



TAX OMBUD

ANNUAL REPORT 2022/23

In terms of Section 19 of the Tax Administration Act 28 of 2011 and the Public Finance Management Act 1 of 1999



MAKING

TAXPAYERS' RIGHTS 

MATTER

#TaxpayersRightsMatter

Ten years of **Ensuring Fairness**

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COMPILATION OF TAXPAYERS' RIGHTS, ENTITLEMENTS AND OBLIGATIONS

In April 2022, the Office of the Tax Ombud (OTO) published a Compilation of Taxpayers' Rights, Entitlements and Obligations to highlight the rights and obligations of taxpayers as contained in various laws, including the Constitution and the Tax Administration Act. This document is not an enforceable "bill of rights" but rather a reference tool to guide the user towards the information needed.

Some of the key rights and obligations of taxpayers are listed below.

Taxpayer rights and entitlements include:

- the right of access to information;
- receiving quality and timely service from SARS;
- the right to a fair, unbiased and just tax system;
- paying no more than the correct amount of tax due to SARS;
- privacy and confidentiality;
- the right to retain representation;
- finality on a tax matter;
- the right to make certain requests, proposals and applications to SARS;
- complaining without fear of victimisation; and
- the right to dispute/challenge assessments or decisions.

Taxpayers have an obligation to:

- work to the best of their ability and competence and pay the taxes imposed by law;
- familiarise themselves with their obligations and, if uncertain about any aspect, or if their tax affairs are complex, seek appropriate advice;
- register as a taxpayer as and when liable to do so;
- be honest and accurate in engagements with SARS and the Tax Ombud;
- comply with all prescribed tax processes and timeframes related to their tax affairs;
- in particular, submit full and true tax returns and make payment of taxes when required to do so;
- submit documents requested by SARS in the format, at the place and within the period specified in the request;
- notify SARS of any change to their registered details or banking particulars within 21 days;
- keep all documents and records in relation to their tax declarations for five years from the date of submitting a return;
- even if not required to submit a return, keep all documents and records for five years from the end of the tax period to which those documents and records relate; and
- if corporate taxpayers, ensure that they are represented at all times by a public officer who resides in South Africa.

HIGHLIGHTS OF THE 2022/23 FINANCIAL YEAR

The OTO had a successful financial year, achieving an unqualified audit on performance information, as well as additional highlights below:



R103 277 070.59

Value of top 10 refunds paid to taxpayers through the OTO's intervention

Tax type	Refunds
VAT	R13 895 751.87
VAT	R13 237 061.71
VAT	R11 595 762.75
VAT	R10 820 410.30
VAT	R10 656 237.07
VAT	R10 166 988.62
VAT	R9 394 281.08
VAT	R8 142 526.23
VAT	R7 982 982.44
VAT	R7 385 068.52
	R103 277 070.59

*Source: Service Manager



SECTION A:

GENERAL INFORMATION



1.

Message from the Minister of Finance

This year marks a significant milestone in the South African government's efforts to build confidence in the tax administration system. It is the 10th anniversary of the Office of the Tax Ombud (OTO), established in October 2013.

The creation of the OTO ushered in a significant transition in the South African tax administration system, particularly in handling taxpayer complaints against the South African Revenue Service (SARS). The OTO was modelled against the best international practices of the tax ombud systems of Canada, the United States of America and the United Kingdom.

Ever since then, taxpayers in our country have been receiving fair, impartial and free assistance with their tax complaints against SARS. A well-functioning OTO is essential for achieving our developmental objectives and has added a sound institutional framework needed to sustain South Africa's social and economic progress.

Over the past decade, public trust in the country's tax administration system has improved, and the revenue collector has significantly elevated its performance, providing a much better service to taxpayers. This has been good for the SARS public image, which had suffered tremendous damage in the past years. Most importantly, thanks to the OTO, millions of rands in tax refunds have been put back into the hands of taxpayers, thereby saving scores of businesses, houses and other properties of taxpayers.

I am honoured to present this annual report, and proud to state that the OTO is one of our government's successful interventions. It has been exemplary in delivering service excellence and made a visible difference not only in the lives of taxpayers but also in the broader tax administration system.



Honourable Enoch Godongwana
Minister of Finance

“A well-functioning OTO is essential for achieving our developmental objectives and has added a sound institutional framework that sustains South Africa’s social and economic progress.”

In the 2022/23 financial year, more than 15 000 taxpayers engaged the OTO on a variety of issues, from enquiring about its services to lodging complaints.

I am also pleased to state that the top 10 tax refunds in terms of value collectively amounted to over R100 million in the reporting period through the OTO's intervention.

I want to reiterate our commitment to supporting the OTO in its efforts to continue helping improve the tax administration system. As the Government, we are encouraged by the OTO's continued efforts to empower taxpayers with the knowledge that there is a free, fair, and impartial avenue to resolve their tax complaints speedily.

As the Government, we also understand and support calls for a structurally independent OTO; thus, we are looking at how best this could be achieved in a cost-effective manner, taking into consideration the country's economic challenges.

We are confident that public trust in the system will boost tax compliance, a prerequisite for the Government to deliver services to our people. That is one of the reasons we will continue to support the OTO, and I urge all stakeholders to do the same.

Lastly, I want to thank former Tax Ombud Judge Bernard Ngoepe for his outstanding leadership in establishing the OTO and steering it for nine years.

Since the inception of the OTO, Judge Ngoepe spearheaded the goal of the Office to help improve the South African tax administration system and provide a free and fair avenue for

resolving taxpayers' complaints against SARS. Among the achievements of his tenure, Judge Ngoepe established an automated complaints management system, enabled systemic investigations and comprehensive reporting when necessary (e.g. alleged delayed payment of refunds by SARS) and published the first Compilation of Taxpayers' Rights, Entitlements and Obligations to promote taxpayer rights awareness in South Africa.

I also want to thank Professor Thabo Legwaila for serving as acting Tax Ombud from 6 October 2022 to 6 April 2023, and I wish him all the best as he resumes his role as CEO of the Office.

Further, the OTO would not have had such success without its dedicated employees; I salute them for the excellent service they provide to taxpayers and urge them to continue pursuing excellence when serving our people. May you shine even brighter in the next 10 years.



Honourable Enoch Godongwana
Minister of Finance

“We are confident that public trust in the system will boost tax compliance, a prerequisite for the Government to deliver services to our people. That is one of the reasons we will continue to support the OTO, and I urge all stakeholders to do the same.”



2. Message from the Tax Ombud

As the new Tax Ombud, it is an honour and privilege to present the 10th Annual Report for the 2022/23 reporting period.

Overview and performance

This 10th annual report is an important milestone for the Office of the Tax Ombud, considering that our first financial year ended with only six staff members, most of whom were seconded on a temporary basis, and the validation of only 61 taxpayer complaints.

In its first decade of its existence, the OTO has grown significantly and, by the end of the financial year, had 39 permanent employees, engaged about 15 000 taxpayers and validated approximately 3 900 taxpayer complaints.

In line with the mandate of the OTO, the institution made a significant difference in taxpayers' lives during the first 10 years by making sound recommendations implemented by SARS

(98% implementation rate) on taxpayer complaints against the revenue collector. The OTO not only assisted thousands of taxpayers in resolving their complaints against SARS but also identified the underlying causes of these complaints through systemic investigations. Some of these systemic issues have since been resolved, meaning taxpayers should not experience similar frustrations in their dealings with SARS in the future.

Furthermore, the OTO developed and published the Compilation of Taxpayers' Rights, Entitlements and Obligations as a reference document that taxpayers can use to guide them toward what they are entitled to and their obligations in their dealings with SARS. The OTO will continue promoting taxpayer rights to ensure taxpayers know when they are being treated appropriately.

Ms Yanga Mputa
Tax Ombud

“The OTO not only assisted thousands of taxpayers in resolving their complaints against SARS but also identified the underlying causes of these complaints through systemic investigations”

Independence of the OTO

The independence of the OTO is the cornerstone upon which the institution's work is built for its credibility and success. The OTO enjoys functional independence in that the Minister of Finance and SARS cannot interfere with the decisions of the OTO about taxpayer complaints. The OTO is financed by a budget approved by the Minister of Finance, which is ringfenced from the budget of SARS. That said, the OTO is still not structurally independent from SARS; for example, SARS still provides support functions such as IT services and security. We understand that structural independence has critical financial implications and should be handled appropriately. However, to instil trust in taxpayers and ensure the OTO is not perceived as biased, we are optimistic that structural independence from SARS will be achieved soon.

Improved footprint and awareness

The OTO has successfully promoted stakeholder engagement with an intensified social media presence and through partnerships with Recognised Controlling Bodies, government departments and academia. This saw the OTO hosting webinars, contributing to taxpayer publications, holding exhibitions and media engagements, and conducting email marketing and advertising, to name a few.

Our digital framework has progressed according to plan. It has resulted in more channels being made available to taxpayers to access the services of the OTO, including the development of a modern, mobile-friendly website that allows taxpayers to submit complaints online.

The OTO is making good strides in creating an agile organisation to meet taxpayer demands. We plan to provide a more interactive self-service function for taxpayers, making access to the OTO easier and more convenient and improving taxpayer interaction with the OTO whilst increasing our footprint across the country. The OTO plans to increase physical interactions with stakeholders to ensure taxpayers do not need to rely only on electronic communication to learn more about our services.

All the above has been actioned to achieve the OTO's vision of strengthening trust and confidence in tax administration. The OTO remains committed to improving its services and ensuring the Strategic Plan is implemented by the end of 2025.

Conclusion

In conclusion, I would like to express my sincere gratitude to Judge Bernard Ngoepe for taking up the baton of protecting taxpayer rights, promoting tax compliance, establishing the OTO, and steering it in the right direction. He built an institution with a strong foundation, and this will allow those who receive this baton from him to

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continue ensuring that taxpayers have an avenue they can rely on to help resolve their tax complaints against SARS.

I want to express my gratitude to the Minister of Finance, Hon Enoch Godongwana, and the Deputy Minister of Finance, Hon David Masondo, for their guidance and support, the National Treasury colleagues for journeying the road with the OTO, and the finance Parliamentary Committees for their oversight and support.

I would also like to thank the SARS Commissioner, Mr Edward Kieswetter, and his team for their cooperation in resolving most of the taxpayer complaints lodged with the OTO, as well as our stakeholders, including members of Recognised Controlling Bodies and the taxpayer community, for their continued support and constructive criticism, which assists in improving how the OTO delivers on its mandate.

To the OTO Chief Executive Officer, Prof. Thabo Legwaila, thank you for serving as Acting Tax Ombud. I extend my gratitude to the Senior Manager: Legal Services, Gert van Heerden, for serving as the Acting Chief Executive Officer.

To the OTO senior managers and the hardworking women and men at the OTO, I express my wholehearted appreciation for continuing to do the critical work of helping improve the South African tax administration system by protecting taxpayer rights and promoting tax compliance.

As the OTO celebrates its first decade of existence, we will continue to be a beacon of hope for many taxpayers. We will work diligently to fulfil our mandate of assisting taxpayers in resolving their complaints against SARS, thereby improving the South African tax administration system. We look forward to the new era as we begin the second decade of the existence of the OTO.



Ms Yanga Mputa
Tax Ombud



3.

Overview from the Chief Executive Officer

Prof. Thabo Legwaila
Chief Executive Officer

“We have continued our quest to make taxpayer rights known to the broader public by conducting an extensive educational campaign that focused on the compilation of taxpayer rights, which we published in the previous reporting period.”

The OTO remains committed to improving the South African tax administration system, thereby supporting the more efficient collection of revenue for the state while ensuring taxpayers’ fair and reasonable treatment.

During the reporting period, the Office had to adjust to the post-pandemic era and implemented valuable lessons learnt during the lockdown period. In this regard, we continued our focus on the digital framework. We put the building blocks in place for further modernisation of our internal processes to improve the efficiency of assisting complainants in resolving their problems with SARS.

We started various projects to make it even simpler for complainants to access our services and have more direct contact with our staff, which will improve our services, in line with our operating model that focuses on taxpayer-centricity and a high-quality experience.

In keeping with our commitment to enhance our operations, we amended our complaint management process towards the end of the reporting period to reduce administrative delays in dealing with complaints. We are confident that we will soon see improvements in achieving our performance targets.

We have continued our quest to make taxpayer rights known to the broader public by conducting an extensive educational campaign that focused on the compilation of taxpayer rights, which we published in the previous reporting period. In the new financial year, we will continue to ensure that taxpayers know their rights and obligations regarding their tax affairs.

The OTO has still been making efficient use of virtual channels to reach stakeholders and implement our stakeholder engagement and community outreach frameworks but plans to use virtual and face-to-face interactions to reach stakeholders in the new financial year.

“The OTO has still been making efficient use of virtual channels to reach stakeholders and implement our stakeholder engagement and community outreach frameworks but plans to use virtual and face-to-face interactions to reach stakeholders in the new financial year.”

Our commitment to contributing to a culture of tax compliance is still strong. I want to extend our gratitude to our Senior Manager: Legal Services, Mr Gert van Heerden, for serving as the Acting Chief Executive Officer from October 2022.

