



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

# **TAX OMBUD ANNUAL PERFORMANCE PLAN 2018/19**



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# 1. ABBREVIATIONS

<b>APP</b>	Annual Performance Plan
<b>CAPEX</b>	Capital expenditure
<b>CEO</b>	Chief Executive Officer
<b>CMO</b>	Complaints Management Office
<b>eChannels</b>	Electronic channels
<b>ENE</b>	Estimates of National Expenditure
<b>GTAC</b>	Government Technical Advisory Centre
<b>IT</b>	Information technology
<b>MOU</b>	Memorandum of understanding
<b>MTEF</b>	Medium Term Expenditure Framework
<b>NDP</b>	National Development Plan
<b>NT</b>	National Treasury
<b>OTO</b>	Office of the Tax Ombud
<b>PESTEL</b>	Political, Economic, Social, Technological, Environmental and Legal
<b>PFMA</b>	Public Finance Management Act 1 of 1999
<b>RCB</b>	Recognised Controlling Bodies
<b>SARS</b>	South African Revenue Service
<b>SCOF</b>	Standing Committee on Finance
<b>SLA</b>	Service level agreement
<b>SP</b>	Strategic Plan
<b>SWOT</b>	Strengths, weaknesses, opportunities and threats
<b>TAA</b>	Tax Administration Act
<b>TO</b>	Tax Ombud
<b>VOIP</b>	Voice Over Internet Protocol

## 2. FOREWORD BY THE TAX OMBUD

**THE 2017/18 FINANCIAL YEAR WAS STIMULATING AND CHALLENGING FOR THE ORGANISATION AND THE COUNTRY. THE OFFICE'S CHOSEN THEME FOR THIS YEAR IS BRIDGING THE GAP TO FAIRNESS, FOCUSING ON IMPROVING TAXPAYERS' ACCESS TO JUSTICE.**

The financial and political volatility, coupled with increased public anger over the misuse and abuse of taxes, directly and indirectly affected the functioning of my Office and the South African Revenue Service (SARS). The number of taxpayers who approached the Office for assistance more than tripled, putting extra strain on the already overstretched financial and human resources of the organisation. Nevertheless, we had a fruitful year, especially given the amendments to the Tax Administration Act (TAA), which not only reduced our dependence on SARS but gave rise to our first-ever systemic investigation and the release of an insightful report into delays in the payment of tax refunds.

Taking into consideration the ongoing challenges facing both the country and our organisation, we have devised an ambitious and workable 2018/19 Annual Performance Plan, which is aligned to our strategic objectives as conveyed in the Strategic Plan 2018–2023. We are confident that this Strategic Plan will push us to outdo our past achievements, encourage taxpayers and other stakeholders to have trust and confidence in the Office and the services we provide, and have a powerful, positive impact on South Africa's tax administration system.



Judge Bernard Ngoepe, Tax Ombud.

## **ALL RELEVANT INFLUENCES CONSIDERED**

In formulating this Annual Performance Plan, the Strategic Plan and our strategic outcome-orientated goals, we took cognisance of the ever-increasing need for our services among taxpayers and other stakeholders, as well as our commitment to the National Development Plan (NDP) 2030. Many other issues were taken into account, notably the socio-economic challenges facing the country, the pressure on the South African Revenue Service (SARS) to make up for a growing revenue collection deficit, allegations of widespread corruption and misuse of taxpayers' monies, and a growing appetite among many stakeholders, including parliamentarians, for a more independent Tax Ombud with greater powers.



*“Our goal of helping to increase taxpayers’ levels of trust in the tax administration system is more important now than at any other time.”*

## **CHALLENGING ENVIRONMENT TAKEN INTO ACCOUNT**

Questionable ethics are embedded in many aspects of our lives, and the tax environment and its role-players are no exception. This emphasises the need for a strong, efficient and effective Office of the Tax Ombud, which in turn depends on proper planning backed by adequate resources, both financial and human.

As far as our planning is concerned, we have taken care to gain a deep understanding of our operating environment and the factors influencing it, including the dynamics of the interactions between taxpayers and the revenue collector. One major concern is the growing problem of tax avoidance and tax evasion, as well as the continued calls for a tax boycott by certain quarters of our society. These trends underline the significance of our mandate as a state entity tasked with helping maintain balance between SARS's powers and duties, and taxpayers' rights and obligations. Our goal of helping to increase taxpayers' levels of trust in the tax administration system is more important now than at any other time in our institution's relatively short existence.

## **AMENDMENTS STRENGTHEN INDEPENDENCE**

In the 2017–2022 Strategic Plan and the 2017/18 Annual Performance Plan, we undertook to continue pursuing legislative changes that would strengthen our independence from SARS and reduce our reliance on their support services. The amendments made to the TAA with effect from January 2017 did indeed provide some of the additional powers we had been asking for. In particular, they have given us more independence from SARS in terms of finances and recruitment, and helped improve public perceptions of our Office as an independent and impartial institution.

