

BALANCING TAXPAYER RIGHTS AND OBLIGATIONS



#TaxpayersRightsMatter



Pearl Seopela
Senior Manager:
Communications and
Stakeholder Relations

The theme of the current edition is “Balancing taxpayers’ rights and obligations”, and the articles and insights featured in this issue seek to do precisely that by providing informative material on the topic.

Also in this issue, Tax Ombud Judge Bernard Ngoepe discusses prioritising good governance and strengthening the policy framework, while CEO Professor Thabo Legwaila outlines the OTO’s objectives in the Annual Performance Plan 2022/23. His article provides further details about how the Office has embraced innovation and digitisation to serve taxpayers better. Another useful article

is the one penned by tax expert Beatrie Gouws from the South African Institute of Taxation (SAIT), giving insight on the recently published Tax Ombud’s Compilation of Taxpayers’ Rights, Entitlements and Obligations. We also have a new website and share some of the exciting features on it.

Visit our new website at www.taxombud.gov.za, and feel free to let us know how we can further improve the website or Fair Play by emailing Communications@taxombud.gov.za.

We hope you find the newsletter interesting to read; we enjoyed compiling it for you.

OTO’S IMPROVED CUSTOMER-CENTRIC WEBSITE

The Office’s new website provides convenience and an easier way to lodge complaints online.



6 EXPERT’S CORNER:

The Tax Ombud’s Compilation of Taxpayers’ Rights, Entitlements and Obligations provides guidance for taxpayers, says SAIT’s Beatrie Gouws.



Tax Ombud's Corner

**Judge Bernard
Makgabo Ngoepe**
Tax Ombud



The first quarter of our new financial year has just ended in March 2022, and in almost a blink of an eye, it will be time to update our stakeholders on our finances and performance against set objectives for the previous year.

The Tax Ombud Annual Performance Plan (2022/23) has been tabled and approved by Parliament and lists our ambitious – but reachable – plans to continue helping improve the country's tax administration system while implementing the deliverables detailed in our Strategic Plan 2020–2025.

Part of our focus in the new financial year is to prioritise good governance and strengthen the policy framework. We have already taken several important steps to further entrench good governance within the Office, such as by introducing internal and external assurance processes and structures, including the Audit and Risk Committee. To ensure a systemic approach that spans all our activities and operations, we have incorporated strategic planning, risk management and performance management into our governance framework, providing a strong foundation for promoting transparency in the organisation. We are also implementing specific best practices in our performance reporting, and I am confident that we will pass muster when the time comes for a full-scale financial, performance and compliance audit.

The tax administration system, taxpayers and businesses at large are contending with the challenges posed by the COVID-19 pandemic; we have risen to the occasion by doing all

in our power to maintain high service levels and safeguard the integrity of our operations. Part of that service ethic entails raising public awareness and informing taxpayers and the broad tax industry about the mandate and services of the Office. This necessitates optimal engagement and collaboration between the OTO and our stakeholders, and ongoing efforts to strengthen relationships. We strive to recognise and understand stakeholders' values, beliefs, perceptions, expectations and ideas on tax in general and our services in particular. With this in mind, we intend to formalise various Memoranda of Understanding (MoUs) with relevant stakeholders, aligned to the OTO's stakeholder engagement framework. In addition, we are committed to using our insights into stakeholders' requirements to deliver an increasingly taxpayer-centric experience.

Policy on systemic investigations introduced

Another key step has been the development of a systemic investigations policy. This policy provides the legal framework for identifying and reviewing systemic and emerging issues in the tax administration system. It formalises and coordinates the roles and responsibilities of all OTO units and employees who contribute to systemic investigations.

The benefit for our stakeholders is that the policy will enable the OTO to efficiently review and investigate recurring issues that impact a group or a class of taxpayers so that we can determine the root causes and recommend to SARS how best to address and rectify the issues.

The Office has also developed and approved the complaints resolution policy, detailing all the processes and procedures to follow for optimal complaints resolution. The policy formalises our complaints resolution processes and seeks to promote a high-quality experience that will increase taxpayer satisfaction with how the Office investigates and reviews complaints. This is key, considering the importance of the service we've been providing to taxpayers since the Office opened over eight years ago. The fact that SARS implemented most of the OTO's recommendations in the 2020/21 financial year is testimony to our efforts to ensure fairness in SARS's treatment of taxpayers.

Making a difference

The Office has made a significant and tangible difference in the lives of ordinary taxpayers and will continue to increase the efficacy and accessibility of our services and promote fairness for taxpayers. It is a privilege to work with such a strong and committed team, and I am grateful to the OTO staff and our stakeholders in the tax industry for their support. I am also appreciative of the cooperation between the Office and SARS and the Commissioner.

I am looking forward to fruitful engagements and collaborations with our stakeholders to ensure that we all make a valuable contribution to further improving the South African tax administration, balancing tax compliance and the protection of taxpayer rights in equal measure.