Lastly, I want to thank the staff of the OTO for their continuous commitment to the South African public. We welcome the new Tax Ombud, Ms Yanga Mputa, who joined the OTO on 1 July 2023 and undertake to support her as she leads our organisation to greater heights.



Prof. Thabo Legwaila
Chief Executive Officer

4.

STATEMENT OF RESPONSIBILITY AND CONFIRMATION OF ACCURACY OF THE ANNUAL REPORT

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

All performance information disclosed in the Annual Report is audited by the Auditor-General of South Africa.

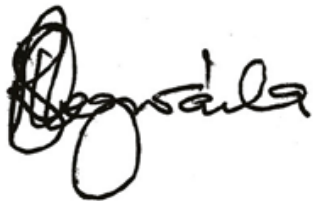
The Annual Report is complete, accurate and free from any omissions, and has been prepared in accordance with the guidelines for annual reporting issued by National Treasury.

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

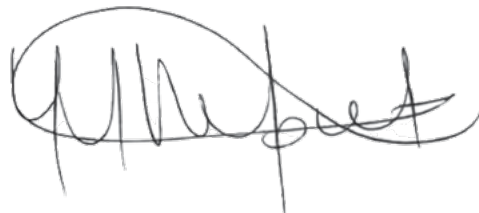
The Tax Ombud is responsible for establishing and implementing a system of internal controls designed to provide reasonable assurance as to the integrity and reliability of the performance information, the human resources information and the annual financial information.

In our opinion, the Annual Report fairly reflects the operations, performance information, human resources information and the financial affairs of the OTO for the financial year ended 31 March 2023.

Yours faithfully



Prof. Thabo Legwaila
Chief Executive Officer



Ms Yanga Mputa
Tax Ombud

5.

STRATEGIC OVERVIEW

The OTO strives to be exemplary as a fair, impartial and expeditious avenue for taxpayers seeking to resolve tax 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.



VISION

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



MISSION

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

VALUES

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, public administration must be governed by the democratic values and principles enshrined in the Constitution, including a high standard of professional ethics; efficient, economical and effective use of resources; provision of impartial, fair and equitable services; 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:

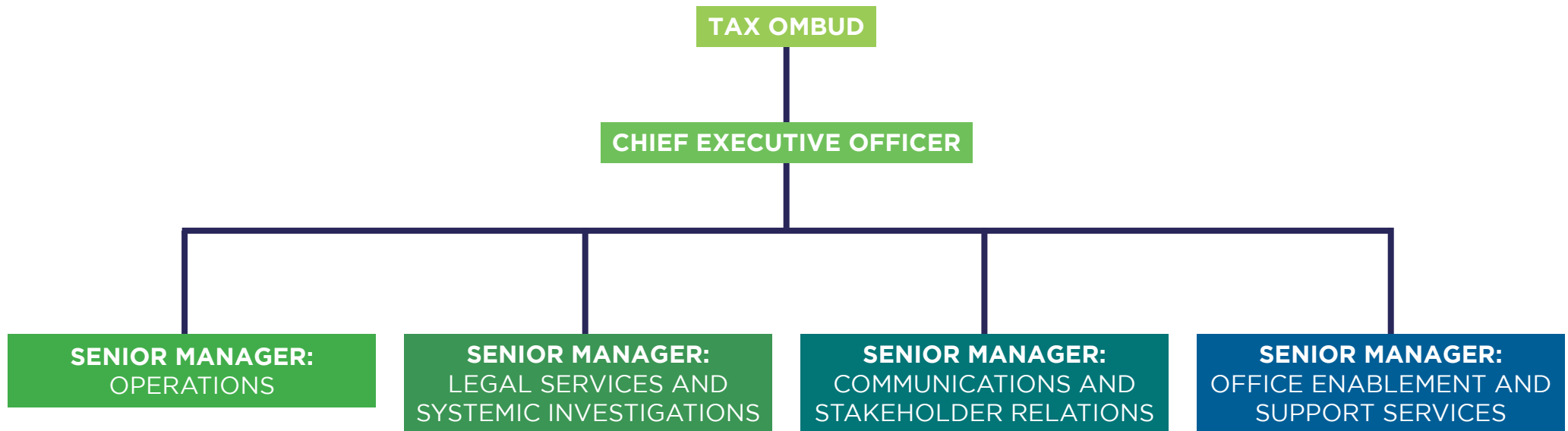
The mandate of the Tax Ombud is to:

- 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
- 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 and Support Services; Legal Services and Systemic Investigations; and Communications and Stakeholder Relations, as depicted below:



8.

LEADERSHIP OF THE OFFICE OF THE TAX OMBUD

MS YANGA MPUTA

TAX OMBUD

Admitted Attorney of the High Court of South Africa, BProc, LLB, LLM, MCom in International Tax and Postgraduate Diploma in Tax Law, Chief Director: Legal Tax Design (Tax Policy - National Treasury)

Ms Yanga Mputa joined the OTO as South Africa's first female Tax Ombud on 1 July 2023.

She has more than 20 years of experience in tax. She started her tax career in 1999 when she joined the SARS Head Office as a Tax Specialist. After that, she moved to Arthur Andersen as a Senior Tax Consultant. In 2003, she joined the National Treasury's Tax Policy unit as Deputy Director, International Tax. Three years later, in 2006, she became Director: International Tax, where her role included, amongst others, negotiating South African tax treaties, developing South African international tax policy, and managing international tax legislative amendments.

In 2009, she returned to the SARS Large Business Centre as an International Tax Specialist. During this period at SARS, she

represented South Africa in the Global Forum on Transparency and Exchange of Information for Tax Purposes. She was one of the assessors who conducted a peer review assessment on the implementation of international standards on the exchange of information in the following countries: the United Kingdom, India and Panama.

In 2014, she returned to the National Treasury's Tax Policy Unit as Chief Director: Legal Tax Design. She played a sterling role in developing the South African annual tax legislation, overseeing the designing and drafting of all tax legislation, including negotiating South African tax treaties. Her work involved working closely with the two finance committees of Parliament to finalise the tax legislation, together with other National Treasury and SARS colleagues.

Since January 2017, she has served as the South African representative on the OECD/G20 Steering Group of the Inclusive Framework on Base Erosion and Profit Shifting (BEPS), which is charged with the implementation of BEPS measures to tackle tax avoidance, improve the coherence of international tax rules and ensure a more transparent tax environment.





PROF. THABO LEGWAILA

ACTING TAX OMBUD

(From 6 October 2022)

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 Stellenbosch University. 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 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 to explain "a vast terrain of tax law to students", and edited the second edition of the same book that was published in January 2020.



GERT VAN HEERDEN

ACTING CHIEF EXECUTIVE OFFICER

(From 6 October 2022)

SENIOR MANAGER: LEGAL SERVICES AND SYSTEMIC INVESTIGATIONS

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 14 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.



TALITHA MUADE

SENIOR MANAGER: OPERATIONS

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 experience in management generally, and over eight 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 Dynamics 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 (North-West University), Management Development Programme (University of Pretoria), MBA: Operations and Decision Management (North-West University) and Commercial Mediator Skills Training (Conflict Dynamics).



MMAMELAO MOIRA MALAKALAKA

SENIOR MANAGER: OFFICE ENABLEMENT AND SUPPORT SERVICES

*BCompt, MPhil, 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.

Ms Malakalaka 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.



PEARL SEOPELA

SENIOR MANAGER: COMMUNICATIONS AND STAKEHOLDER RELATIONS

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 consumer rights protection. Her key interests lie in the areas of brand strategy, content communication, and 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.

SECTION B:

PERFORMANCE INFORMATION




1.

AUDITOR-GENERAL'S REPORT: PREDETERMINED OBJECTIVES

The AGSA currently performs the necessary audit procedures on the performance information to provide limited assurance in the form of an audit conclusion. The audit conclusion on the performance against predetermined objectives is included in the report to management.

Refer to page 57 for the Report of the Auditors.



**SARS implemented
99%
of the OTO's
recommendations.**

2.

SITUATIONAL ANALYSIS

2.1. SERVICE DELIVERY ENVIRONMENT

In the ten years of the OTO's existence, it has grown and made a significant contribution to the tax administration system. The Office began with six employees in 2013/14 and had 39 employees in 2022/23. The TAA amendments effected in 2016/17 have largely positively impacted the independence of the Office and its operations.

In addition, the systemic investigations performed over the years have provided much-needed, proactive resolution by investigating recurring issues that had impacted many people or segments of the population. Through these systemic investigations, the Office has been able to determine the barriers and root causes of the issues concerned and made recommendations to SARS on how best to address and rectify them. Over the years, more than 65% of the OTO's identified systemic issues were closed after SARS remedied the problems that were negatively impacting on taxpayers. This

has improved the tax system and taxpayer experiences.

The Office has used advertising value equivalency (AVE) as a means to quantify the success of its public relations (PR) efforts, including community outreach activities performed, over the past 10 years. The OTO has achieved a very high AVE, which is attributable to the positive brand equity gained over time through brand awareness campaigns, community outreach campaigns and stakeholder networks. The Office has become accessible to all taxpayers, including under-serviced communities, and has promoted understanding among taxpayers as to the free, fair and equitable services it provides. Its communication with taxpayers, practitioners and controlling bodies is based on responsiveness, clarity of information and high-quality feedback. The OTO has strived to improve the quality of taxpayer engagement by integrating the human element with digital channels.

The OTO's employees receive ongoing training to ensure efficiency and accountability when dealing with taxpayers.

In later years, the Tax Ombud also began to emphasise a culture of sound governance that promotes the principles of transparency, integrity, accountability and stakeholder engagement in the tax administration sphere, in support of democracy and inclusive growth. To implement this vision, the Tax Ombud requested the AGSA as the external assurance provider to independently evaluate performance data published in the OTO's externally focused reports. External assurance from the AGSA is associated with higher quality reporting and has enabled the Office to enhance controls, processes and governance structures. It has also assisted the OTO in developing fit-for-purpose indicators to measure its progress and performance against objectives and targets. Furthermore,

the external assurance has confirmed to stakeholders and key decision-makers that all information used from the OTO is credible and complies with recognised frameworks.

The Office continues to build value and provide compelling taxpayer experiences at a minimal cost, and commit to agile and responsive processes. The objective remains to combine digital technologies and operational capabilities in an

integrated, well-sequenced way to achieve improvements in service delivery, taxpayer experience and productivity, and to align resources to deliver on the Strategy 2025.



2.1.1. Systemic Investigations

1. New systemic issues identified in 2022/23

a) SARS conducting repeat verification cases

SARS has the right to select a taxpayer for an audit, verification or inspection on a random or a risk assessment basis in terms of section 40 of the TAA. This also gives SARS the powers to do multiple audits, verifications or inspections on a specific assessment period of a taxpayer.

That said, the OTO noted that repeat verification cases appear to be conducted for two reasons that we believe are not appropriate and waste SARS's resources.

Cases are incorrectly identified for verifications:

- after SARS has issued a reduced assessment to give effect to the outcome of a dispute; and
- repeatedly with the same risk as before and requesting the same supporting documentation.

It appears that the risk engine is incorrectly referring assessments for verification in the above scenarios.

In the first scenario, a reduced assessment that is issued to give effect to the outcome of an objection is processed via the risk

engine and is again referred for verification with the same risk as the original verification case. This should not be the case as the assessment is deemed final and conclusive in terms of section 100(1)(c) of the TAA.

In the second scenario, the risk engine keeps on referring to the same risk for verification once the verification case is finalised without an adjustment.

This causes delays in taxpayer refunds being paid out and places additional strain on SARS resources, especially during filing season. This can result in delays with other verification cases.

b) 'Consistency Check' case

The OTO established that SARS uses consistency checks when it is concerned about the declarations and claims made in returns submitted by taxpayers or VAT vendors. After identifying certain risks, SARS would contact the vendor to clarify whatever issue it has with the information on the return. If the information is confirmed to be correct, SARS loads the return on the vendor's profile.

At face value, there does not appear to be anything wrong with SARS verifying information on returns, but a closer look reveals why this practice is problematic.

The first problem with this practice is that, pending the finalisation of these cases, the return does not reflect as being submitted on the vendor's profile. This affects the vendor's tax compliance status.

Furthermore, unless supporting documents are required, SARS is allowed 21 business days from the submission of a VAT return to pay out a VAT refund before interest is payable to a vendor for the late payment of the refund. This means that when a consistency check case takes longer than 21 days to finalise, interest will not start accruing to the vendor, as the return will reflect as not being submitted on time.

While the OTO acknowledges that SARS must ensure the correctness of VAT returns, especially when refunds are involved, Chapter 5 of the TAA is very clear in respect of the process for doing so.

SARS is well within its rights to request a vendor to submit an amended return if there is an error in that return. However, this TAA provision applies only if that error is undisputed. This would allow the taxpayer to correct the error and avoid an assessment being issued based on a clearly incorrect return, as well as the time-consuming dispute resolution process to have the assessment corrected. However, the consistency check cases that we investigated do not fall into the category of undisputed errors on the returns.

How SARS treated the cases in question was in line with the verification process, but the process took place before the return was loaded on the vendor's profile and reflected as submitted. This was not in accordance with SARS's normal verification process.