## **POWER TO INVESTIGATE SYSTEMIC AND EMERGING ISSUES**

The amendments have also given us powers to investigate systemic and emerging issues, albeit with prior approval of the Minister of Finance. The first such investigation was into alleged delays in the payment of tax refunds. It resulted in the release in September 2017 of the “Tax Ombud’s report on the investigation in terms of section 16(1)(b) of the Tax Administration Act 28 of 2011 into alleged delayed payment of refunds as a systemic and emerging issue”. This marked the start of a more proactive approach towards resolving problems taxpayers face. The appointment of two systemic investigators will give impetus to the Office’s efforts to proactively identify and monitor systemic and emerging issues that, if properly addressed, have the potential to contribute favourably to an improved tax administration system. This was evident from the outcome of our first investigation, when SARS undertook to correct their errors and close loopholes which might have led to real or perceived avoidable delays in the payment of tax refunds.

## **MORE AMENDMENTS IN THE PIPELINE**

Further amendments are needed to address the remaining impediments to our institutional independence and ability to efficiently carry out our mandate. These impediments include inadequate funding for the Office, our reliance on SARS’s support services and the limitations of our mandate, which we believe should be extended in the interests of fair tax administration.

Going forward, we will continue to call for more amendments to the TAA. Our constructive engagements with numerous stakeholders and appearances before the Standing Committee on Finance (SCOF) have clearly indicated that parliamentarians and taxpayers want the Office to have more powers and be more independent of SARS.

## **BUILDING A MORE INDEPENDENT AND EFFECTIVE ORGANISATION**

Our intention is to ensure that the Office takes a systematic, well-thought-out approach towards its future as a sustainable, independent institution. With this in mind, we have been engaging with the Government Technical Advisory Centre (GTAC), which is assisting the Office to develop a business case for a cost-effective and independent organisational model for the OTO. The project has three distinct phases, the first of which includes a feasibility study that will focus on a situational analysis of the Office, an institutional options analysis, service delivery model and recommendations on a preferred option. The second phase will entail developing a business case with cost implications and a human resource model for the preferred option. The last phase will include the implementation plan and close-out report. This project is an important step towards building an independent Office of the Tax Ombud.

## **GOVERNANCE AND PARTNERSHIPS ARE CRUCIAL**

In the Tax Ombud’s 2016/17 Annual Report, we emphasised the importance of governance and stakeholder engagement, and reiterated our commitment to good governance as the cornerstone of our ethos and operations. The many partnerships that we have built with stakeholders have been fruitful, and going forward, we would like to formalise some of these partnerships by entering into Memoranda of Understanding (MOU) and service level agreements (SLAs). The mutually beneficial partnerships that we have cultivated and nurtured with our stakeholders were invaluable in providing input for our investigation into delays in the payment of tax refunds. We will continue to draw on these partnerships for input on other matters, such as our plans to extend the Office’s geographical footprint.

## **TAXPAYER BILL OF RIGHTS IS NEEDED URGENTLY**

Since our establishment in 2013, the Tax Ombud has worked tirelessly to protect the rights granted to taxpayers in the South African Constitution and tax legislation. What is lacking, unfortunately, is a Taxpayer Bill of Rights. The Office has sought to remedy this by promoting awareness about taxpayers' rights as enshrined in the Constitution and also by drafting a comprehensive Taxpayer Bill of Rights. This process has been in the pipeline for some time, and we feel encouraged and vindicated that the recently released Davis Committee's final report on tax administration has recommended that the Tax Ombud be given the powers to enforce a Bill of Rights for taxpayers. A draft has been prepared and submitted to SARS. However, neither this document nor the Service Charter has been finalised, despite SARS's undertakings that this would be done by 31 March 2017. We are engaging relevant stakeholders to fast-track this process as it forms an important part of our strategic approach for the next five years and beyond.

## **LOOKING AHEAD**

We are grateful that the National Treasury has increased our budget for the 2018/19 financial year. Although the allocation will not be sufficient to address some financial imperatives, it will enable us to bring in much-needed personnel to assist in achieving our strategic objectives and expanding mandate.

The Office is optimistic that a formal MOU with SARS will be signed in the course of the 2018/19 financial year, thus ironing out many of the issues that have prevented us from resolving taxpayers' complaints against SARS as speedily and efficiently as we would like.

As we move forward with vigour and determination, we envisage improving on our complaints management system, streamlining governance and risk frameworks to improve compliance and reporting, and further continuing to create awareness about our Office and how taxpayers and practitioners can use the services offered. We will continue to champion the cause of introducing a Taxpayer Bill of Rights and more amendments to the Tax Administration Act, with the goal of strengthening our mandate and independence from SARS.

Our resolve to help increase taxpayers' trust in the tax administration system has been bolstered by the support we have received from taxpayers and representatives of Recognised Controlling Bodies, and also from members of Parliament. The latter have shown an appetite for a more independent and powerful Tax Ombud, and since they have the ability to change policy and grant us greater independence and powers, we are encouraged.

Our commitment to carry out the mandate as set by government is unwavering, as is our desire to surpass our past achievements. This, together with a dedicated and competent team and a sound Annual Performance Plan, equips us to have a positive influence on the country's tax administration system and be an exemplary service provider that all citizens can trust and support with pride.



**JUDGE BERNARD NGOEPE**  
TAX OMBUD

# 3. OVERVIEW BY THE CHIEF EXECUTIVE OFFICER

I AM HONoured TO PRESENT THE TAX OMBUD'S ANNUAL PERFORMANCE PLAN (APP) 2018/19. THIS APP STRIVES TO PROMOTE ACCOUNTABILITY AND COMMITMENT TO SERVICE DELIVERY AND EXCELLENCE WITHIN THE ORGANISATION, WHICH EXISTS TO ENSURE THAT TAXPAYERS HAVE RECOURSE TO A FAIR AND IMPARTIAL MECHANISM FOR DISPUTE RESOLUTION.