**Download the Tax Ombud
Annual Performance Plan 2022/23 here.**



CEO's Note



Prof. Thabo Legwaila
Chief Executive Officer

It feels like just the other day that we shared our first newsletter of the previous financial year and I expressed my gratitude for being part of this beautiful institution and celebrating my second anniversary with the OTO. Now we are here – already well on our way into the ninth year of this institution.

The journey continues as we strive for excellence in service delivery and to fulfil our mandate as a fair and impartial recourse mechanism for the country's taxpayers. In the current financial year, in line with our Annual Performance Plan, we are shifting gears and putting more focus on mechanisms and instruments, including digitisation, improved focus on core objectives and enhanced governance that leads to improved operations.

Digitisation on course

The Office has developed a five-year digital communications framework to improve communication with taxpayers, increase their access to the OTO's services and enhance internal efficiency.

This year, the OTO will reach the halfway mark of implementing that framework. We are pleased to state that we launched our new user-friendly website in April 2022, which features an online complaints process that allows taxpayers to lodge a complaint at their convenience.

Allied to this is the drive towards a paperless environment that will bring greater internal efficiency and convenience for our customers, not to mention being friendlier to the environment.

The challenge in this period is to meet taxpayers' expectations for convenience and flexibility in how they lodge queries and complaints. By upgrading the technology as per the roadmap established in the digital communications framework, the Office will be able to service customers through a wide range of channels, expanding both the communications footprint of the OTO and our relationship with taxpayers.

Practical steps to protect taxpayers' rights

One of our core objectives is promoting awareness about the OTO and promoting taxpayer rights, and we feel confident that we are on the right track, particularly now that we have released the Tax Ombud's Compilation of Taxpayers' Rights, Entitlements and Obligations. This one-stop document offers a simple overview of the key principles that affect taxpayer rights, entitlements and obligations, including the fundamental rights guaranteed to taxpayers by the Constitution.

Our employees are receiving more training, focusing on customer-centricity, as we strive to be exemplary in service excellence. Another focus for the year is on forming new partnerships with stakeholders in and outside the tax sphere, enabling us to reach more taxpayers. These new partnerships will complement the relationships we have built and nurtured over the years with various stakeholders.

Voluntary audit enhances governance

In the 2020/21 financial year, the OTO requested and received external audit assurance of its performance

information from the Auditor-General of South Africa. Although auditing our performance information is not mandatory, we requested such an audit, as it shows our commitment to accountability and adherence to corporate governance. More measures have been implemented to ensure that we meet our audit requirements as per our commitment.

We are also encouraged by the confidence the Finance Minister has expressed about the OTO by stating that the Office is a vital pillar in strengthening tax collection and that the Tax Ombud Annual Performance Plan 2022/23 provides the required basis and ambition needed to support the continued delivery of its critical oversight mandate.

We remain committed to being accountable by ensuring a balanced and fair application of the tax administration process and contributing to a culture of tax compliance; whilst providing a consistently high-quality service that is taxpayer-centric and delivered at a minimal cost to the state. We request and appreciate your continued support in our endeavours and are confident that together we could make a more significant contribution to improving the country's tax administration system.

OTO'S IMPROVED CUSTOMER-CENTRIC WEBSITE

On 1 April 2022, the OTO launched a new and upgraded website that offers many benefits for taxpayers and other users.

Firstly, the site has been redesigned to improve mobile users' experience. It has also been modernised in terms of functionality and coding standards, making it easier for users and easier to locate through Google.

The primary benefit for taxpayers is the ability to submit complaints directly online. Now, either as a taxpayer or taxpayer representative, it is easier to file a complaint and upload any supporting evidence directly through the site. No more scanning of physical documents is required; complaints can be quickly filed from desktops or even mobile devices.

Future site upgrades will include enhancements in the complaints submission process and allow complainants to track the status of their complaints live, online.

New functionality has been introduced for systemic issues – taxpayers can now submit suspected systemic issues with evidence so that the OTO team can determine if the matter is systemic or not.

HOW TO LODGE A COMPLAINT

Below are step-by-step instructions on lodging a complaint online:

1. Go to [Online Complaints](#), and take note of the terms and conditions.
2. Select whether you are a taxpayer or a taxpayer representative and click the appropriate button. This click also confirms your acceptance of the terms and conditions.
3. The appropriate complaints form will be displayed. Please fill out that form in as much detail as you can.
4. Complete all required fields. Without that information, the OTO is unable to process your complaint.
5. Supporting evidence can be uploaded.

Once you have submitted your complaint, the OTO Complaints Resolution team will be in contact within two days.

Note that all other complaint submission options are still open to you. Forms are [downloadable from the website](#), if that is more convenient.

BELOW: The OTO's new online Complaints Form.