This clearly illustrates that a verification was conducted as contemplated in terms of section 40 of the TAA and not a mere request to determine if there is possibly an undisputed error on the return in terms of section 25(5) of the TAA.

2. Plans to reduce the number of open systemic issues

During the 2022/23 financial year, it was noted that delays in the payment of refunds and cases concerning dispute resolution are still in the top categories for accepting cases relating to open systemic issues. This is of great concern to the OTO seeing that these systemic issues have been on the systemic issues register for an

extended period and been the subject of extensive reports.

The OTO monitors systemic issues continually to determine the effectiveness of remedial actions implemented by SARS and to determine if any new issues have arisen with further impacts. This monitoring process has already prompted the OTO to approach SARS about previously unidentified issues that we are of the view are now impacting on existing systemic issues and delaying their finalisation. Following up will go a long way towards ensuring that the current systemic issues register remains current and that effective additional recommendations are made to

SARS to finalise the systemic issues.

In meetings with SARS, it was confirmed that there are projects in progress to develop plans to address dispute resolution; however, these plans will likely be long-term arrangements and, if approved, be implemented over several years. The first phase of implementation is expected in the 2023/24 financial year and, if successfully implemented, is expected to lead to a steady increase in the finalisation rate in several open systemic issues.

2.1.2. Contact centre

Queries received

In the reporting period, the Office received 15 020 contacts through its contact centre, of which 11 006 were queries and 4 014 were complaints. The Office captured 98% of the queries within two business days from the date of receipt.

Channels through which queries were received

Email and voice calls were the most popular channels for taxpayers or tax practitioners approaching the OTO with queries. Of the 11 006 queries received during the year, 5 264 (47.83%) were received via email, while 5 526 (50.21%) were received through voice, 173 (1.57%) were online submissions, and 43 (0.39%) were received through walk-in visits to the OTO.

The majority of the queries received, 43%, were requests for advice, while 25% concerned the status of existing complaints that were not yet finalised and 32% were requests from taxpayers for forms and information on how to lodge complaints with the Office.

Complaints received

In the reporting period, 4 014 complaints were captured compared to 3 965 in 2021/22 and 2 967 in 2020/21. The Office captured and acknowledged 95% of the complaints within two business days from the date received.

2.1.3. Complaint resolution

1. Analysis of complaints resolved:

Validated complaints

During the reporting period, the Office validated 3 960 complaints compared to 3 950 in the 2021/22 financial period, an increase of 0.25%.

Of the 3 960 complaints validated in 2022/23, service matters represented 64.82%, procedural matters 17.10%, administrative matters 16.54% and other matters 1.54%. “Other” refers to complaints that were lodged with the OTO but were not against SARS and did not fall within the mandate of the Office. “Other” also refers to the complaints that were terminated before evaluation could be finalised as the taxpayer failed to provide the Office with requested information that would enable the Office to proceed with the evaluation.

Table 1: Categories of complaints validated

Categories of complaints validated	Number	Percentage
Service	2 567	64.82%
Administrative	677	17.10%
Procedural	655	16.54%
Other (complaints not related to SARS)	61	1.54%
TOTAL	3 960	100.00%

Source: OTO Audit Log Reports - SQL Server 2019 Reporting Services

Categories of validated complaints

The number of accepted complaints increased from 2 058 in 2021/22 to 2 215 in 2022/23. Accepted complaints include complaints that were later terminated. The latter increased from 383 in 2021/22 to 518 in the 2022/23 financial year.

The number of rejected complaints decreased from 1 892 in 2021/22 to 1 745 in the reporting period, which equates to an 8% decrease. Although the Office welcomes the reduction in rejected complaints, this number is still high and remains a concern as the majority of the complaints rejected were prematurely lodged with the Tax Ombud.

Table 2: Outcomes of complaints validated

Outcomes of complaints validated	Number	Percentage
Rejected	1 745	44.07%
Accepted	1 697	42.85%
Terminated	518	13.08%
TOTAL	3 960	100.00%

Source: OTO Audit Log Reports - SQL Server 2019 Reporting Services

Table 3: Comparison of subcategories of accepted complaints

Subcategories of accepted complaints	2022/23		2021/22		2020/21	
	Numbers	Percentages	Numbers	Percentages	Numbers	Percentages
Refunds	301	17.74%	705	42%	399	32%
Verifications	774	45.61%	294	18%	290	23%
Dispute resolution process	279	16.44%	263	16%	259	21%
General enquiries/services	71	4.18%	102	6%	19	2%
Assessments	85	5.01%	81	5%	105	8%
Debt management	62	3.65%	82	5%	72	6%
Portfolio maintenance	29	1.71%	41	2%	40	3%
Account maintenance	21	1.24%	47	3%	23	2%
Penalties and interest	12	0.71%	9	1%	13	1%
Tax compliance status	11	0.65%	7	0%	9	1%
Fraud investigations	14	0.82%	16	1%	6	0%
Interest on delayed refunds	10	0.59%	n/a	n/a	n/a	n/a
e-filing	7	0.41%	9	1%	12	1%
Audit	10	0.59%	1	0%	n/a	n/a
Estate	5	0.29%	n/a	n/a	n/a	n/a
Tax directive	3	0.18%	n/a	n/a	n/a	n/a
Debt equalisation	1	0.06%	n/a	n/a	n/a	n/a
Voluntary Disclosure Programme (VDP) agreement	1	0.06%	n/a	n/a	3	0%
Other	1	0.06%	18	1%	n/a	n/a
TOTAL	1 697	100.00%	1 675	100%	1250	100%

Resolution of accepted complaints

In the year under review, 1 739 accepted complaints were resolved and finalised, compared to 1 561 in 2021/22. These resolved complaints consisted of unresolved complaints brought forward from the previous reporting periods, as well as complaints accepted in the current reporting period. SARS implemented 99% of the recommendations the OTO made.

Of the 1 739 resolved complaints, 455 (26.16%) were finalised within 15 business days as per the Memorandum of Understanding (MOU) signed between the OTO and SARS. The remaining 1 284 (73.84%) were resolved outside the 15 business days. SARS's non-adherence to the MOU timeframes remains a concern and has been escalated to the senior leadership of SARS.

Table 4: Time taken by SARS to implement and finalise OTO recommendations

Number of days SARS took to finalise OTO recommendations	Number	Percentage
1 - 15 days	455	26.16%
16 - 31 days	441	25.36%
32 - 61 days	367	21.10%
62 - 91 days	204	11.73%
Over 92 days	272	15.64%
TOTAL	1 739	100.00%

Source: OTO Audit Log Reports - SQL Server 2019 Reporting Services

Value of refunds to taxpayers

In relation to refunds paid as a result of the OTO's intervention, the table below shows the top 10 amounts that were paid in the 2022/23 financial year, bringing much-needed relief to the entities concerned.

Table 5: Value of top 10 refunds paid to taxpayers

Tax type	Refunds
VAT	R13 895 751.87
VAT	R13 237 061.71
VAT	R11 595 762.75
VAT	R10 820 410.30
VAT	R10 656 237.07
VAT	R10 166 988.62
VAT	R9 394 281.08
VAT	R8 142 526.23
VAT	R7 982 982.44
VAT	R7 385 068.52
TOTAL	R103 277 070.59

Source: Service Manager

Validated complaints per user types

Individual taxpayers represented 79.95% of validated complaints and taxpayer representatives 20.05%.

Table 6: Types of users whose complaints were validated

Users for validated complaints	Number	Percentage
Taxpayers	3 166	79.95%
Taxpayer representatives	794	20.05%
TOTAL	3 960	100.00%

Source: OTO Audit Log Reports - SQL Server 2019 Reporting Services

Geographical spread of validated complaints

Complaints were received from taxpayers in seven of the nine provinces in South Africa. Gauteng accounted for the majority of complaints (67.65%), followed by the Western Cape (17.12%) and KwaZulu-Natal (7.10%).

Table 7: Geographical spread of validated complaints

Geographical spread of validated complaints	Number	Percentage
Gauteng	2679	67.65%
Western Cape	678	17.12%
KwaZulu-Natal	281	7.10%
Eastern Cape	131	3.31%
Free State	99	2.50%
Mpumalanga	84	2.12%
Limpopo	8	0.20%
TOTAL	3 960	100.00%

Source: OTO Audit Log Reports - SQL Server 2019 Reporting Services

Reasons for rejecting complaints

A significant number of complaints were rejected due to complainants lodging their complaints prematurely with the OTO, instead of first lodging complaints with the SARS Complaints Management Office, as required by section 18(4) of the TAA. These complaints represented 82.06% of the rejected complaints.

Table 8: Reasons for rejecting complaints

Reasons for rejection of complaints	Number	Percentage
Section 18(4) of the TAA (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.)	1 687	96.67%
Section 16 of the TAA (Not falling within the OTO mandate)	58	3.32%
TOTAL	1 745	100.00%

2.2. ORGANISATIONAL ENVIRONMENT

Connecting with taxpayers

The Office of the Tax Ombud strives to connect with stakeholders through various channels to promote its services. This connection is achieved through activities derived from three frameworks, namely the Communications and Outreach, Digital Communications and Stakeholder Engagements frameworks.

The activities involve promoting customer-centricity and ensuring taxpayers are adequately engaged on tax recourse matters and informed about the OTO's free and impartial services.

During the reporting period, the OTO engaged in numerous activities, including intensifying its #TaxpayersRightsMatter campaign, which utilises communications, marketing and advertising tools and platforms to promote awareness about the OTO and its services, encourage utilisation of its services and promote and protect taxpayer rights.

Promoting taxpayer rights

The finalisation of the country's first-ever Compilation of Taxpayers' Rights, Entitlements and Obligations in April 2022 was a significant achievement in promoting taxpayer rights. The compilation, which contains principles from various documents, including the Constitution, tax legislation

and other government documents, is part of the OTO's contribution to promoting the South African tax administration system.

During the year under review, the OTO went on an awareness drive to promote the document, featuring it on traditional media and social media platforms, unpacking it with various stakeholders and hosting robust discussions on how it contributes to promoting taxpayer rights and tax compliance. The campaign ensured that more taxpayers were exposed to information about their rights and responsibilities, as well as their obligations to SARS and, thus, to the country.

Building and strengthening mutually beneficial partnerships

The OTO's reaching out to stakeholders is pivotal to building and strengthening mutually beneficial partnerships with targeted groups. The OTO reached out to taxpayers, tax practitioners and the public, increasing taxpayer access to its services and improving customer-centricity. The main objective was to improve relationships with stakeholders and for them to understand the mandate of the OTO. During the period under review, the Office engaged various targeted groups, such as Recognised Controlling Bodies (RCBs) and public and other private sector institutions.

Most engagements were through OTO initiatives and collaborations; however,

public hunger for knowledge about the OTO's services resulted in some private and public institutions requesting the Office to engage their employees and stakeholders.

Presentations, exhibitions and seminars

During 2022/23, the OTO reached out to taxpayers in the private and public sectors through virtual and physical presentations, exhibitions and webinars. Altogether 87 stakeholder engagements were conducted. The engagements covered topics such as the OTO's services, systemic issues and taxpayers' rights, entitlements and obligations.

Webinars and thought leadership discussions were popular with RCBs, especially topics such as how the OTO is improving the tax system via systemic investigations; delays in the payment of tax refunds and the fact that SARS is not always in the wrong; and auto-assessments and challenges these pose to taxpayers, to mention a few.

Engagement with RCBs

Over the years, the OTO has enjoyed excellent support from RCBs, promoting taxpayer rights and contributing comments on the Compilation of Taxpayers' Rights, Entitlements and Obligations. This is in addition to hosting robust discussions on important matters. An ongoing OTO market research survey received good support from RCBs, who encouraged their respective members to participate.

Table 9: RCBs engaged

Chartered Institute of Business Accountants (CIBA)
Chartered Institute of Management Accountants (CIMA)
Financial Planning Institute (FPI)
Institute of Accounting and Commerce (IAC)
South African Institute of Chartered Accountants (SAICA)
South African Institute of Professional Accountants (SAIPA)
South African Institute of Taxation (SAIT)

Cultivating meaningful partnerships with Government departments and entities

Government employees represent a considerable percentage of taxpayers in the country and, by extension, of those likely to have tax complaints against SARS. The OTO continued to build important partnerships with numerous departments and entities, and these fruitful partnerships saw the OTO being afforded platforms to engage employees on recourse issues. All parties benefited as the OTO spread awareness about its services and mandate, on the one hand, while Government empowered its employees with knowledge about their rights as taxpayers and what to do when they have tax complaints against the revenue collector.

Table 10: Government departments and state owned enterprises engaged

Cooperative Governance and Traditional Affairs (COGTA)	Limpopo Treasury
Department of Agriculture, Land Reform and Rural Development (DALRRD)	Mpumalanga Provincial Wellness Team
Department of Health (DOH)	Nkangala District Municipality
Department of Human Settlements in the Western Cape	North-West Cooperative Governance and Traditional Affairs (COGTA)
Department of Education and Training	North West Provincial Government Wellness Coordinators
Department of Employment and Labour	Proudly SA Buy Local Summit
Department of International Relations and Cooperation	State Information Technology Agency (SITA)
Department of Labour's Compensation House	South African Local Government Association (SALGA)
Department of Sports, Arts and Culture	South African Revenue Service (SARS)
Free State Provincial Treasury	South African Social Security Agency (SASSA)
Government Communication and Information System (GCIS)	Wellness District coordinators in the Office of the Premier, Eastern Cape

Growing access to auditing firms and businesses

The private sector plays a vital role in promoting taxpayer education, and the OTO's intensified pursuit of engagement opportunities helped cultivate meaningful partnerships, enabling the Office to engage employees and specialists in the tax sphere on numerous tax recourse matters.