## **CUSTOMER CENTERED AND RESPONSIVE**

Our main objective for 2018/19 is to provide an excellent, customer-centric service to our main stakeholders, taxpayers. We will strive as far as possible to ensure that our recommendations are perceived as fair and impartial and that complainants understand the rationale for these recommendations. A large part of understanding the scope of the OTO has to do with understanding SARS's processes. For this reason, we will place more emphasis than before on helping taxpayers to understand these processes. Taxpayer education and awareness is an important element of this APP.

Our starting point in 2018/19 will be to conduct a taxpayer awareness survey, the results of which will enable us to gauge levels of brand recognition among taxpayers and to gain a better understanding of the best channels to use for our awareness campaigns. Continuous engagement and collaboration with different stakeholders will be crucial in raising awareness and educating taxpayers about the Office's services.



Advocate Eric Mkhawane, Chief Executive Officer

## **EXPANDED CAPACITY FOR SYSTEMIC INVESTIGATIONS**

Having conducted our first systemic investigation in the 2016/17 financial year (into alleged delays in the payment of tax refunds), the Office is now refining its investigative capabilities. An important aspect of investigation is following through to ensure that the revenue authority is taking the required action to remedy shortcomings identified. From the start of the 2018/19 financial year, we will monitor the progress of the systemic matters identified and conduct surveys to ascertain whether taxpayers are still experiencing any of the systemic challenges identified. In addition, we will be requesting SARS to provide details of how they have implemented our recommendations, the aim being to ensure these support fair tax administration. In addition, the Office will run awareness campaigns about issues that have been identified as systemic in nature, using roadshows and webinars in partnership with Recognised Controlling Bodies, and adding a tab on our website to inform stakeholders about progress on systemic matters.

## **SAFEGUARDING TAXPAYERS' TRUST AND CONFIDENCE**

It is vital for the Office to continuously address the evolving threats associated with ensuring all taxpayer information, data and communications remain confidential. An assessment of external threats for the Office of the Tax Ombud indicates that these could have a material impact on building taxpayers' trust and confidence in the tax administration system. These external threats include delays by SARS in providing feedback on taxpayer complaints to the OTO within a stipulated timeframe, which materially diminish taxpayers' confidence in the tax administration system.

It is imperative as the OTO that we gain and retain the respect of taxpayers by proactively resolving their complaints efficiently and impartially. Being proactive means actively looking for solutions and taking full responsibility for the consequences of

our recommendations. It also means resolving taxpayers' complaints with a can-do attitude and mind-set.

One critical success factor for us is establishing trust among taxpayers, as trust lays the foundation for mutually beneficial partnerships and collaborations, and mutual understanding. Stakeholders will have reason to trust us when we do what we say we are going to do, and speak openly and honestly about how we will go about resolving their complaints. Trust works both ways, of course, and so it is important for us to show trust in our stakeholders, who will then be more likely to trust us as their recourse channel.

Another critical success factor for building trust and confidence in the tax administration system is for the OTO to be seen as truly independent and to have the means to hold SARS to account. To this end, it is vital for the OTO to have a Memorandum of Understanding with SARS that will govern the relationship between the two organisations.

It may be necessary to extend the mandate of the Tax Ombud, for instance to give us the ability to assist taxpayers in distress with the revenue authority or provide redress to taxpayers as a result of poor service. This would be in line with other jurisdictions. Further, sufficient funding is required to deal with the increased complaints volumes that will arise as more taxpayers and tax practitioners become aware of the OTO and have increasing confidence that their complaints will be addressed swiftly and impartially.

## **PROMOTING AWARENESS THROUGH COMMUNICATION AND OUTREACH**

The OTO will continue to promote awareness and education through outreach campaigns, advertising and public relations, as it is paramount for us to build and strengthen partnerships with stakeholders such as the media. Based on a review of how we should approach our awareness campaigns, we

intend to reach and enable more taxpayers to make use of our services. Additional budget is required for communication and outreach over the Medium Term Expenditure Framework (MTEF) to enable the Office to fully implement the strategic objectives.

The Office will also continue to build stakeholder relationships through engagements, collaboration and exhibitions, as such platforms have contributed to an increase in unrepresented taxpayers approaching the Office, with similar growth among tax practitioners and other types of taxpayers. Stakeholder buy-in has been key to the Office's success to date, and this APP will assist us to retain and increase support from our current and future stakeholders, while working closely with SARS to ensure that complaints sent to them are resolved within the allocated timeframes. As always, we will continue to communicate our findings and progress on each complaint to the taxpayers concerned, thus maintaining credibility and goodwill and holding SARS to account.

## **PROMOTING A CULTURE OF PROFESSIONALISM AND EXCELLENCE**

Employees of the OTO are required to be customer oriented, technically proficient and professional at all times. The Office is building a culture of excellence where there is ample organisational capacity and a structure that empowers, focuses and engages employees.

As part of this, we are investing continually in the skills development and training of our employees, especially in the field of tax complaints resolution.

