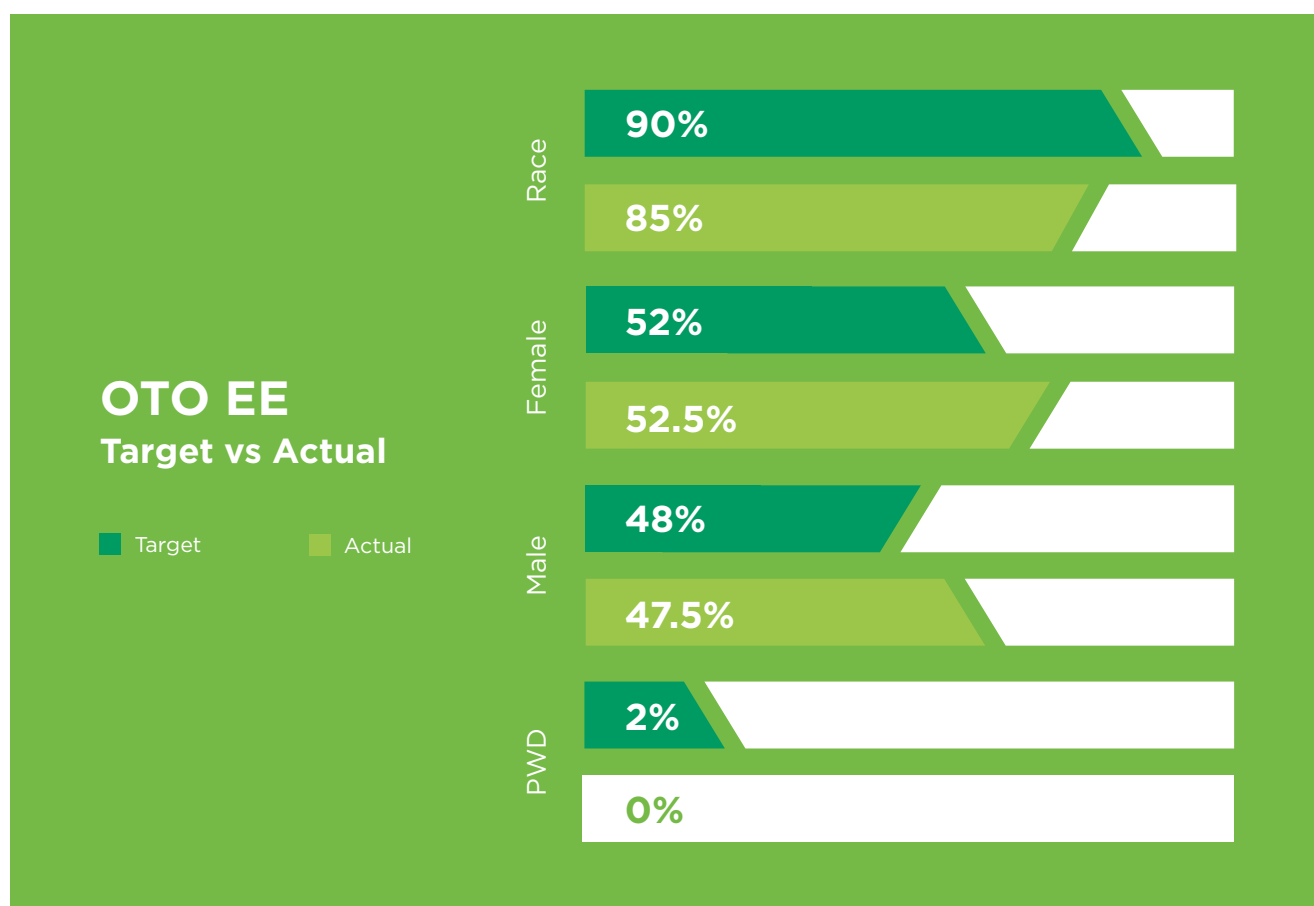
Reason	Number	Percentage
Death	0	0%
Resignation	5	100%
Dismissal	0	0%
Retirement	0	0%
Ill-health	0	0%
Expiry of contract	0	0%
Other	0	0%
<b>TOTAL</b>	<b>5</b>	<b>100%</b>

**Table: 7 Labour relations: Misconduct and disciplinary action**

Nature of disciplinary action	Number
Verbal warning	0
Written warning	0
Final written warning	1
Dismissal	0

## Equity target and employment equity status

The main objective of the employment equity (EE) agenda was to ensure that the Office's workforce was reflective of the country's economically active population (EAP) demographics.



Female employees represented 52.5% of the OTO's workforce, against the gender target of 52.00%. Black employees accounted for 85% of employees, compared to the target of 90%. Every effort was made to recruit and appoint people with disability; however, the OTO has still not achieved its target for people with disability (PWD).