Table 11: Auditing firms, chambers, businesses and professional organisations engaged

Absa	INDGRO Multi Services	OUTsurance
Deloitte	KPMG	Randburg Chamber of Commerce
Ernst & Young	Life Health Care Springs Parklands Hospital	South African Chamber of Commerce and Industry (SACCI)
Harmony Gold One Mine	Middleburg Chamber of Commerce	South African Council for Planners
Hollard	Moumakoe Energy	Southern African Institute of Government Auditors (SAIGA)
ImPower X Advisory Services	Old Mutual	The Tax Faculty

Informative and agenda-setting publications

The OTO is regarded as an expert in tax matters with highly skilled employees and senior leadership whose opinion on tax matters is respected. The OTO produced five editions of its Fair Play newsletter, which was widely shared with thousands of stakeholders through Mailchimp, social media platforms and emails to private and public sector stakeholders. The newsletter's content includes taxpayer education, important developments in the tax and tax recourse sphere, the OTO's strategic focus, taxpayers' rights, entitlements and obligations, and opinions from various experts on a range of tax matters. It was also featured on the OTO website, which is accessed by thousands of taxpayers annually.

In addition, the OTO distributed nine editions of the Fairness for All newsletter, based on educational case studies on complaints received by the Office and how they were investigated and resolved. These were also shared with stakeholders through numerous platforms, and some of the interesting cases, which also helped generate substantial broadcast media coverage, include: SARS is not always in the wrong; No taxpayer complaint is too small for the OTO; Auto-assessments and challenges they pose to taxpayers; and SARS delays in refunding the money.

Thought leadership discussions

The OTO continues to be a leading voice in the tax recourse domain. Its leadership participates in important discussions about issues affecting taxpayers and tax practitioners, and those impacting the country's tax administration system broadly. These discussions unpack topical issues, serve as a vital source of information and influence public discourse on tax matters.

In the 2022/23 financial year, the OTO participated in the following thought leadership discussions, among others:

- Former Tax Ombud Judge Bernard Ngoepe, CEO and then Acting Tax Ombud Prof. Thabo Legwaila, and Senior Manager: Operations Talitha Muade, were featured on the popular TV programme Motswako where they discussed taxpayers' rights, entitlements and obligations, as well as the OTO's 9th anniversary.
- Acting Tax Ombud Prof. Thabo Legwaila discussed the OTO's short and long-term strategy and how the Office collaborates with SAICA; the discussion took place during the accounting body's National Tax Committee meeting.
- The OTO launched the Tax Ombud Annual Report 2021/22 with a live discussion on Power Business with Sifiso Skenjana, where Acting Tax Ombud Prof. Thabo Legwaila and

Senior Manager: Operations Talitha Muade unpacked the content of the report and discussed other issues concerning taxpayers.

- Acting Tax Ombud Prof. Thabo Legwaila held an informative Thought Leadership discussion with Wits University's Prof Carika Fritz on Business Day TV, where they unpacked numerous issues, including whether the OTO holds SARS accountable for a high standard of professionalism and ethics and the Office's contribution to the South African tax administration system.



R12 264 325
in estimated public relations value of OTO media engagements



97

news stories across print, broadcast and digital media

Extensive free media coverage

The OTO enjoyed extensive free media coverage on various community and national media platforms. Media engagements and interviews allow the OTO to communicate its messages to create awareness about its services. In almost all provinces, comprehensive media coverage has been received on radio, particularly community radio. This offered the OTO interview opportunities to articulate its services and

how they benefit taxpayers with complaints against SARS. Commercial radio stations such as Algoa FM and Power FM, as well as public channels such as SABC's SAFM and Radio Sonder Grense, have also featured the OTO. Television channels Newsroom Africa and ENCA offered the Office ample interview opportunities and gave it positive coverage in their news programmes.

The distribution of Fairness for All case studies and media statements created interest and attracted media attention to seek interviews with the OTO leadership. This positively impacted the target set in the Annual Performance Plan, resulting in the OTO over-achieving by more than 67 media engagements, compared to the target of 30.

The OTO enjoyed positive media coverage, with 97 news items featured on broadcast, print and digital platforms, as listed in the table below:

Table 12 Radio coverage

90.6 FM	Kaya FM	Radio 786
Alex FM	Khwezi FM	Radio Pulpit
Algoa FM	Lesedi FM	Radio Sonder Grense
Bergmans Square FM	Life FM	Rainbow FM
Bold Moves Radio	Mafikeng FM	Ratlou FM
Botlokwa FM	Maluti FM	SAFM
Cape Talk	Maruleng FM	Univen FM
Chai FM	Mdantsane FM	Valley FM
Eden FM	Nongoma FM	Voice of Cape Town
Energy FM	Pheli FM	Vukani FM
Gold FM	Power FM	Vuma FM
Groot FM	Pretoria FM	Waterberg Stereo
Helderberg FM	Radio 104	Wild Coast Radio
Jozi FM	Radio 702	

Table 13: TV coverage

ENCA	Etv	Newzroom Afrika
SABC1	SABC2	

Table 14: Digital platforms

Bloomberg Tax	Engineering News	News 24
Cliff Central	MoneyWeb	TimesLIVE
Daily Maverick	Moonstone	

Table 15: Print platforms

Business Day	Rapport	Imali Matters
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Over R12 million worth of free publicity received

The essence of public relations (PR) value lies in its ability to create and maintain a positive image, foster strong relationships and enhance communication between the Office and its stakeholders. It helps the Office position itself while effectively and strategically conveying its messages.

In the context of the OTO, PR takes on added significance as it promotes clarity and transparency regarding taxpayer rights and helps taxpayers better understand the Office's mandate. The Office has increased PR value by conducting thought leadership discussions on commercial radio platforms such as Kaya FM and interviews on several community radio stations such as Energy FM, Maruleng FM and Helderberg FM, to name a few.

The efforts made by the OTO in 2022/23 have generated a significant PR value of R12 264 325, showcasing the impact that strategically planned public communication and engagement can have in reinforcing a positive brand image and establishing credibility with stakeholders.

Paid target-driven advertising

Earlier in the year, the Office had a paid advertising campaign to promote the rights of taxpayers, based on the theme #TaxpayersRightsMatter, on broadcast and digital media platforms. The OTO ran advertising campaigns on print, digital and broadcast platforms, including Power FM, Business Day, Energy FM, Cape Talk, Motswako and Business Day Wanted Magazine. The campaign centred around the OTO's 9th Anniversary Celebration, the Tax Ombud 2021/22 Annual Report launch and awareness of taxpayer rights.

The #TaxpayersRightsMatter campaign was featured on the in-content advertising (ICA) on television shows. ICA is a technique that inserts brand assets into popular primetime broadcast television dramas. The campaign targeted the black African market, in line with the findings from the OTO's 2018 perception survey, which indicated that the Office should reach out to more black Africans. The OTO logo and content were flighted on popular TV shows such as *Gomora*, *Skeem Saam*, *The Queen*, *House of Zwide* and *Durban General* from 1 to 31 July 2022.

Highly influential social media engagements

The OTO maintains an active presence on four primary social media channels: Facebook, Twitter, Instagram and LinkedIn. These platforms are differentiated by audience and immediacy. The OTO ran an organic educational (unpaid) campaign across these platforms for the year, broken into monthly themes.

LinkedIn mainly provides access to a professional audience who respond well to in-depth and technical tax content. Organic and paid campaigns on LinkedIn resulted in that audience almost doubling from 741 followers in 2020/21 to 1 351 followers in 2022/23.

Table 16: Social media growth

	2021/22	2022/23	Change
Facebook	874	1 245	+42.4%
Twitter	8 260	8 498	+2.9%
LinkedIn	990	1 351	+36.5%
Instagram	669	769	+14.5%

Digital advertising

The Tax Ombud ran three major digital advertising campaigns in 2022/23.

Table 17: Digital advertising performance

Campaign	Date	Platforms	Impressions	Clicks
Tax Season Taxpayer education focusing on the role of the Ombud	July - August 2022	Facebook, LinkedIn, News24	945 971	15 642
OTO 9th Anniversary Highlighted 9 Years of Ensuring Fairness, as well as the Tax Ombud's Annual Report	October - November 2022	Facebook, LinkedIn	723 852	3 748
Always-on* Co-ordinated with monthly organic campaign*	December to March 2023	Facebook, LinkedIn	1 224 377	1462

*The Always-on campaign is characterised by a smaller overall budget and longer campaign duration, which ensures a constant, boosted presence on the relevant social channels.



More than 30 000 people accessed the Tax Ombud’s website in 2022/23. Most visitors (43.2%) arrived via organic searches, 25.9% directly and 21.7% from organic social media. This attests to the success of the OTO’s organic social media campaigns.

Table 18: Traffic sources

Traffic source	Users	Percentage
Organic search	13 050	43.2%
Direct	7 837	25.9%
Organic social	6 569	21.7%
Referral	2 485	8.2%
Other	278	0.9%
	30 219	100%

During the year, there were three improvements to the website’s functionality, resulting in improved analytics and advert targeting, enhanced social media sharing and a better reading experience of documents housed on the site.

Employee engagements

The OTO also promoted effective internal communication as employees play an essential role in strategic deliverables and promoting excellence. Numerous initiatives were implemented, ensuring employees participated in activities that promote awareness about taxpayers’ rights, as well as those geared towards creating an environment for employee excellence and optimal service delivery.

Employee engagement took various forms and platforms, including the Perspective newsletter and internal communiques. The OTO issued 22 internal newsletters during the year, covering an array of issues, including organisational performance, individual excellence, the OTO’s policies and values, and the importance of integrity.

Employee recognition and rewards programme

The OTO revived its employee rewards and recognition programme in 2022/23. Known as Anser Indicus, it promotes and rewards employee excellence and is credited with helping to boost employee morale and encouraging many to go the extra mile. More than a dozen employees won prizes ranging from R500 to R2 000 in different categories. This was for, amongst others, pursuing excellence in their deliverables and embracing the OTO’s Hallmarks of Excellence in championing the OTO mandate.

Cultivating an environment conducive for employee excellence

The OTO has always prioritised employee engagement and building an environment that breeds excellence and teamwork. Internal campaigns were implemented during the reporting period to help promote collaboration and create an environment where employees could be free to be themselves without fear of victimisation.

One of the campaigns, **A Safe Space for All**, encourages Team OTO (as the Office’s employees are known) to accept and embrace diversity, which cultivates respect for differences in cultural, religious, social, class and sexual orientations.

Being a Team Player was another important internal campaign launched. It calls on Team OTO to volunteer their time and expertise, above fulfilling their regular duties, to help with other organisational deliverables. Team OTO heeded the call, and now the organisation has a team of volunteers to help plan and deliver OTO initiatives.

The third programme, **Integrity Matters**, calls on Team OTO to espouse the value of integrity, which is one of the Office’s core values. The aim is to ensure Team OTO understands what constitutes integrity and the importance of embracing this value at all times, and especially when interacting with taxpayers.

2.3. KEY POLICY DEVELOPMENTS AND LEGISLATIVE CHANGES

There have been no key policy developments regarding the Tax Ombud in the TAA, since the legislative amendments were carried out in 2016.

2.4. PROGRESS TOWARD ACHIEVEMENT OF INSTITUTIONAL IMPACTS AND OUTCOMES

The OTO continues with the implementation of the approved complaint management framework to achieve the Strategic Plan 2020 - 2025 set targets of reviewing 98% of complaints received from taxpayers within eight working days from the date the complaint is captured, and communicating the outcome within four days from the date the close-out report is received from SARS.

During 2022/23, the Office reviewed 93% of the complaints received within eight days and actioned 95% of the close-out reports within four days. In the last quarter of the 2022/23 financial year, the Office changed its complaints review process to strengthen public confidence in its administrative processes and to ensure that there are clear accountabilities for complaint handling, which is fundamental to providing quality service.

In ensuring that there is a balanced and fair application of the tax administration process and a meaningful contribution to a culture of tax compliance, the Office actively promoted the Compilation of Taxpayers' Rights, Entitlements and Obligations among taxpayers, tax practitioners, RCBs and the public in the 2022/23 financial year.

The Office continued implementing the digital communications framework. Steps taken during the year included completing the migration of the OTO website to WordPress, which has more features allowing for user-friendly interaction. The website is now being hosted on Azure, a cloud-based product, and has the functionality to lodge online complaints.

The Office also completed the migration of OTO employees to the OTO Microsoft Tenant and designed OTO intranet/workspace that aims to provide a central platform to improve employee collaboration and communication and increase internal knowledge sharing, ensuring that all employees have access to essential OTO information. Part of the OTO Strategic Plan 2020 - 2025 goal is to increase internal communication engagements by reducing reliance on institution-wide email.