This APP makes provision for such training, while also instilling a culture of excellence where each employee understands the OTO's vision, mission and values, and also their own roles, responsibilities and desired actions. High performers will be nurtured, rewarded, mentored and recognised, and average

***“A critical success factor for building trust and confidence in the tax administration system is for the OTO to be seen as truly independent.”***

employee performers will be coached to move into the high-performance category. Teamwork and collaboration will be encouraged.

## **CONCLUSION**

In conclusion, I would like to thank Judge Bernard Ngoepe, the Tax Ombud, for his unstinting support and wise guidance in the past four years since the inception of the Office. Sincere gratitude is also extended to the leadership of the OTO and the staff for their continuous commitment and dedication in ensuring that taxpayers receive efficient, impartial and independent redress. Finally, I wish to thank all our external stakeholders who have supported our endeavours and offered their input. We could not do our work without you.



**ADVOCATE ERIC MKHAWANE**  
CHIEF EXECUTIVE OFFICER

# 4. OFFICIAL SIGN-OFF

**It is hereby certified that this Annual Performance Plan:**

- was developed by the management of the Office of the Tax Ombud under the guidance of the Minister of Finance
- takes into account all the relevant policies, legislation and other mandates for which the Office of the Tax Ombud is responsible
- accurately reflects the strategic outcome-oriented goals and objectives which the Office of the Tax Ombud will endeavour to achieve in the period 2018/19.



**ADVOCATE ERIC MKHAWANE**  
CHIEF EXECUTIVE OFFICER



**JUDGE BERNARD NGOEPE**  
TAX OMBUD

# 5. PART A: STRATEGIC OVERVIEW

## MISSION

To be an efficient, independent, impartial and fair redress channel for taxpayers

## VISION

To strengthen taxpayers' trust and confidence in tax administration

## VALUES

1

### ACCOUNTABILITY

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

2

### INDEPENDENCE

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

3

### EFFICIENCY

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

4

### FAIRNESS

The Tax Ombud acts in fairness at all times.

5

### CONFIDENTIALITY

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

# LEGISLATIVE AND OTHER MANDATES

## THE OFFICE OF THE TAX OMBUD OPERATES UNDER A LEGISLATIVE AND CONSTITUTIONAL MANDATE.

Constitutional mandate: In terms of s195 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, the South African Revenue Service (SARS), the subject of the OTO's oversight, is bound by this Constitutional Mandate. The Office of the Tax Ombud is equally bound by the Constitutional Mandate.

## LEGISLATIVE MANDATE: TAX ADMINISTRATION ACT, 28 OF 2011

The Office of the Tax Ombud was established in terms of sections 14 and 15 of the Tax Administration Act, 28 of 2011 (Tax Administration Act). The Office was established in October 2013 and launched by the Minister of Finance in April 2014. The Tax Ombud

reports to the Minister of Finance as the executive authority. In terms of the relevant legislation, the Tax Ombud submits the Strategic Plan, Annual Performance Plan and Annual Report to the Minister, who must table these in the National Assembly.

### SECTION 16(1) OF THE ACT SPELLS OUT THE OMBUD'S MANDATE AS 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.

### SECTION 16(2):

**In discharging his or her mandate, the Tax Ombud must:**

- Review a complaint and, if necessary, resolve it through mediation or conciliation;
- Act independently in resolving a complaint;
- Follow informal, fair and cost-effective procedures in resolving a complaint;
- Provide information to a taxpayer about the mandate of the Tax Ombud and the procedure for pursuing a complaint;
- Facilitate access by taxpayers to complaint resolution mechanisms within SARS to address complaints; and

- Identify and review systemic and emerging issues related to service matters or the application of the provisions of this Act or procedural or administrative provisions of a tax Act that impact negatively on taxpayers.

## REVIEW OF A COMPLAINT

In terms of section 18 of the Tax Administration Act, the Tax Ombud may review any issue within the Tax Ombud's mandate on receipt of a request from a taxpayer.

### THE TAX OMBUD MAY—

- a) Determine how a review is to be conducted; and
- b) Determine whether a review should be terminated before completion.

**In exercising the discretion set out in subsection 2, the Tax Ombud must consider such factors as:**

- a) The age of the request or issue;
- b) The length of time that has elapsed since the requester became aware of the issue;
- c) The nature and seriousness of the issue;
- d) The question of whether the request was made in good faith; and
- e) The findings of other redress mechanisms with respect to the request.

The Tax Ombud may only review a request if the requester has exhausted the available complaints resolution mechanisms in SARS, unless there are compelling circumstances for not doing so.

**To determine whether there are compelling circumstances, the Tax Ombud must consider factors such as whether:**

- a) The request raises systemic issues;
- b) Exhausting the complaints resolution mechanisms will cause undue hardship to the requester; or
- c) Exhausting the complaints resolution mechanisms is unlikely to produce a result within a period of time that the Tax Ombud considers reasonable.

The Tax Ombud must inform the requester of the results of the review or any action taken in response to the request, but at the time and in the manner chosen by the Tax Ombud.

## LIMITATIONS ON AUTHORITY

**IN TERMS OF SECTION 17 OF THE TAX ADMINISTRATION ACT, THE TAX OMBUD MAY NOT REVIEW THE FOLLOWING:**

- a) Legislation or tax policy;
- b) SARS policy or practice generally prevailing, other than to the extent that it relates to a service matter or a procedural or administrative matter arising from the application of the provisions of a tax Act by SARS;

- c) A matter subject to objection and appeal under a tax Act, except for an administrative matter relating to such objection and appeal; and
- d) A decision of, proceeding in or matter before the tax court.