**Table 8: Employment equity by gender – Males**

Levels	Male							
	African		Coloured		Indian		White	
	Current	Target	Current	Target	Current	Target	Current	Target
Top Management	1	1	0	0	0	0	0	0
Senior Management	0	0	0	0	0	0	1	1
Professional qualified	12	12	0	0	0	0	3	3
Skilled	2	2	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
<b>TOTAL</b>	<b>15</b>	<b>15</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>4</b>	<b>4</b>

**Table 9: Employment equity by gender – Females**

Levels	Female							
	African		Coloured		Indian		White	
	Current	Target	Current	Target	Current	Target	Current	Target
Top Management	0	0	0	0	0	0	0	0
Senior Management	3	3	0	0	0	0	0	0
Professional qualified	10	10	0	0	0	0	1	1
Skilled	5	5	0	0	0	0	1	1
Semi-skilled	1	1	0	0	0	0	0	0
Unskilled	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>19</b>	<b>19</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>2</b>

**Table 10: Employment equity by disability**

Levels	Disabled			
	Male		Female	
	Current	Target	Current	Target
Top Management	0	0	0	0
Senior Management	0	0	0	0
Professional qualified	0	0	0	0
Skilled	0	0	0	0
Semi-skilled	0	0	0	0
Unskilled	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

# PART E



## **Financial** information



# 1. ANNUAL FINANCIAL INFORMATION



## Expenditure relating to the Office of the Tax Ombud

The purpose of the financial report is to provide an overview of the financial expenditure in the OTO from 1 April 2019 to 31 March 2020. 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 since the establishment of the OTO and between the 2018/19 and 2019/20 financial years, as well as actual versus budgeted expenditure.

The National Treasury approved a total budget of R40,3 million for the 2019/20 financial year. In October 2019, National Treasury further approved an amount of R5,3 million relating to the 2018/19 retained surplus in terms of section 53(3) of the of the Public Finance Management Act of 1999. The budget therefore increased to R45,6 million. The employee cost is one of the main cost drivers of the Office and represents 88% of the total expenditure. The total headcount decreased by 9% in 2019/20 financial year (from 44 in 2018/19 to 40 in 2019/20). There were five resignations during the financial year.

Table 1 indicates expenditure per cost element and total expenditure for the year. The total revised budget for the 2019/20 financial year, including the retained surplus of R5,3 million is R45,6 million. The total expenditure for the year is R40,9 million resulting in a variance of R4,7 million. The main contributors to the variance were IT system enhancement, which did not materialise as planned, underspending on personnel expenditure due to delays in filling vacant positions, timing on media bulk buying that was impacted by COVID-19 social distancing precautionary measures and delays in designing the OTO digital SharePoint system. The run rate at the end of the financial year was 90%.

**Table 1: Expenditure per cost element and total expenditure**

Cost element	2019/20				2018/19			
	YTD actual (R'000)	Budget (R'000)	Variance (R'000)	% Variance	YTD actual (R'000)	Budget (R'000)	Variance (R'000)	% Variance
Personnel expenditure	36 145	37 554	1 409	4%	33 320	36 080	2 760	8%
Administrative expenditure	645	1 040	395	38%	1 299	1 660	361	22%
Inventory and printing	451	850	399	47%	513	998	485	49%
Professional and special services	3 425	5 617	2 192	39%	5 356	6 318	962	15%
Facilities expenditure	209	335	126	37%	374	756	382	51%
Capex	40	230	190	83%	239	607	368	61%
<b>TOTAL OPERATING AND CAPITAL EXPENDITURE</b>	<b>40 916</b>	<b>45 626</b>	<b>4 711</b>	<b>10%</b>	<b>41 102</b>	<b>46 420</b>	<b>5 318</b>	<b>11%</b>

## Commentary per cost element

### 1. Personnel expenditure

Personnel expenditure consists of total cost to company, overtime, benefits and other staff costs, such as training and development cost and bursary.

Personnel expenditure increased by 8% from R33,3 million in 2018/19 financial year to R36,1 million in 2019/20 financial year. There were five vacancies during the financial year and two of them were during the first and second quarter respectively. The variance of R1,4 million is as a result of delays in filling of vacant positions. The portion of the variance relates underspending on bursaries and recruitment cost.

### 2. Administrative expenditure

The main contributor to the variance of R395 000 on Administrative expenditure is underspend on international travel cost as a result of COVID-19 precautionary measures.

### 3. Inventory and printing

There were delays in designing the OTO SharePoint because procurement was unable to appoint the right service provider. There were delays in receiving and processing invoices in March 2020 relating to printing of marketing materials. This resulted in a variance of R399 000.