The screenshot displays the 'Taxpayer Complaint Submission' form on the OTO website. The header features the OTO logo (a stylized 'i' with a scale) and the text 'OFFICE OF THE TAX OMBUD Ensuring fairness'. Navigation links include 'About Us', 'Complaints', 'Systemic issues', 'Publications', 'Media', and 'Careers'. The main heading is 'Taxpayer Complaint Submission'. Below this, the form is titled 'Taxpayer Complaint Form'. The form fields are: 'Surname *', 'First name(s) *', 'RSA ID Number', and 'Passport'.

EXPERT'S CORNER

Introducing a valuable resource for taxpayers and tax practitioners

Beatrice Gouws,

Head of Strategic Development
& Stakeholder Management,
South African Institute of
Taxation (SAIT)



As South Africans, we are rightly proud of our Constitution since it forms the foundation of the society we are creating, a society based on democratic values, social justice and fundamental human rights.

The Constitution provides direct and indirect instructions and frameworks and is fundamental to the context and direction of legislation. All legislation and governmental actions are required to be “constitutionally sound”.

The Bill of Rights and especially the twin rights of “Access to information” and “Just administrative action” are the cornerstones of various pieces of legislation that specifically govern the interaction between state and citizen, and indeed between state and taxpayer.

Although every effort is made after the fact to make legislation clearer for citizens, legislative instruments are nuanced and, by their very nature, dense and complex. It is vastly more important for the language in legislation to be precise than it is for the words and concepts to be easily understood.

It follows that from a legal point of view, unless much work is done to make the masses of sources and information accessible, it is not usual for a layperson to be up to date with all their rights and obligations in a particular area.

And yet, this is precisely what is required for taxpayers that wish to access their rights and obligations regarding a service, procedural or administrative tax matter.

On 7 April 2022, Tax Ombud Judge Bernard Ngoepe published the Compilation of Taxpayers' Rights, Entitlements and Obligations (the Compilation). The South African Institute of Taxation (SAIT) and other stakeholders reviewed the initial draft and provided input to the Office of the Tax Ombud (the OTO), which has been incorporated in the final document.

From SAIT's perspective, the main purpose of the Compilation is to list and categorise in one place the various taxpayer rights, entitlements and obligations already in existence.

Considering that the mandate of the OTO at the outset is to review and address complaints by taxpayers regarding a service matter, or a procedural or administrative matter arising from the application of the provisions of a Tax Act by SARS, it is sensible to give taxpayers a basic starting point from which they can determine whether they, in fact, have a case.

For example, it would be helpful to taxpayers to have access to:

- a list of rights and related remedies;
- examples to illustrate the practical application of the rights; and
- clear direction that in certain limited circumstances, the rights of taxpayers may be lawfully infringed.

Upon the occasion of the publication of the Compilation, and referencing the balance between the powers and duties of the revenue authority on the one hand and taxpayer rights and obligations on the other, Judge Ngoepe said: “The Compilation seeks to contribute to that balance by serving as a single, consolidated reference point regarding taxpayers' rights, entitlements and obligations.”

At SAIT, we primarily deal with tax practitioners who tend to be very well versed in the substantive areas of tax law. In contrast, tax administration, service and procedures are comparatively “new” and constantly evolving. By improving its accessibility to taxpayers, the OTO is also becoming more accessible to tax practitioners.

We believe that the Compilation is a great resource that promotes awareness about taxpayers' rights and obligations.

We look forward to our continued engagement with the OTO in their ongoing pursuit of “Fairness for All”.

sait South African
Institute of
Taxation

Disclaimer: *This opinion article was contributed by an external stakeholder who does not have any affiliation with the OTO. The article does not necessarily reflect the views of the Office.*



Tax Ombud's Compilation of Taxpayers' Rights, Entitlements and Obligations is now available in multiple translations: Afrikaans, Sepedi, Sesotho, Xitsonga and isiZulu.

Translations available from www.taxombud.gov.za, or click on links below.



Notice

This is a quarterly newsletter that is published every three months. We urge our readers and stakeholders to contribute (in the form of articles, important announcements, opinion pieces or letters to the editor) on any matter concerning this Office or tax issues. Your contributions should be emailed to PSeopela@taxombud.gov.za or Communications@taxombud.gov.za.

Copyright Notice And Disclaimer

The information provided in this document is protected by applicable intellectual property laws and may not be copied, distributed or modified for any purpose without the explicit consent of the Tax Ombud. The information was correct at the time of publication but may have subsequently changed. This newsletter is for information purposes only and cannot be considered to be a legal reference. The use of this information by any person shall be entirely at that person's discretion. The Office of the Tax Ombud does not expressly or by implication represent, recommend or propose that services referred to in this document are appropriate to the needs of any particular person. The Tax Ombud does not accept any liability due to any loss, damages, costs and expenses, which may be sustained or incurred directly or indirectly as a result of any error or omission contained in this newsletter. The information does not supersede any legislation and readers who are in doubt regarding any aspect of the information displayed in the newsletter should refer to the relevant legislation, or seek a formal opinion from a suitably qualified individual.