## RESOLUTIONS AND RECOMMENDATIONS

### SECTION 20 OF THE TAX ADMINISTRATION ACT SETS OUT HOW THE RESOLUTIONS AND RECOMMENDATIONS OF THE TAX OMBUD ARE DEALT WITH:

1. The Tax Ombud must attempt to resolve all issues within the Tax Ombud’s mandate at the level at which they can most efficiently and effectively be resolved and must, in so doing, communicate with SARS officials identified by SARS.
2. The Tax Ombud’s recommendations are not binding on taxpayers or SARS, but if not accepted by a taxpayer or SARS, reasons for such a decision must be provided to the Tax Ombud within 30 days of notification of the recommendations and may be included by the Tax Ombud in a report to the Minister or Commissioner under section 19.

# SITUATIONAL ANALYSIS

## PERFORMANCE ENVIRONMENT

The Office updated the environmental scan, using the Political, Economic, Social, Technological, Environmental and Legal (PESTEL) framework, which included an analysis of Strengths, Weaknesses, Opportunities and Threats (SWOT). This updated scan highlighted the dynamic nature of the environment in which the OTO operates, the many challenges that need to be overcome and the opportunities that can be seized in order to fulfil its vision of building trust and confidence in the tax administration system.

The scan revealed some shifts in the political and economic environment, with taxpayers seeking more accountability in terms of government spending and the impact of the fiscal climate on the growth of the economy.

Politically and economically, the public and taxpayers are expecting increasing levels of transparency and corporate governance. Governance arrangements must take cognisance of the likelihood that tightening fiscal conditions will increase the demand for the

OTO’s services, and that the OTO must nevertheless maintain the highest levels of efficiency.

The social and technological dimensions of the Office’s operating environment have shown an interesting convergence, with increased national communications connectivity and the resulting uptake in digital technology providing opportunities to increase awareness and accessibility through social media and eChannels. On the other hand, this has also created risks that need to be managed, including social media brand perception and the evolving threat of cyber-crime in relation to the confidentiality of information and communications.

From a legislative perspective, the opportunity for mandate amendments to deliver structural independence from SARS is seen as having the potential to improve taxpayers’ perception of the OTO’s independence, which would in turn help build trust and confidence in the tax administration system.

## POLITICAL FACTORS

- Changes in leadership and/or tax policy may change the authorities' approach to tax recoveries. A more "aggressive" approach, as is evident in the current fiscal climate, is likely to result in higher demand for the OTO's services.
- Increasing strength of oversight institutions and pressure from civil society will demand increasing levels of tax administration transparency, accountability and governance. This requires the OTO to be impartial and independent at all times, and to exhibit the highest levels of corporate governance.

## ECONOMIC FACTORS

- **Taxpayers are being challenged by significant levels of inflation, low levels of economic growth and policy uncertainty. This will impact on the OTO in a number of ways:**
  - Increasing public interest in tax administration and public expenditure, requiring the OTO to maintain exceptional transparency and corporate governance
  - A high probability of dispute volumes increasing as taxpayers and business seek to minimise their tax burden
- The public and private sectors seek to grow the South African economy significantly through entrepreneurship and small business development. Many new entrants to the formal economy may have a limited understanding of the tax administration system, which may result in dispute volumes increasing.
- Increasing strain on the South African fiscus also means financial resources will continue to be constrained. As such the operations of the Tax Ombud will require ongoing optimisation to ensure maximum efficiency.
- Decreased taxpayer morale due to perceived corruption and misuse of public funds.

## SOCIAL FACTORS

- **Taxpayers are expecting easier accessibility when dealing with government and its associated administrative agencies. In particular they are demanding a customer-centric approach that includes:**
  - Easy access via the web, either through a portal or web apps
  - Simple processes that require minimal information, all accessible online
  - Continuous and instantaneous feedback on process status
  - An ability to engage with knowledgeable agents who can resolve queries at the first point of contact
  - Quick turnaround times.

- However, in contrast to the above, the complexity and unfamiliarity of tax administration for many requires a personal approach that will help build understanding and trust, and in turn confidence in the tax administration system.

## TECHNOLOGY

- Taxpayers are becoming increasingly comfortable engaging electronically, via multiple channels, which creates opportunities to extend access via eChannels.
- Social media is allowing consumers to report poor service immediately, and bad brand publicity can go viral almost instantly. The OTO will need to be equipped to maximise the impact of social media and have strategies in place to manage negative publicity.
- The growing use of eChannels is also increasing the opportunities for cyber-crime, and will require the OTO to respond by ensuring appropriate levels of electronic security.
- Cloud-based computing, Voice over Internet Protocol (VOIP) and video communication services such as Skype will also provide opportunities for improved accessibility to taxpayers, and potentially allow for innovative working practices among staff. Such services would allow for increased flexibility such as home working, extended operating hours or face-to-face services via eChannels.

## ENVIRONMENTAL FACTORS

- Owing to many of the factors listed above, taxpayers are increasingly using tax practitioners to resolve disputes. In general, these practitioners are highly trained specialists, frequently from a tax administration background.
- Accordingly, tax practitioners are an important customer segment that requires the same customer-centric approach, but will be even more demanding of technical excellence and speed of response.