93%
of complaints
reviewed within
8 days



95%
of close-out
reports actioned
within 4 days

Progress toward the achievement of the 2020 – 2025 Strategic Plan activities

Programme	Programme purpose	Output (Objectives)	Strategic plan activities achieved
Accountability	Ensure a balanced and fair application of the tax administration process and contribute to a culture of tax compliance.	Review and address complaints by taxpayers against SARS.	<p>Implement a complaint management framework that will improve the feedback provided to taxpayers.</p> <ul style="list-style-type: none"> The complaint management framework was developed and approved by the Senior Management Committee for implementation on 15 June 2021. The implementation plan of the complaint management framework was updated in January 2023 to include a new complaints review process. The implementation of the framework has positively affected the complaint resolution value chain as follows: <ul style="list-style-type: none"> The percentage of complaints acknowledged within two days improved from 85% in 2022/21 to 95% in 2022/23. The percentage of complaints reviewed within eight business days of the date captured improved from 89% in 2022/21 to 93% in 2022/23. The percentage of close-out reports actioned within four business days of the date received improved from 87% in 2022/21 to 95% in 2022/23.
		Contribute to improving the tax administration system and building confidence in the system.	<p>Develop and promote a tax compendium of the rights and obligations of taxpayers.</p> <ul style="list-style-type: none"> The Compilation of Taxpayers' Rights, Entitlements and Obligations was developed and approved in March 2022. Efforts to promote the Compilation commenced in the 2022/23 financial year. The Compilation is subject to review annually, i.e. from the 2022/23 to the 2024/25 financial years. This will be informed by any legislative amendments that necessitate changes to the existing document.
Efficacy	Provide a consistently high-quality service that is taxpayer-centric and provided at a minimal cost.	Create an agile organisation that can scale efficiently to meet taxpayer demands.	<p>Implement a feedback plan that will assist taxpayers in ensuring that they comprehend the outcome of their complaints.</p> <ul style="list-style-type: none"> The taxpayer feedback framework was developed and approved on 22 February 2022. The implementation of the feedback framework is in progress.

Programme	Programme purpose	Output (Objectives)	Strategic Plan activities achieved
Efficacy	Provide a consistently high-quality service that is taxpayer-centric and provided at a minimal cost.	Create an agile organisation that can scale efficiently to meet taxpayer demands.	<p>Implement a five-year digital framework through continuous interactive online platforms that will improve the OTO's brand presence and promote accessibility of its services to all taxpayers.</p> <ul style="list-style-type: none"> The digital framework was developed and approved on 4 June 2020. The implementation of the framework is in progress with the following completed: <ul style="list-style-type: none"> migration of the OTO website to WordPress and Microsoft Azure; OTO M365 Tenant migration; OTO intranet; and procurement of licences for D365 implementation. <p>Develop and implement a human resources strategy that encourages professionalism and high performance by OTO employees.</p> <ul style="list-style-type: none"> A Human Resources Strategy was developed and approved in October 2021. The review and implementation of the Anser Indicus employee rewards programme is scheduled for 2023/24.
		Promote stakeholder engagement and collaboration.	<p>Develop a five-year community outreach activity framework that will ensure taxpayers in all nine provinces are aware of the OTO's mandate and understand its processes.</p> <ul style="list-style-type: none"> The Community Outreach Framework was developed and approved on 18 November 2020. The implementation of the framework is in progress. <p>Develop a five-year stakeholder framework that promotes optimal engagement and collaboration to ensure efficient interaction between the OTO and its stakeholders and strengthens relationships.</p> <ul style="list-style-type: none"> The Stakeholder Engagement Framework was developed and approved on 17 March 2021. The implementation of the framework is in progress.
		Independence	An Office of the Tax Ombud that is independent, structurally, and operationally, to limit the risk of perceived bias.

2.5. REPORT IN TERMS OF SECTION 19 OF THE TAX ADMINISTRATION ACT

Under section 19 (1)(b) of the TAA, the Tax Ombud must submit an annual report to the Minister of Finance within five months of the end of the SARS financial year. In terms of section 19 (2) of the TAA, the report must summarise at least 11 of the most serious issues encountered by taxpayers and identify systemic and emerging issues. It must also include the inventory of such issues and recommendations, including the administrative action appropriate to resolve the problems encountered by taxpayers.

Summary of identified systemic and emerging issues

No	Issue	Summary	Category (serious/systemic/emerging)	Action taken by the OTO	Action taken by SARS	Period in the OTO'S inventory	Result
1	Delays in payment of refunds.	1.1 Delays in the lifting of stoppers and not meeting the timeframes for doing so.	Systemic	The remedial actions implemented by SARS are noted. The effectiveness thereof is being monitored.	SARS has identified the backlog to be cleared by looking at a systemic fix for stoppers placed. The interim process is in place to mitigate unnecessary stoppers; however, further investigation is required before a future design can be approved due to the complexity of the matter. (Ongoing process). SARS indicated on 4 October 2021 that corrective actions were implemented to address previously referred cases; however, it did not provide details of the corrective actions.	112 months	Ongoing

No	Issue	Summary	Category (serious/ systemic/ emerging)	Action taken by the OTO	Action taken by SARS	Period in the OTO'S inventory	Result
1	Delays in payment of refunds.	1.2 Diesel refunds	Systemic	It was recommended that SARS implement a standalone return for diesel refund claims, separate from the VAT201.	<p>SARS has identified the backlog indicated to it on 14 September 2022 during a series of industry-specific workshops undertaken with all stakeholders who commented on the draft legislation. Feedback on the outcome of these workshops was provided to all invitees on 16 November 2021. These workshops concluded the external consultation process and informed the finalisation of the proposed amendments, which are in the process of being finalised by SARS and National Treasury.</p> <p>SARS further indicated that to ensure no resources are wasted, changes will only be implemented once the new provisions are enacted. SARS has the allocated approval and budget to undertake a standalone diesel refund separate from VAT. This is part of a phased approach that is envisaged to roll out in the first quarter of 2023/24, SARS's new financial year.</p>	112 months	Ongoing
		1.3 Debt set-off and recovery steps are taken despite a request for suspension of payment.	Systemic	The remedial actions implemented by SARS are noted. The effectiveness thereof is being monitored.	<p>The process for applying for the suspension of payment has been automated and is now a separate process; it has been operational since May 2017.</p> <p>The debt management process was further enhanced internally on 17 September 2018 to simplify the deferred payment arrangements thresholds, and automate the issuing of deferral payment termination notices and the issuing and withdrawal of a third-party appointment, etc.</p> <p>SARS indicated on 24 March 2021 that since the remedial actions were implemented on various dates, the process has been continuously monitored.</p>	112 months	Ongoing

No	Issue	Summary	Category (serious/ systemic/ emerging)	Action taken by the OTO	Action taken by SARS	Period in the OTO'S inventory	Result
2	Dispute resolution						
2.1	System-automated calculation of days	<p>The SARS system does not calculate dates for dispute resolution correctly. It does not exclude public holidays, weekends and the dies non period (those days on which courts do not sit or carry on business).</p> <p>This has a negative impact on taxpayers who are forced to apply for condonation unnecessarily, and on SARS through person-hours lost due to dealing with condonation cases that should not be routed for condonation in the first place.</p>	Serious/ systemic	<p>It is recommended that SARS should correct its system to calculate the number of days during the dispute resolution (DR) procedure correctly and in accordance with the DR Rules.</p> <p>The OTO will continue to monitor if the system correctly calculates the days to determine if a condonation case should be created.</p>	SARS indicated on 14 September 2022 that the system has been rectified in respect of the dies non period for appeals. SARS further indicated that the dies non period for objections will be rectified in early 2023.	34 months	Ongoing
2.2	Notification of invalidation of appeal	<p>The problem arises in matters where taxpayers submit appeals so late that SARS does not have the discretion to condone the late filing. Under these circumstances, the letters issued by SARS correctly inform the taxpayer that SARS has no discretion to entertain appeals lodged more than 75 days after delivery of the Notice of Disallowance of Objection.</p> <p>The problem is that this letter includes a standard paragraph stating:</p> <p>“A new Notice of Appeal may be submitted within the prescribed period, and if late, a request for late submission must be submitted by you.”</p> <p>SARS tries to work around this issue by adding a line, “Please ignore the below paragraph – Case concluded.”</p>	Serious/ systemic	<p>It is recommended that SARS should ensure compliance with the required timeframes.</p> <p>The project plan described by SARS will be monitored to determine and evaluate the plan's effectiveness in reducing the raised systemic issue.</p>	<p>SARS indicated on 3 February 2021 that a decision was taken in September 2020 to develop a project plan to address the issues reported. The project plan entails two parts:</p> <p>Part 1 – Appeals inventory reduction plan; and</p> <p>Part 2 – Reinvention of the way SARS deals with all disputes.</p> <p>SARS further indicated that Part 1 of the project plan was presented to all SARS Regional Directors and that they supported it.</p> <p>Part 2 of the project plan will take longer to implement since these matters take more time to amend/improve.</p>	34 months	Ongoing

No	Issue	Summary	Category (serious/systemic/emerging)	Action taken by the OTO	Action taken by SARS	Period in the OTO'S inventory	Result
2.3	The general end-to-end periods for taking decisions on objection: Rule 9	SARS must finalise the objection within 60 days after receiving the objection if no additional supporting documentation was requested. If SARS requests additional supporting documentation, the objection must be finalised within 45 days of receiving the supporting documentation.	Serious/systemic	It is recommended that SARS should ensure compliance with the required timeframes. The project plan described by SARS will be monitored to determine and evaluate the plan's effectiveness in reducing the raised systemic issue.	SARS indicated on 3 February 2021 that a decision was taken in September 2020 to develop a project plan to address the issues reported. The project plan entails two parts: Part 1 – Appeals inventory reduction plan; and Part 2 – Reinvention of the way SARS deals with all disputes. SARS further indicated that Part 1 of the project plan was presented to all SARS Regional Directors and that they supported it. Part 2 of the project plan will take longer to implement since these matters take more time to amend/improve.	34 months	Ongoing
2.4	Request for reasons for the assessment: Rule 6	A request for the reasons must be made within 30 days of the assessment. SARS must respond within 45 days of the request. SARS can, on its own, grant an extension if there are exceptional circumstances, the matter is complex, or the amount involved is high. The extension may not exceed 45 days, though, and SARS must inform the taxpayer thereof within 45 days after the date of the request. It is recommended that SARS should ensure compliance with the timeframes.	Serious/systemic	It is recommended that SARS should ensure compliance with the timeframes. The project plan described by SARS will be monitored to determine and evaluate the plan's effectiveness in reducing the raised systemic issue.	SARS indicated on 3 February 2021 that a decision was taken in September 2020 to develop a project plan to address the issues reported. The project plan entails two parts: Part 1 – Appeals inventory reduction plan; and Part 2 – Reinvention of the way SARS deals with all disputes. SARS further indicated that Part 1 of the project plan was presented to all SARS Regional Directors and that they supported it. Part 2 of the project plan will take longer to implement since these matters take more time to amend/improve.	34 months	Ongoing

No	Issue	Summary	Category (serious/systemic/emerging)	Action taken by the OTO	Action taken by SARS	Period in the OTO'S inventory	Result
2.5	Notice of invalidity: Rule 7(4)	If SARS receives an objection that does not comply with rule 7(2) of the Dispute Resolution Rules, SARS may regard the objection as invalid and must notify the taxpayer accordingly and state the ground for invalidation in the notice within 30 days after receiving the invalid objection.	Serious/systemic	<p>It is recommended that SARS should ensure compliance with the timeframes.</p> <p>The project plan described by SARS will be monitored to determine and evaluate the plan's effectiveness in reducing the raised systemic issue.</p>	<p>SARS indicated on 3 February 2021 that a decision was taken in September 2020 to develop a project plan to address the issues reported. The project plan entails two parts:</p> <p>Part 1 – Appeals inventory reduction plan; and</p> <p>Part 2 – Reinvention of the way SARS deals with all disputes.</p> <p>SARS further indicated that Part 1 of the project plan was presented to all SARS Regional Directors and that they supported it.</p> <p>Part 2 of the project plan will take longer to implement since these matters take more time to amend/improve.</p> <p>SARS indicated on 24 March 2021 that this Dispute Project aims to address the high invalidation rate in the Compliance Audit space by introducing dispute coordinators to reduce the number of invalid cases and improve compliance with the turnaround times.</p>	34 months	Ongoing
2.6	Request for substantiating documents: Rule 8(1)	SARS must request substantiating documents within 30 days as prescribed.	Serious/systemic	<p>It is recommended that SARS should ensure compliance with the timeframes.</p> <p>The project plan described by SARS will be monitored to determine and evaluate the plan's effectiveness in reducing the raised systemic issue.</p>	<p>SARS indicated on 24 March 2021 that the objections work-in-progress planner is being utilised to track and manage turnaround times. In addition, the Dispute Project will aim to enforce rule 8 requests at the objection stage to improve the quality of decisions made and reduce the number of appeals. It is planned that the introduction of dispute coordinators will also improve the turnaround times.</p>	34 months	Ongoing

