

**SUBMISSIONS BY THE TAX OMBUD ON THE OFFICE OF THE TAX OMBUD (OTO)
TO THE PARLIAMENTARY COMMITTEE ON FINANCE (Induction) - 20 AUGUST 2019**

1. WHY THE TAX OMBUD

a) Context:

- SARS's drastic powers: Necessary; but there had to be some mechanism, outside and independent of SARS, to ensure that the powers are properly used.
- Third Interim Report of Katz Commission: proposal to introduce the Tax Ombud

b) The Appointment and Role of the Tax Ombud

The Minister appoints a Tax Ombud in terms of S 14(1) of the Tax Administration Act, 28 of 2011 to:

- Protect taxpayers' rights
- Mediate between taxpayers and revenue authority
- Impartially and independently

2. MANDATE OF THE TAX OMBUD

- S16(1)(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
- S16(1)(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.
- Limitations on authority: eg can't review legislation or tax policy, a matter subject to objection or appeal, or a matter before Court.



3. STRUCTURE AND OPERATION OF THE OFFICE

- Establishment of the Office (2013) and some milestones
- Impact of the office on both taxpayers and tax collection
- Relationship between the OTO and SARS
- Powers of the OTO: Recommendations
- Current Structural and institutional challenges
 - Dependence on SARS
 - Structural constraints: They are contained in the Act and negatively impact on the independence of the OTO; eg financial, restricted investigative powers and lack of status.
- Recommendations by GTAC: That the OTO be established as a National 3A Public Entity (with or without shared services) within Ministries like the Community Schemes Ombud Service, Ombudsman for Banking Services, Office of the Ombud for Financial Service Providers, Office of the Pension Funds Adjudicator, and many other such entities within the Ministry. The implementation of the GTAC Report is awaiting the Minister's approval which has since been sought.

4. STRATEGIC OBJECTIVES

Accessibility and Operations: The OTO should provide a high-quality, taxpayer-centric service, that taxpayers understand the rationale for all recommendations and that recommendations are impartial and executed in a highly efficient manner.

Systemic Investigation: To identify and review systemic and emerging issues in line with the OTO Mandate.

Awareness and Education: The OTO promotes awareness and education of its services through outreach campaigns, advertising and public relation services.

Legal and Support Services: Ensures the highest level of corporate governance, including financial management, strive for the relevant legislative and structural



changes for independence, ensures performance management throughout the organization and build a culture of professionalism and excellence.

5. THE ROLE OF PARLIAMENT

Ombud's Annual Report to Parliament in terms of section 19 of the Act.

- An important mechanism to enforce accountability in the protection of taxpayers' rights, and the promotion of efficient tax collection.

6. ORAL SUBMISSIONS WILL BE MADE TO CLARIFY/AUGMENT.

Judge B M Ngoepe
Tax Ombud

Dated: 12 August 2019