## LEGAL

- It is possible that a change in legislation may favour structural independence of the OTO and improved accountability on the part of SARS.
- Increasing public interest in law-making provides an opportunity for the OTO to promote independence and, in turn, trust in the tax administration system.

## EXTERNAL THREATS

In addition to the factors and trends described above, a number of specific external threats are noteworthy as they are outside the direct control and influence of the OTO, and could have a material impact on building trust and confidence in the tax administration system.

1. Delays by SARS in finalising taxpayer complaints to the OTO within a stipulated timeframe materially diminish taxpayers' confidence in the system.
2. Lack of awareness and understanding among taxpayers about SARS's complaints process and procedures leads to taxpayers submitting complaints prematurely to the Office of the Tax Ombud, creating unnecessary work for the OTO and delaying the resolution of genuine complaints; frequently, this results in taxpayer frustration and the perception of an unresponsive Ombud.
3. The growing prevalence of social media is dramatically increasing the risk of wrong or inaccurate perceptions being created about the OTO through social media platforms, again undermining trust and confidence.
4. The rapidly evolving threat of cyber-crime will mean that the OTO will regularly require assurance that its systems, processes and policies are suitably configured to minimise the risk of confidentiality breaches. Funding will be needed to address identified weaknesses. A single breach may destroy the reputation of the OTO.
5. With increasing public awareness, tightening fiscal conditions and the improved reputation of the OTO, complaints volumes are likely to increase dramatically over the coming years. Fiscal constraints may hamper the growth of the Office and the execution of the mandate of the Tax Ombud.
6. Perceived and alleged corruption, as well as the misuse of public funds, may reduce taxpayer confidence and compliance. This may lead to more aggressive tax collection measures by SARS and an increase in the number of complaints to the Office of the Tax Ombud.
7. Fiscal constraints may hamper the growth of the Office and the execution of the mandate of the Tax Ombud.
8. Perceived and alleged corruption, as well as the misuse of public funds, may reduce taxpayer confidence and compliance. This may lead to more aggressive tax collection measures by SARS and an increase in the number of complaints to the Office of the Tax Ombud.

# ORGANISATIONAL ENVIRONMENT

**The institutional capacity of the OTO is currently strong in the context of a relatively recently formed organisation that has been focusing on establishing processes and a staff complement. Specific highlights include:**

1. Strong leadership with a good reputation
2. Service-oriented organisation that provides efficient service
3. Ability to assist taxpayers in understanding their rights and meeting their tax obligations
4. Good relationships and collaboration with major stakeholders, including public and private sector groups, and SARS
5. Qualified staff
6. An enabling culture conducive for growth
7. Efficient organisational structure
8. Strong internal processes, systems and infrastructure, effectively utilising SARS when appropriate
9. Efficient and impactful service.

However, to successfully build trust and confidence in the tax administration system, a number of internal challenges need to be addressed in the near term.

- Institutional independence (operational and structural) is required for the OTO to be seen as truly independent, and to support the building of trust and confidence in the OTO and in turn in the tax administration system.
- The organisational mandate may need to be extended. A study needs to be done to determine whether the mandate of the Ombud should, for instance, be extended to assist taxpayers in distress with the revenue authority or provide redress to taxpayers as a result of poor service. This would be in line with practice in other jurisdictions.
- Commensurate with all the above, sufficient funding is required to deal with the increased complaints volumes that will arise as more taxpayers and tax professionals become aware of the OTO and have increasing confidence that their complaints will be addressed impartially and quickly.
- A greater awareness of OTO and its services is required.
- The information technology support systems must be strengthened to improve efficiency and accessibility.
- The culture of professionalism and excellence should be reinforced.

# STRATEGIC OUTCOME-ORIENTED GOALS

The vision of the Office of the Tax Ombud is to strengthen taxpayers' trust and confidence in tax administration by providing an impartial mechanism for dispute resolution. In order to achieve trust and confidence, four strategic goals have been identified.

## **ACCOUNTABILITY**

*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.

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## **INDEPENDENCE**

*Structurally independent Tax Ombud*

By becoming truly independent, structurally and operationally, it will be possible to limit the risk of perceived bias.

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## **EFFICACY**

*Prompt and efficient resolution of complaints*

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:

- Consistently achieving a taxpayer service promise;
- Meeting the specific needs of taxpayer segments (practitioners, individuals, businesses, corporates);
- Enabling taxpayers to access services through the channel of their choice;
- Engaging taxpayers through easy-to-understand, simple, transparent and quick processes;
- Ensuring all complainants (whether their complaints are valid or not) trust the tax administration system;
- Ensuring staff are customer orientated, technically proficient and professional; and
- Adopting technologies that make processes easy and convenient for taxpayers and staff.

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## **SECURITY AND CONFIDENTIALITY**

*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.

# 6. PART B: STRATEGIC OBJECTIVES

The following strategic objectives have been identified to achieve the four strategic goals. These objectives are structured within a matrix, allowing for alignment to OTO's simplified value chain.