No	Issue	Summary	Category (serious/systemic/emerging)	Action taken by the OTO	Action taken by SARS	Period in the OTO'S inventory	Result
2.7	Non-adherence by SARS to dispute resolution turnaround times.	On many occasions, SARS does not adhere to the dispute resolution turnaround timeframes as envisaged in chapter 9 and under the rules for dispute resolution as promulgated under section 103 of the TAA.	Serious/systemic	<p>The recommendation was made for SARS to strictly adhere to the Alternative Dispute Resolution rules at all times and, in cases of non-adherence, to provide taxpayers with reasons. The outcome of each objection and appeal must be implemented correctly and timeously.</p> <p>It is also recommended that the SARS system be aligned to record each step of the appeal process and its accompanying correspondence. This would enable accurate inventory management and make it easy to identify the bottlenecks within the process.</p> <p>The project plan described by SARS will be monitored to determine and evaluate the plan's effectiveness in reducing the raised systemic issue.</p>	<p>SARS indicated on 3 February 2021 that a decision was taken in September 2020 to develop a project plan to address the issues reported.</p> <p>The project plan entails two parts: Part 1 – Appeals inventory reduction plan; and Part 2 – Reinvention of the way SARS deals with all disputes.</p> <p>SARS further indicated that Part 1 of the project plan was presented to all SARS Regional Directors and that they supported it.</p> <p>Part 2 of the project plan will take longer to implement since these matters take more time to amend/improve.</p> <p>SARS indicated on 24 March 2021 that the Dispute Project is also mobilising additional staff capacity to the Legal Service function to reduce the appeals inventory and excessive inflow from the objection phase.</p> <p>Regional dispute resolution units will also be introduced to focus on dispute resolution cases.</p> <p>SARS indicated on 4 October 2021 that inventory extraction and analysis have been made easier for the regions, ensuring better management of appeal cases. Furthermore, the Disputes Project also has contact sessions with each region, highlighting areas of concern and priorities listed.</p>	34 months	Ongoing

No	Issue	Summary	Category (serious/systemic/emerging)	Action taken by the OTO	Action taken by SARS	Period in the OTO'S inventory	Result
2.8	Request for condonation (Objection and appeal)	<p>Our systemic investigation revealed that 86.06% of the requests for condonation of objection cases finalised by SARS over two years were allowed.</p> <p>Furthermore, SARS received 4 292 objections disputing its decision to decline the condonation request. SARS allowed 78.49% of these objections.</p> <p>Similarly, SARS allowed 76.09% of the 175 cases where taxpayers appealed the disallowance of the objection to the decision not to condone the late filing of the complaint.</p> <p>Ultimately 85.63% of all requests for condonation on objection cases received by SARS in the period were allowed.</p> <p>As in the case of requests for condonation relating to objections, the allowance rate for appeal condonations is very high. On the initial request for condonation, SARS allowed 89.9% of the matters it finalised by taking a decision. SARS received very few objections and appeals to decisions to decline condonation during the appeal step. While only 47% of those were allowed, SARS still allowed 89.5% of all condonation requests about which it made decisions during the period.</p> <p>This raises the question of what purpose the condonation process serves and whether or not that purpose justifies the time spent on it. Although these requests were quickly attended to, the concern is SARS's high number of condonation cases.</p>	Serious/systemic	Taking into account that almost 90% of all requests for condonation are allowed, we believe that consideration should be given to allowing taxpayers three years to object to an additional assessment as stipulated in section 104(5)(b) of the TAA and remove the provisions of the TAA and the Dispute Resolution Rules relating to condonation. Similarly, we believe that during the appeal process, the timeframe could be set at 75 days with no further option of extension.	The amended dispute resolution rules implemented in March 2023 increased the period within which to lodge an objection from 30 days to 80 days.	34 months	Ongoing

No	Issue	Summary	Category (serious/systemic/emerging)	Action taken by the OTO	Action taken by SARS	Period in the OTO'S inventory	Result
2.9	Inventory management (appeals)	<p>The Invalid Appeal letter is the only piece of correspondence that consistently features in SARS's system for appeal cases during the entire appeal process. The OTO found very few cases involving other essential letters and documents, such as the so-called "suitability letters", that led the process into another step with prescribed timeframes. SARS acknowledged that not all manual letters were uploaded onto the system. It is important to note that all these documents are essential and that all but two of the required documents in the appeal process have prescribed periods attached. Based on the information received by SARS, it would be near impossible to track compliance with the rules in relation to any of these documents.</p>	Serious/systemic	<p>It is recommended that the system be aligned to record each step of the appeal process and its accompanying correspondence. This would enable accurate inventory management and make it easy to identify the bottlenecks within the process.</p>	<p>SARS indicated on 24 March 2021 that the case-routing issues experienced were identified and escalated.</p> <p>Jurisdictional routing issues will be escalated via remedy calls to prioritise.</p> <p>SARS will aim to improve case categorisation in order to improve inventory management.</p> <p>SARS Enterprise Data Management has given training and supplied inventory workbooks to regions with difficulty sourcing their cases.</p> <p>Additional staff will be mobilised to Legal Services.</p> <p>SARS indicated on 4 October 2021 that inventory extraction and analysis have been made easier for the regions, ensuring better management of appeal cases. Furthermore, the Disputes Project also has contact sessions with each region, highlighting areas of concern and priorities listed.</p> <p>SARS indicated on 14 September 2022 that automation of letters is part of the planned system enhancements.</p>	34 months	Ongoing

No	Issue	Summary	Category (serious/systemic/emerging)	Action taken by the OTO	Action taken by SARS	Period in the OTO'S inventory	Result
2.10	The raising of non-meritorious additional assessments	71% of objections over two years were allowed or partially allowed, and 92% of appeals that went through the entire appeal process were conceded in full over the same period. One must question why these assessments were raised first and why they could not be allowed at the objection stage. This point is essential because a lot of time and effort is invested in dealing with each case. For example, a committee must sit to consider each matter, for which the members must spend valuable time preparing. There are thousands of these cases.	Serious/systemic	It is recommended that SARS take a closer look at how additional assessments are made and the efficiency of its objections committee mechanism, as too many assessments are raised without merit, clogging the system unnecessarily and causing delays.	<p>SARS indicated on 24 March 2021 that independent governance committees are in place to reduce the risk of raising assessments without merit.</p> <p>Assessments are also raised using third party data in cases where taxpayers do not cooperate.</p> <p>The SARS risk engine is constantly being reviewed to reduce the number of cases.</p> <p>Risk-specific letters have been introduced to improve effective communication with taxpayers.</p> <p>SARS indicated on 4 October 2021 that the verification and dispute processes are being reviewed and that business cases were prepared for both.</p> <p>SARS indicated on 14 September 2022 that section 95 of the TAA was implemented for the 2022 filing season.</p>	34 months	Ongoing

No	Issue	Summary	Category (serious/systemic/emerging)	Action taken by the OTO	Action taken by SARS	Period in the OTO'S inventory	Result
2.11	Delayed submission of information by taxpayers	All three SARS divisions involved in the dispute resolution process were asked about their challenges and views on reasons for delays in finalising objections and appeals. From their responses, the OTO observed that a common theme arose around the submission of documents by taxpayers. This issue may tie in with the high allowance of objections and concessions on appeal.	Serious/systemic	Both Legal and Investigative Audit refer to instances where the matter should be audited from scratch due to new information being provided only after the disputes were lodged. If new information (for example, new financial statements) is provided, it may be argued that the initial declaration by the taxpayer has changed, which will affect the additional assessment. The question arises whether the dispute resolution procedure is the correct channel to conduct an audit of information that was not considered before or should instead be treated as a request for correction of the original declaration. The view of this Office is that it should be the latter.	SARS indicated on 24 March 2021 that section 95 of the TAA was amended on 20 January 2021. The effect of the amendments is that a taxpayer will not be able to file an objection if, after being requested twice, the taxpayer fails to submit the information required. SARS indicated on 14 September 2022 that section 95 of the TAA was implemented for the 2022 filing season.	34 months	Ongoing

No	Issue	Summary	Category (serious/ systemic/ emerging)	Action taken by the OTO	Action taken by SARS	Period in the OTO'S inventory	Result
3	Inability on the part of SARS to confirm correspondence was sent (manual and e-filer view of correspondence).	<p>Where taxpayers allege that they did not receive correspondence from SARS, SARS simply responds by providing them with a copy of the letter but fails to prove that the correspondence was indeed sent to them on the specified date. It should be noted that the concern raised does not apply to correspondence that was electronically issued.</p> <p>In the recent high court judgments of SIP Project Managers (Pty) Ltd v The Commissioner for the South African Revenue Service and WPD Fleetmas CC v The Commissioner for the South African Revenue Service, the importance of the delivery of the letter of demand to the taxpayer, via an electronic platform or to the last known address of the taxpayer, was highlighted.</p> <p>Furthermore, a notice generated by the eFiling system does not satisfy the delivery requirement unless such notice is uploaded on the taxpayer's profile. Finally, and very importantly for this Office, we cannot rely on the eFiler view in Service Manager to determine whether or not a taxpayer received correspondence.</p> <p>Therefore, the systemic issue is expanded to include manual correspondence and correspondence that should be reflected on a taxpayer's eFiler view. This will include, for example, the final letter of demand, the outcome of an objection/appeal, a notice of assessment, etc.</p>	Serious/ systemic	<p>OTO recommended that SARS keep records of all correspondence sent to taxpayers, as well as records that the recipient received the correspondence. SARS's response is noted.</p> <p>The OTO still seeks further clarity on SARS's process in cases where the taxpayer has elected to receive all communication via post. For example, what audit trail is kept ensuring that documentation is indeed posted?</p> <p>The OTO will continue to monitor the systemic issue.</p> <p>SARS responded as follows on 31 October 2019:</p> <p>"In reference to our telephonic engagement in respect of the matter relating to postal correspondence being sent:</p> <ul style="list-style-type: none"> a) We recognise the issue detailed by the OTO. b) A proper record system that can withstand legal scrutiny is being considered. c) In the interim, we are installing a manual record system demonstrating delivery to the post office with the correct postal address. This discussion has begun with SARS's Innovation Hub team, and we will advise of the outcome. <p>We are also looking at ensuring that the primary communication channel is electronic (email, lithotech, etc.) and the postal [mode] is limited to when electronic channels are unavailable."</p>	<p>SARS indicated that it would ensure that letters sent outside the Service Manager system are sent via email and attached to a created case. SARS is of the view that this will enable it to be in a position to prove that correspondence was indeed sent.</p> <p>SARS indicated on 14 September 2022 that a system enhancement was implemented on 24 June 2022 for the issuing of the Final Demand as part of the debt management process, to include confirmation of successful delivery of final demand letters and other formal correspondence at large.</p>	78 months	Ongoing

No	Issue	Summary	Category (serious/systemic/emerging)	Action taken by the OTO	Action taken by SARS	Period in the OTO'S inventory	Result
4	Tax Compliance System (TCS)	All three SARS divisions involved in the dispute resolution process were asked about their challenges and views on reasons for delays in finalising objections and appeals. From their responses, the OTO observed that a common theme arose around the submission of documents by taxpayers. This issue may tie in with the high allowance of objections and concessions on appeal.	Serious/systemic	Both Legal and Investigative Audit refer to instances where the matter should be audited from scratch due to new information being provided only after the disputes were lodged. If new information (for example, new financial statements) is provided, it may be argued that the initial declaration by the taxpayer has changed, which will affect the additional assessment. The question arises whether the dispute resolution procedure is the correct channel to conduct an audit of information that was not considered before or should instead be treated as a request for correction of the original declaration. The view of this Office is that it should be the latter.	SARS indicated on 24 March 2021 that section 95 of the TAA was amended on 20 January 2021. The effect of the amendments is that a taxpayer will not be able to file an objection if, after being requested twice, the taxpayer fails to submit the information required. SARS indicated on 14 September 2022 that section 95 of the TAA was implemented for the 2022 filing season.	34 months	Ongoing
5	Assessments were raised prematurely.	The notification of verification and the request for additional information allow the taxpayer 21 days to submit the relevant information. In some instances, SARS issues additional assessments without affording the taxpayer 21 days.	Systemic	This issue will be monitored further with cases that might follow from the past filing season.	SARS introduced various enhancements for the 2018 filing season to address shortcomings and improve service and communication. Internally, the existing processes and various Standard Operating Procedures were updated to ensure alignment and SARS adherence to legislative requirements. Previous escalated issues were addressed, and SARS is unaware of new issues.	59 months	Finalised on 22 March 2023