### 4. Professional and special services

Professional and special services cost element consists of information technology (IT) costs, advertising and media bulk buying. There was a variance of R2,1 million due to IT system enhancements not materialising as planned due to insufficient funding and postponement of digital campaign media bulk buying as a result of COVID-19 precautionary measures.

### 5. Facilities expenditure

The variance of R126 000 relates to underspend on exhibitions and events.

### 6. Capital expenditure

The variance of R190 000 on capital expenditure is mainly because of delays in procurement of IT equipment.

Table 2 depicts the actuals and budget for the 2018/19 and 2019/20 financial years, and the budgets for those years, as well as the percentage of the budget utilised, which indicates an increase.

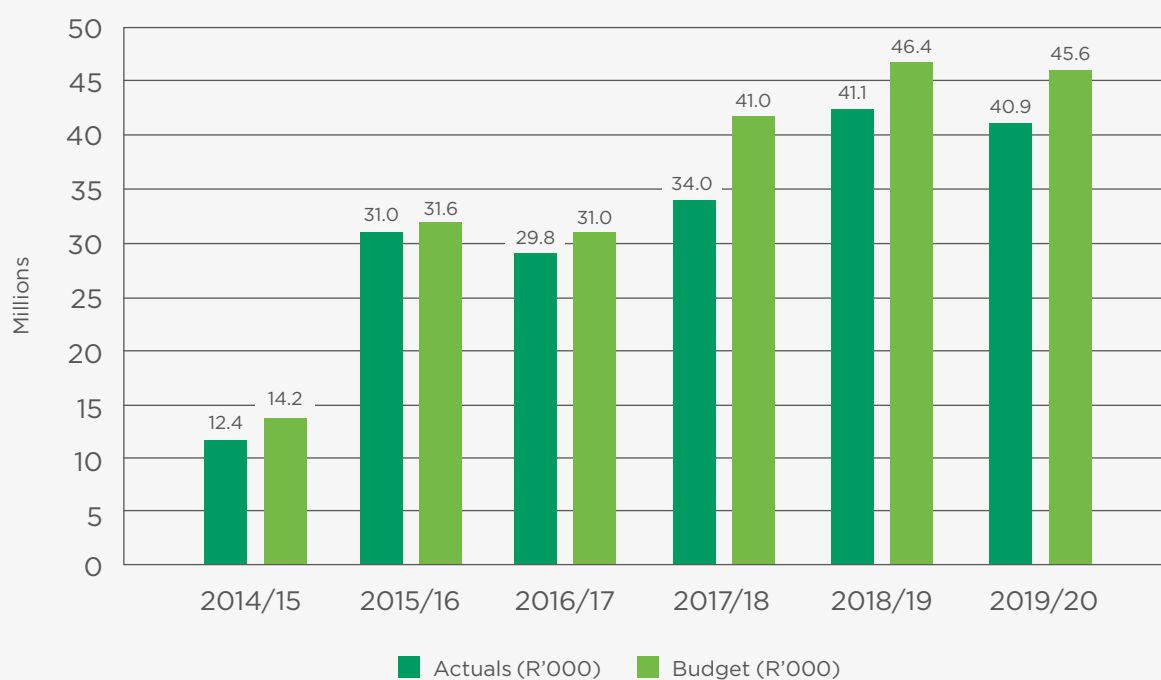


**Table 2: Percentage utilisation of the allocated budget**

Financial year	Actual (R'000)	Budget (R'000)	Utilisation of the allocated budget
2018/19	41 102	46 420	89%
2019/20	40 916	45 626	90%

The below graph shows a graphical presentation of actual expenditure and budgets for the previous financial years since the establishment of the OTO. There was an increase in actual expenditure and budget because of increase in demand for services and the headcount increase.

### Actuals versus budget expenditure trends

**Graph 1: Actual spending versus budget trends**

Graph 2 depicts the actual expenditure to budgeted expenditure comparison. In all, 90% of the total budget was utilised and 88% of the budget was spent on employee costs.