Strategic goals	Awareness and education	Accessibility	Operations	Legal and support
<b>ACCOUNTABILITY</b>				
Continuously ensure rational and fair reasons are given 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.	Continuously increase taxpayers' awareness of the services of the OTO.	Ensure taxpayers understand the rationale for the recommendations made.	Ensure all recommendations are perceived as fair and impartial.	Ensure the highest levels of corporate governance.
<b>INDEPENDENCE</b>				
To become truly independent in order to limit the risk of perceived bias.	Ensure taxpayers perceive the OTO to be independent.	-	-	Achieve relevant legislative independence from SARS in terms of accountability.  As an entity, achieve structural independence from SARS.
<b>EFFICACY</b>				
To become truly taxpayer centric, by providing a consistently high-quality service at minimal cost.	Ensure taxpayers understand how to lodge a complaint.  Positive brand recognition.	Achieve targeted complainant satisfaction index scores.	Create an agile organisation able to efficiently scale to meet demand.  Ensure the highest level of technical professionalism.  Establish governance and processes with SARS to support responsiveness.	Ensure performance management throughout the organisation.  Build a culture of professionalism and excellence.
<b>SECURITY AND CONFIDENTIALITY</b>				
To continuously address the evolving threats associated with ensuring all information and communications remain confidential	Ensure there are no security breaches.			

## STRATEGIC OBJECTIVE, MEASURES AND TARGETS

### 1.1 ACCESSIBILITY AND OPERATIONS

**Purpose:** Accessibility and operations will ensure that the OTO provides a high-quality, taxpayer-centric service, that taxpayers understand the rationale for all recommendations and that recommendations are impartial and executed in a manner that is highly efficient.

OBJECTIVES	MEASURES	2018/19	2020/21	2022/23
Committed to provide and maintain a high standard of service in our interaction with taxpayers.	Feedback provided by stakeholders about the complaints resolution process - survey.	60%	70%	80%
Create an agile organisation able to efficiently scale to meet demand.	% of recommendations sent to SARS within 10 days from date of receipt.	50%	60%	65%
	Average cost reduction per complaint, year on year.	0%	1%	1%

PROGRAMME PERFORMANCE INDICATOR	REPORTING PERIOD	ESTIMATED PERFORMANCE 2018/19	QUARTERLY TARGETS			
			1ST	2ND	3RD	4TH
Feedback survey on complaints resolution process.	Quarterly	60%	60%	60%	60%	60%
% of recommendations sent to SARS within 10 days from date of receipt.	Quarterly	50%	50%	50%	50%	50%
Average cost reduction per complaint, year on year.	Quarterly	0%	0%	0%	0%	0%

## 1.2 SYSTEMIC INVESTIGATION

**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.

OBJECTIVES	MEASURES	2018/19	2020/21	2022/23
Provide reports on systemic investigations requested by the Minister and/or initiated by the Tax Ombud.	% of systemic investigations completed.	50%	50%	50%
Identify and investigate systemic issues from complaints received.	Number of systemic investigations completed.	5	6	7

PROGRAMME PERFORMANCE INDICATOR	REPORTING PERIOD	ESTIMATED PERFORMANCE 2018/19	QUARTERLY TARGETS			
			1ST	2ND	3RD	4TH
% of systemic investigations completed.	Annual	50%	-	-	-	50%
Number of systemic investigations completed.	Quarterly	5	1	1	1	2

### 1.3 AWARENESS AND EDUCATION

**Purpose:** In support of the strategic objectives, the OTO will promote awareness and education through outreach campaigns, advertising and public relations services. The activities will be measured according to the level of stakeholder awareness within the taxpayer population, perceived level of independence, understanding of the complaints procedure and brand recognition.

OBJECTIVES	MEASURES	2018/19	2020/21	2022/23
Improve taxpayers' awareness of the services of the OTO.	Number of educational outreach campaigns, stakeholder engagement, public relations and advertising activities.	160	190	220
Positive brand recognition	Taxpayers' brand awareness survey - positive recognition	1	1	1

PROGRAMME PERFORMANCE INDICATOR	REPORTING PERIOD	ESTIMATED PERFORMANCE 2018/19	QUARTERLY TARGETS			
			1ST	2ND	3RD	4TH
Number of educational outreach campaigns, stakeholder engagement, public relations and advertising activities.	Quarterly	160	40	40	40	40

## 1.4 LEGAL AND SUPPORT SERVICES

**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.

OBJECTIVES	MEASURES	2018/19	2020/21	2022/23
Ensure the highest levels of corporate governance.	Zero governance audit findings	100%	100%	100%
Ensure that an MOU exists between the OTO and SARS to formalise the relationship.	MOU signed off by both parties	1	-	-
Build a culture of professionalism and excellence.	Employee Culture Survey – score bench marked	0	Top quartile	Top quartile
Develop OTO Employment Equity Numerical Targets (EE, Gender, Disability).	2% of disabled persons	100%	100%	100%
	Gender: 49% and 51%	100%	100%	100%
	Race: 75% black	100%	100%	100%

PROGRAMME PERFORMANCE INDICATOR	REPORTING PERIOD	ESTIMATED PERFORMANCE 2018/19	QUARTERLY TARGETS			
			1ST	2ND	3RD	4TH
MOU signed off by both SARS and Office of the Tax Ombud	Annual	1	-	-	-	1
2% of disabled persons	Annual	2%	-	-	-	2%
Gender: 49% and 51%	Annual	51% female and 49% male	-	-	-	51% female and 49% male
Race: 75% black	Annual	75% black	-	-	-	75% black

# 7. RESOURCE CONSIDERATION AND RISK MANAGEMENT

## 1. RESOURCE CONSIDERATION

Provision is made in section 15 of the Tax Administration Act that the expenditure connected with the functions of the Office of the Tax Ombud will be paid in accordance with a budget approved by the Minister specifically for the Office.