No	Issue	Summary	Category (serious/systemic/emerging)	Action taken by the OTO	Action taken by SARS	Period in the OTO'S inventory	Result
6	Failure to respond to the request for a deferred payment arrangement within the prescribed turnaround time (21 days)	We have noticed increased complaints about SARS's failure to respond to such requests. This negatively affects taxpayers attempting to become compliant, as well as SARS, as its lack of response results in delays in collecting revenue for the fiscus.	Systemic	<p>Even though SARS included the specific turnaround times in the Service Charter, this does not address the underlying root cause of SARS's non-adherence.</p> <p>The OTO will monitor the issue and highlight any root causes impacting SARS's failure to attend to deferred payment arrangement cases.</p>	<p>In its letter dated 24 April 2020, SARS acknowledges this systemic issue and indicates that it is continuing to investigate and implement remedial action to address it effectively.</p> <p>SARS indicated on 24 March that a backlog of cases was identified and closed since there is no longer a debt on these cases. SARS further indicated that they would continue to monitor the issue.</p> <p>SARS indicated on 4 October 2021 that corrective actions were implemented to address previously referred cases; however, it did not provide details of the corrective actions.</p>	56 months	Ongoing
7	Failure to respond to a request for a compromise within the prescribed turnaround time (90 days)	We have noticed increased complaints about SARS's failure to respond to such requests. This negatively affects taxpayers attempting to become compliant, as well as SARS, as its lack of response causes delays in collecting revenue for the fiscus.	Systemic	<p>Even though SARS included the specific turnaround times in the Service Charter, this does not address the underlying root cause for SARS' non-adherence.</p> <p>The OTO will monitor the issue and highlight any root causes impacting SARS's failure to attend to deferred payment arrangement cases.</p>	<p>In its letter dated 24 April 2020, SARS acknowledges this systemic issue and indicates that it is continuing to investigate and implement remedial action to address it effectively.</p> <p>SARS indicated on 4 October 2021 that corrective actions were implemented to address previously referred cases; however, it did not provide details of the corrective actions.</p>	55 months	Ongoing

No	Issue	Summary	Category (serious/systemic/emerging)	Action taken by the OTO	Action taken by SARS	Period in the OTO'S inventory	Result
8	Failure to respond to a request for a suspension of payment within the prescribed turnaround time (30 days)	We have noticed increased complaints about SARS's failure to respond to such requests. This negatively affects taxpayers attempting to become compliant, as well as SARS, whose lack of response causes delays in collecting revenue for the fiscus.	Systemic	<p>Even though SARS included the specific turnaround times in the Service Charter, this does not address the underlying root cause of SARS's non-adherence.</p> <p>The OTO will monitor the issue and highlight any root causes impacting SARS's failure to attend to deferred payment arrangement cases.</p>	<p>In its letter dated 24 April 2020, SARS acknowledges this systemic issue and indicates that it is continuing to investigate and implement remedial action to address it effectively.</p> <p>SARS indicated on 24 March 2021 that a clean-up of cases is in progress and that SARS will continue to monitor the situation.</p> <p>SARS indicated on 4 October 2021 that corrective actions were implemented to address previously referred cases; however, it did not provide details of the corrective actions.</p>	55 months	Ongoing
9	SARS delays coding the taxpayer's profile as deceased estate and updating the executors' contact details.	SARS does not code the profile as a deceased estate and does not update the executors' contact details within 21 working days.	Systemic	Formal recommendations were sent to SARS on 24 February 2022.	<p>SARS acknowledged on 14 September 2022 that there is a delay in the coding of estate cases due to limited resources and capacity constraints. The delays with confirming registered particulars of executors via the master's database has also contributed to the issue raised. SARS further indicated that they are currently in the process of finalising a request to automatically code deceased estates using approved third-party data sources. It is anticipated that this automation should significantly reduce the queries and complaints in this regard.</p>	13 months	Ongoing

No	Issue	Summary	Category (serious/systemic/emerging)	Action taken by the OTO	Action taken by SARS	Period in the OTO'S inventory	Result
10	SARS repeat verification cases (approved 19 April 2022, formal recommendations issued to SARS on 20 April 2022)	<p>Verification cases are created for two reasons which we believe are not appropriate:</p> <ol style="list-style-type: none"> 1. A verification case is created as a result of SARS issuing a reduced assessment to give effect to the outcome of a dispute; and 2. Repeat verification cases with the same risk and same requested supporting documentation. 	Systemic	Formal recommendations were sent to SARS on 20 April 2022.	<p>SARS indicated on 3 June 2022 that it was aware of cases where employees do not correctly follow the process in relation to certain risk areas, resulting in the refund being recalled multiple times.</p> <p>SARS further indicated that they are in the process of engaging their teams responsible for this area to ensure that legitimate refunds are not caught in the process of continuous verifications.</p>	11 months	Ongoing
11	SARS creates a "consistency check" case on a VAT period to conduct a verification. (Approved 25 October 2022)	SARS creates a "consistency check" case on a VAT period, for the purpose of conducting a verification outside of the normal verification process and without a legal basis. This further results in a taxpayer's tax compliance status being negatively impacted as the return reflects as outstanding while the "consistency check" case is open.	Systemic	Formal recommendations were sent to SARS on 31 October 2022.	Awaiting feedback	5 months	Ongoing

3

REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT ON THE OFFICE OF THE TAX OMBUD

Introduction and scope

1. In accordance with the Public Audit Act 25 of 2004 (PAA) and the general notice issued in terms thereof, we must audit and report on the usefulness and reliability of the reported performance against predetermined objectives for selected objectives presented in the annual performance report. The Office of the Tax Ombud is responsible for the preparation of the annual performance report.
2. I selected the following objectives presented in the annual performance report for the year ended 31 March 2023 for auditing. I selected objectives that measure the Office of the Tax Ombud's

performance on its primary mandated functions and that are of significant national, community or public interest.

3. I evaluated the reported performance information for the selected objectives against the criteria developed from the performance management and reporting framework, as defined in the general notice. When an annual performance report is prepared using these criteria, it provides useful and reliable information and insights to users on the Office of the Tax Ombud's planning and delivery on its mandate and objectives.

4. I performed procedures to test whether:

- the indicators used for planning and reporting on performance can be linked directly to the public entity's mandate and the achievement of its planned objectives
- the indicators are well defined and verifiable to ensure that they are easy to understand and apply consistently and that I can confirm the methods and processes to be used for measuring achievements
- the targets can be linked directly to the achievement of the indicators and are specific, time bound and measurable to ensure that it is

Objectives	Page numbers	Purpose
Strategic objective 1: Review and address complaints by taxpayers against SARS	59-60	Ensure a balanced and fair application of the tax administration process and contribute to a culture of tax compliance.
Strategic objective 2: Identify and investigate systemic issues that will improve and promote fairness in the tax administration system, by being an impartial redress mechanism.	61-62	Ensure a balanced and fair application of the tax administration process and contribute to a culture of tax compliance.

easy to understand what should be delivered and by when, the required level of performance as well as how performance will be evaluated

- the indicators and targets reported on in the annual performance report are the same as what was committed to in the approved initial or revised planning documents
 - the reported performance information is presented in the annual performance report in the prescribed manner
 - there is adequate supporting evidence for the achievements reported and for the reasons provided for any over- or underachievement of targets.
5. I performed the procedures for the purpose of reporting material findings only; and not to express an assurance opinion.
6. I did not identify any material findings on the reported performance information of the Office of the Tax Ombud of selected objectives matters.

Other matters

7. I draw attention to the matter below.

Achievement of planned targets

8. Refer to the annual performance report on pages 59 to 65 for information on the achievement of planned targets for the year and management's explanations provided for the over- or underachievement of targets.

Other information in the annual report

9. The Office of the Tax Ombud is responsible for the other information. In terms of section 19(2) of the Tax Administration Act 18 of 2011 (TAA), the other information comprises the information included in the annual report, which includes a summary of at least ten of the most serious issues encountered by taxpayers and identified systematic and emerging issues, including the description of the nature of the issues, inventory of the issues described and recommendations for such administrative action as may be appropriate to resolve problems encountered by taxpayers. The other information does not include the auditor's report and those selected objectives presented in the annual performance report that have been specifically reported on in this auditor's report.

10. My opinion on the performance information does not cover the other information and I do not express an

audit opinion or any form of assurance conclusion on it.

11. My responsibility is to read this other information and, in doing so, consider whether it is materially inconsistent with the selected objectives presented in the annual performance report, or my knowledge obtained in the audit, or otherwise appears to be materially misstated.
12. If, based on the work I have performed, I conclude that there is a material misstatement in this other information, I am required to report that fact.
13. I have nothing to report in this regard.

Internal control deficiencies

14. I considered internal control relevant to our audit of the annual performance report; however, my objective was not to express any form of assurance on it.
15. I did not identify any significant deficiencies in internal control

Auditor General

Pretoria

31 July 2023



AUDITOR - GENERAL
SOUTH AFRICA

4.

PERFORMANCE INFORMATION ACHIEVEMENTS BY OBJECTIVES

Outcome 1: The OTO will review 98% of complaints received from taxpayers within eight working days from the date the complaint is captured and will communicate the outcome within four business days from the date the close-out report is received from SARS.

Output/ strategic objective	Output indicator	Audited actual performance 2020/21	Audited actual performance 2021/22	Planned annual target 2022/23	Actual achievement 2022/23	Deviation from planned target to actual achievement 2022/23	Reasons for deviation
Review and address complaints by taxpayers against SARS.	Percentage of complaints acknowledged within two business days of receipt.	Not achieved 86% (2 563/2 967)	Not achieved 85% (3 381/3 965)	95%	Achieved 95% (3 794 /4 014)	0%	Not applicable
	Percentage of complaints reviewed within eight business days of the date captured.	Not achieved 89% (2 527/2 852)	Not achieved 93% (3 661/3 950)	95%	Not achieved 93% (3 679/3 960)	-2%	Capacity challenges: complaints validated increased by 0.25% from 2021/22, which was already an increase of 38% from 2020/21. The complaints resolution unit had nine operational specialists instead of 11 due to one operational specialist being seconded to the Acting Contact Centre Manager role and one resignation which was not filled in the reporting period.
	Percentage of close-out reports actioned within four business days of the date received.	Achieved 87% (1 168 /1 340)	Achieved 95% (1 485/1 561)	88%	Achieved 95% (1 644 /1739)	7%	During the 2022/23 financial year, the OTO engaged the SARS Complaints Management Office (CMO) to manually send close-out reports via email to expedite the review of these reports. The reason is that the Service Manager system does not issue a notification to OTO when SARS issues a close-out report. Therefore, this email process has improved the efficiency in dealing with close-out reports.

Strategy to overcome areas of underperformance

Underperforming output indicator

Percentage of complaints reviewed within eight business days of the date captured.

Strategy to overcome underperforming indicator

The Office introduced a complaint resolution process in the last quarter of the 2022/23 financial year. This included reducing the review timelines by removing the complaints review committee from the complaints review process. In addition, the Office will conduct capacity and time-motion studies in the 2023/24 financial year.



Outcome 2: Contribute to improving the tax administration system and build confidence in the system

Output/ strategic objective	Output indicator	Audited actual performance 2020/21	Audited actual performance 2021/22	Planned annual target 2022/23	Actual achievement 2022/23	Deviation from planned target to actual achievement 2022/23	Reasons for deviation
Identify and investigate systemic issues that will improve and promote fairness in the tax administration system, by being an impartial redress mechanism.	Percentage of systemic issues identified and investigated within three months.	100 %	Not achieved 80%	50%	Achieved 80% (8 /10)	30%	9 out of the 10 investigations were completed without needing to request SARS to provide additional information that normally takes time to receive. One investigation resulted in a request for additional information from SARS. SARS delayed submitting the requested supporting information, resulting in the investigation being finalised outside the three-month turnaround time.
	Time taken to complete systemic investigation report/s approved/ requested by the Minister.	20 months after approval	No request from Minister	12 months from the date of approval	No request from the Minister	No request was sent to/received from the Minister for approval, therefore no investigation was conducted during the reporting period.	No request was sent to/ received from the Minister for approval, therefore no investigation was conducted during the reporting period.
	Percentage reduction of existing systemic issues implemented by SARS.	20%	Not achieved	10%	Not achieved 9% (1/11)	-1%	SARS delayed implementing the recommendations on systemic issues identified by the OTO.

Output/ strategic objective	Output indicator	Audited actual performance 2020/21	Audited actual performance 2021/22	Planned annual target 2022/23	Actual achievement 2022/23	Deviation from planned target to actual achievement 2022/23	Reasons for deviation
Identify and investigate systemic issues that will improve and promote fairness in the tax administration system, by being an impartial redress mechanism.	Develop, promote and update the Compendium of Taxpayers' Rights, Entitlements and Obligations.	Achieved	Achieved	Promotion of the tax Compendium 10 activities	Achieved 21 activities	11 activities	This was the first year of the promotion of the Compendium of Taxpayers' Rights. Therefore, there was high demand for information on the compendium.
		Research on the tax compendium was conducted, and the CEO considered the report.	Approval by the Tax Ombud – The Tax Ombud approved the Compendium of Taxpayers' Rights, Entitlements and Obligations in March 2022.	Not applicable	One annual update (review)	Achieved One annual update (review) was achieved.	0

Strategy to overcome areas of underperformance

Underperforming output indicator	Strategy to overcome underperforming indicator
Percentage reduction of existing systemic issues implemented by SARS.	<p>SARS and the OTO agreed to have quarterly meetings to discuss progress on the implementation of remedial actions.</p> <p>SARS is also currently implementing several changes, which we believe will result in the finalisation of a few systemic issues once the OTO has monitored the successful implementation for a period.</p>

Outcome 3: Provide efficient, real-time, quality communication processes that are responsive and promote clarity of information

Output/ strategic objective	Output indicator	Audited actual performance 2020/21	Audited actual performance 2021/22	Planned annual target 2022/23	Actual achievement 2022/23	Deviation from planned target to actual achievement 2022/23	Reasons for deviation
Create an agile organisation that is able to scale efficiently to meet taxpayer demands.	Percentage of digital framework activities implemented.	Not achieved 15%	Achieved 40%	20%	Not achieved 17.5%	-2.5%	The licences for the following outstanding projects were only acquired in February 2023: <ul style="list-style-type: none"> • Migration to exchange online (Mailbox management) • Digital complaint management system • Integrated customer survey
	Percentage of community outreach activity framework implemented.	Not achieved 20%	Achieved 64%	20%	Achieved 60.24% (247/410)	40.24%	The over-achievement was due to continuous efforts, including the OTO's engagements and partnerships with stakeholders, to promote awareness about the organisation and its services. The OTO also utilised personnel from other businesses who assisted with presentations.
	Net Promoter Score for taxpayers' brand recognition survey.	Target not planned	Not achieved 0%	+1	Not achieved	-1	The survey was not conducted. An online survey was rolled out in the reporting period and closed on 15 March 2023. However, there were challenges with respect to sampling as the taxpayer responses were not adequate to extract conclusive insights.
	Employee engagement survey at second quartile.	Target not planned	Target not planned	Second quartile	Not achieved.	Second quartile	The employee survey was not conducted due to the postponement to include other insights emanating from the Employee Value Proposition pilot.