## 2019/20 Actual to budget comparison

Graph 2: 2019/20 Actual to budget comparison

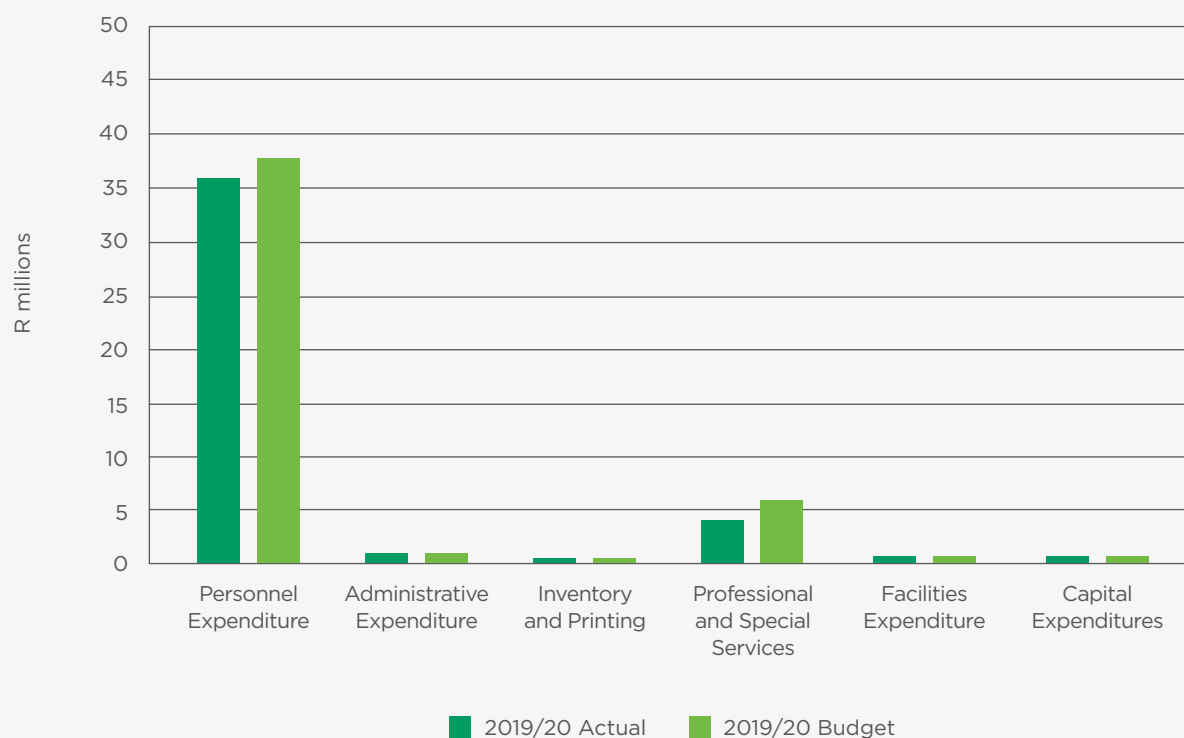


Table 3 indicates costs incurred by SARS on behalf of OTO and includes building rent, security and cleaning services and protection services.

**Table 3: Costs incurred by SARS on behalf of OTO**

Costs Incurred by SARS on behalf of OTO in 2019/20 Financial Year	
Description	Amount in Rands (R)
Building Rent	R2 698 118
Operating Cost	R583 402
Water and Electricity	R477 804
Rates and Taxes	R386 490
Cleaning Service	R321 943
Security Service	R746 051
Protection Services	R821 962
Performance Bonus	R1 543 636
<b>TOTAL</b>	<b>R7 579 408</b>

# 1. ABBREVIATIONS / ACRONYMS




<b>ADR</b>	Alternative Dispute Resolution
<b>APP</b>	Annual Performance Plan
<b>CEO</b>	Chief Executive Officer
<b>CFO</b>	Chief Financial Officer
<b>CIT</b>	Corporate income tax
<b>CMO</b>	Complaints Management Office
<b>COVID-19</b>	Coronavirus Disease 2019
<b>EAP</b>	Economically active population
<b>EE</b>	Employment Equity
<b>FPI</b>	Financial Planning Institute
<b>GEPF</b>	Government Employees Pension Fund
<b>HR</b>	Human resources
<b>IT</b>	Information technology
<b>IT</b>	Individual tax
<b>ITS</b>	Income Tax System
<b>MANCO</b>	Management Committee
<b>MOU</b>	Memorandum of understanding
<b>NQF</b>	National Qualification Framework
<b>OTO</b>	Office of the Tax Ombud
<b>PAYE</b>	Pay-as-you-earn
<b>PFMA</b>	Public Finance Management Act

<b>RAF</b>	Retirement Annuity Fund
<b>RCB</b>	Recognised Controlling Bodies
<b>RCE</b>	Return Control Enquiry
<b>RCT</b>	Return Control Tables
<b>SABC</b>	South African Broadcasting Corporation
<b>SAIPA</b>	South African Institute of Professional Accountants
<b>SAIT</b>	South African Institute of Tax Practitioners
<b>SARS</b>	South African Revenue Service
<b>SC</b>	Senior Counsel
<b>SDL</b>	Skills Development Levy
<b>SLA</b>	Service Level Agreement
<b>SMC</b>	Senior Management Committee
<b>SOA</b>	Statement of Account
<b>SOP</b>	Standard operating procedures
<b>TAA</b>	Tax Administration Act
<b>TCS</b>	Tax Compliance System
<b>TPA</b>	Third party appointment
<b>UIF</b>	Unemployment Insurance Fund
<b>VAT</b>	Value added tax
<b>VDP</b>	Voluntary Disclosure Programme







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