The current Estimates of National Expenditure (ENE) allocated are R41.5 million, R40.3 million and R42.5 million for 2018/19, 2019/20 and 2020/21 respectively to enable the Office to continue to deliver on its mandate. The baseline allocation increased by R6.4 million (19%) for the 2018/19 financial year, then reduced by R1.2 million (-3%) for the 2019/20 financial year and increased by R2.2 million (6%) for the 2020/21 financial year.

Additional adjustment was requested for building expenditure, which has not been granted. The Office will continue to rely on SARS to assist in financing the overhead expenditure in relation to building expenses such as rental, water, electricity, security services and cleaning services. The additional funds required are R6.2 million in the 2018/19 financial year, R6.7 million in the 2019/20 financial year and R7.3 million in the 2020/21 financial year.

In the 2017/18 financial year, SARS transferred the overhead costs of R4.6 million relating to building rental expenses which includes office rent, operating cost, rates and taxes, cleaning contract and security services. R4 million has been allocated to land and buildings and R600 000 for security services has been allocated to professional and special services. In the next financial year, SARS indicated it will retain the building costs instead

of transferring the budget to the Office of the Tax Ombud, hence the budget decrease on the next MTEF period.

### PERSONNEL EXPENDITURE

Tax complaints resolution requires experts and professional staff. As a result, the main driver of costs is personnel expenditure. The personnel expenditure represents 89% of the total budget excluding overhead expenditure that is covered by SARS.

Given the increasing demand for its services, the OTO recognises the significance of optimising the size of the organisation to accommodate demand for services.

For the year 2018/19 the Office embarked on a reprioritisation exercise and identified mandatory and essential services required. An additional 18 positions have been identified as necessary for the Office to be rendered fully functional. Management has decided, however, that certain other vacancies can be deferred to a later time. For 2018/19, as far as essential and basic mandatory skills and capabilities are concerned, the Office needs to fill 12 positions.

The tax profession requires that tax complaints resolution specialists constantly keep up to date with changes to tax legislation, which occur regularly. The Office ensures that there are enough funds for training and development.

## EXPENDITURE ESTIMATES AND OUTCOMES

Cost element	Audited outcomes			Current estimates	Estimates of national expenditure		
	R Thousand	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
Personnel Expenditure	8 116	18 672	23 698	28 462	37 056	38 151	39 022
Administrative Expenditure	682	1 169	991	1 158	1 225	302	1 179
Inventory and Printing	139	656	400	487	527	227	480
Professional and Special Services	187	5 569	4 143	6 106	2 217	1 217	1 282
Land and Buildings	1 837	715	254	4 316	402	305	450
Capex	1 400	3 942	269	395	100	106	112
<b>Total operational and capex</b>	<b>12 361</b>	<b>30 723</b>	<b>29 755</b>	<b>40 924</b>	<b>41 527</b>	<b>40 308</b>	<b>42 525</b>

## 8. RISK REGISTER

During the strategic planning process, risk management was a key element considered. The management of the OTO then embarked on the process of identifying risks that could negatively affect the realisation of strategic goals and objectives. Mitigating strategies have been put in place to counter the identified risks.

RISK TITLE	RISK DESCRIPTION	INHERENT RISK RATINGS	RESIDUAL RISK RATINGS	CONTRIBUTING FACTOR TITLE	ACTION PLAN TITLE
Lack of financial and support service independence from SARS.	<p>Although the budget is determined by the Minister and ring-fenced, in terms of the PFMA the Commissioner of SARS remains the Accounting Authority.</p> <p>Reliance on SARS for administrative (IT, HR, Facilities, etc) support.</p>	25	20	Deficiency in the TAA.	<p>MOU with SARS to ensure financial and support service autonomy.</p> <p>Business case to strengthen independence (GTAC).</p> <p>SLA with other support divisions of SARS.</p>
Lack of understanding of the OTO mandate and general tax matters by taxpayers, creating unrealistic expectations among taxpayers.	Taxpayers see the OTO as their last resort and may have expectations of having their complaints resolved in their favour irrespective of the OTO mandate.	20	16	Taxpayers do not understand the mandate of the OTO.	<p>Continuous communication through taxpayer engagement and educational activities through media and other channels.</p> <p>Yearly surveys to be performed.</p>

RISK TITLE	RISK DESCRIPTION	INHERENT RISK RATINGS	RESIDUAL RISK RATINGS	CONTRIBUTING FACTOR TITLE	ACTION PLAN TITLE
Failure by SARS to finalise OTO recommendations timeously, which impacts on the reputation of the OTO.	The TAA states that the Tax Ombud's recommendations are not binding on a taxpayer or SARS.	25	16	Deficiency in the TAA.	MOU/ SLA with SARS to resolve turnaround times.  To continue holding monthly operational governance meetings with the Complaints Management Office.
Lack of legal capacity to enter into contracts for organisational independence.	Perceived lack of independence, possible undue level of influence by SARS.  The Tax Ombud cannot be an employer or engage in other contracts.	20	20	Deficiency in the TAA.	MOU with SARS to strengthen autonomy.  Business case to strengthen independence (GTAC).



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