Strategy to overcome areas of underperformance

Underperforming output indicator	Strategy to overcome underperforming indicator
Percentage of digital framework activities implemented.	Licences were bought in February 2023 for the outstanding projects. The procurement process for the appointment of the service provider to assist with the implementation is in progress. The project will be finalised in the 2024/25 financial year.
Net Promoter Score for taxpayers' brand recognition survey.	To complement the customer-centricity maturity assessment survey, an additional survey is being implemented to improve feedback responses.
Employee engagement survey at second quartile.	The OTO will conduct the survey in 2023/24.

Outcome 4: Create opportunities and implement stakeholder engagements and collaborations

Output/ strategic objective	Output indicator	Audited actual performance	Audited actual performance	Planned annual target	Actual achievement	Deviation from planned target to actual achievement	Reasons for deviation
		2020/21	2021/22	2022/23	2022/23	2022/23	
Promote stakeholder engagement and collaboration.	Percentage of stakeholder engagement framework activities implemented.	20%	41%	20%	Achieved 53.98% (95 /176)	33.98%	The over-achievement is due to persistent and continuous efforts and engagements.



Outcome 5: Achieve a clean audit outcome on performance information

Output/ strategic objective	Output indicator	Audited actual performance 2020/21	Audited actual performance 2021/22	Planned annual target 2022/23	Actual achievement 2022/23	Deviation from planned target to actual achievement 2022/23	Reasons for deviation
Optimise governance structures, risk management and business processes.	Performance audit outcome achieved.	Target not planned	Not achieved. The governance framework has been developed and is currently under review.	Unqualified audit opinion by Auditor-General	Achieved Unqualified audit opinion by Auditor-General	Not applicable	Not applicable

Outcome 6: Ensure that the Office of the Tax Ombud is structurally and operationally independent

Output/ strategic objective	Output indicator	Audited actual performance 2020/21	Audited actual performance 2021/22	Planned annual target 2022/23	Actual achievement 2022/23	Deviation from planned target to actual achievement 2022/23	Reasons for deviation
Enhance and strengthen the mandate of the Office of the Tax Ombud.	TAA amendment proposals sent to National Treasury for consideration.	0	Achieved - One proposal/decision was submitted to the National Treasury in December 2021.	One proposal/decision	Achieved One proposal/decision was sent to National Treasury on 30 November 2022.	None	Not applicable



SECTION C:

GOVERNANCE

1. INTRODUCTION

The main statutes that govern the Office of the Tax Ombud are the TAA and the Public Finance Management Act 1 of 1999 (PFMA). 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 term of the Tax Ombud Judge Bernard Makgabo Ngoepe came to an end on 30 September 2022 after serving three terms since 2013. After the term of Judge Ngoepe ended, the Minister of Finance appointed the OTO CEO, Professor Thabo Legwaila, to act as Tax Ombud from October 2022 to 6 April 2023. The appointment of the acting Tax Ombud led to the appointment of the Senior Manager: Legal Services and Systemic Investigation to act as the CEO of the OTO.

The Office had two governance committees during the 2022/23 financial year, namely the:

- Governing Body, and
- Senior Management Committee.

2. PORTFOLIO COMMITTEES

The Office of the Tax Ombud was not scheduled to attend portfolio committee meetings during the 2022/23 financial year. Therefore, no meetings were attended.

3. ACCOUNTING AUTHORITY

The Tax Ombud is the Accounting Authority in section 49 of the PFMA and is responsible for all duties and responsibilities described in sections 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 complete 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, budget and plans;
- ensuring an adequate and effective risk management framework; and
- developing a clear definition of materiality.

Governing body meeting

The Governing Body (GB) exists to provide effective and ethical leadership and control of the OTO. The GB is the focal point for and custodian of corporate governance. The Tax Ombud chairs the GB. The GB was chaired by Judge Ngoepe from April 2022 to September 2022. From October 2022 to March 2023, the GB was chaired by Professor Thabo Legwaila as acting Tax Ombud.

During the 2022/23 financial year, the GB held four quarterly meetings and one special meeting to approve the Annual Performance Report for 2021/22. It approved and submitted to the relevant stakeholders all the statutory documents required by the governance prescripts.

Table 19: Governing Body meetings

Member	Position	Number of committee meetings attended
Judge Bernard Ngoepe	Tax Ombud – Chairperson (1 April 2022 to 30 September 2022)	3
Professor Thabo Legwaila	Acting Tax Ombud – Chairperson (From 6 October 2022)	2
Gert van Heerden	Chief Executive Officer	3
Mmamela Malakalaka	Acting Chief Executive Officer (From 6 October 2022)	2
Talitha Muade	Senior Manager: Legal Services and Systemic Investigations	1
Pearl Seopela	Senior Manager: Office Enablement and Support Services	5
Francois Viljoen	Senior Manager: Operations	4
Fundiswa Ngqeleni	Senior Manager: Communications and Stakeholder Relations	5
	Acting Senior Manager: Legal Services and Systemic Investigations	1
	Acting Senior Manager: Legal Services and Systemic Investigations	1



Senior Management Committee (SMC)

The CEO chairs the SMC as per the SMC terms of reference. The Committee exists to support the Tax Ombud in executing the mandate of the Office.

The Committee held 12 monthly SMC meetings during the period under review. Professor Legwaila chaired the Committee in the six months of the financial year until September 2022 and Mr Gert van Heerden, as acting CEO, in the last six months of the year from October 2022.

The committee held 12 monthly SMC meetings as required by the SMC terms of reference to discuss the operational progress of the Office. The SMC held a strategic planning session on 19 and 20 October 2022. The purpose of the session was to discuss and develop the OTO Annual Performance Plan for the 2023/24 financial year. The committee recommended that all the statutory documents required in terms of the governance prescripts be submitted to the Tax Ombud for approval.

4. RISK MANAGEMENT

The OTO considers risk management as an essential tool of governance, which helps ensure the continued sustainability of the OTO and the achievement of its strategic objectives. The Office reviewed its strategic and operational risks during the 2022/23 financial year to identify areas of focus that could hinder the achievement of the performance objectives.

Table 20: Senior Management Committee meetings

Member	Position	Number of committee meetings attended
Prof. Thabo Legwaila	Chief Executive Officer	6
	Acting Chief Executive Officer	6
Gert van Heerden	Senior Manager: Legal Services and Systemic Investigations	6
Mmamelao Malakalaka	Senior Manager: Office Enablement and Support Services	11
Talitha Muade	Senior Manager: Operations	11
Pearl Seopela	Senior Manager: Communications and Stakeholder Relations	11
Francois Viljoen	Acting Senior Manager: Legal Services and Systemic Investigations	2
Fundiswa Ngqeleni	Acting Senior Manager: Legal Services and Systemic Investigations	3

5. INTERNAL CONTROL

The OTO has internal control measures in place to strengthen governance and ensure that the quality of its work is of the desired standard. To ensure the efficient and effective application of the systems of internal controls, the Office continues to review its systems, processes, and procedures. The following processes were put in place in the 2022/23 financial year:

- Introduction of the Communications Policy, which governs and is aligned with the implementation of the frameworks relating to the Office's communication outreach activities, media communication and digital media.
- Introduction of the stakeholder procedure, which is aimed at ensuring that the OTO adheres to the processes

of stakeholder engagements as aligned to the Community Outreach and Stakeholder Engagement frameworks.

- Approval of the reviewed terms of references of the governance committee structures (Governing Body Committee and Senior Management Committee).
- Approval of the reviewed OTO Complaint Capture procedure.
- Approval of the OTO Query Management procedure, aimed at managing the queries that are received by the OTO.
- Approval of a revised Complaint Resolution procedure.
- Introduction of the quality assurance function in the complaints review process.

Improvement of the audit outcomes

The Office has seen an improvement in the audit outcomes over the past two financial years, 2020/21 to 2021/22. The audit outcomes improved from a qualified limited assurance conclusion to an unqualified limited assurance conclusion. The auditors have previously raised the issue of the lack or absence of an independent quality assurance (Independent Governance Committee) at the OTO. This has an impact on the OTO towards the achievement of the strategic objective “optimise governance structures, risk management, and business processes”, which seeks to achieve a clean audit by 2025. The Office will continue to engage the Minister of Finance and the National Treasury in a quest to appoint the Independent Governance Committee and address the audit finding/s.

6. CODE OF CONDUCT

The OTO’s employees are employed under the South African Revenue Service Act 34 of 1997, as per section 15 of the TAA. The OTO has adopted the SARS Code of Conduct regulating employment matters.





SECTION D:

HUMAN RESOURCES MANAGEMENT



Overview

Our human resources 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 consistent across the institution. Our people are critical to successfully achieving our mandate and strategic objectives, and a high-performance ethical culture is seen as a key enabler for driving our strategic plan. To deliver on this and improve employee productivity and morale, it is necessary to ensure effective employee engagement and performance management, as well as an enhanced employee value proposition. The OTO seeks to recruit and retain a skilled workforce, as well as develop critical and scarce skills, by identifying skills gaps, training employees, maintaining a diversified learner pipeline and enabling talent development opportunities.

Workforce planning

Our headcount stood at 39 at year end, (as compared to 41 in March 2022), including permanent staff and fixed-term contractors. The staff complement is made up of 84.62% African and 15.38% white employees, while the gender distribution was 53.85% females and 46.15% males.

We have achieved a notable reduction in our headcount over recent years, mainly through natural attrition and, to a lesser extent, non-renewal of contracts. Headcount is expected to remain stable over this financial year, with a target of 43 by the beginning of the 2024 financial year.

Table 21: Employment Equity

EE	Actual (31 March 2023)	
	%	No of employees
Total black (EE)	84.62%	33
Total white	15.38%	6
Black female	48.72%	19
White female	5.13%	2
Black male	38.90%	14
White male	10.26%	4
Total female	53.85%	21
Total male	46.15%	18
People with disabilities	0.00%	0

Building and retaining strong skills

Our skills development programme supports the national objectives of poverty reduction, economic transformation and job creation in terms of the National Skills Development Plan 2030. The recruitment of graduate trainees and the management of our pipeline development aim to address the critical skills requirements of the OTO. In the light of operational challenges and financial constraints, new tax graduates will be recruited and trained to fill critical skills in taxation.

Employee Wellness

The health and wellbeing of our people is important to us, with improved work attendance and productivity as added benefits. We seek to ensure the early detection and prevention of occupational and lifestyle diseases through periodic health risk assessments and other wellness programmes.

Anser Indicus: Employee Reward Programme

Anser Indicus is a value-based reward system whereby employees are nominated and rewarded for living the hallmarks of excellence. This programme was relaunched in December 2022 and yielded positive results with more employees engaged and celebrated.

Human resources oversight statistics

The personnel expenditure remains the main cost driver and represents 86% of the total expenditure for the 2022/23 financial year.

The majority of training interventions were either distance learning or web-based. In this regard, 183 training interventions were recorded for the year under review.

This entailed internal training done through the SARS Institute of Learning; hence there is no direct cost to the OTO. The main contributor, as indicated in table 23, is the Operations unit, whose staff utilised 176 training interventions.

Table:22: Personnel cost by programme/activity/objective

Programme/activity/objective	Total expenditure for the entity (R'000)	Total personnel expenditures (R'000)	Personnel expenditure as a % of total expenditure	No. of employees	Average personnel cost per employee (R'000)
Office of the Tax Ombud	48 242	41 884	87%	39	1 074

Table: 23: Training costs

Programme	SARS Institute of Learning training	Outsourced training	Total
Office of the CEO	0	0	0
Office Enablement	0	2	2
Operations	172	4	176
Communications and Stakeholder Relations	1	0	1
Legal Services and Systemic Investigations	0	4	4
Total	173	10	183

Table 24: Employment and vacancies by programme

Programme	2021/22 Number of employees	2022/23 Approved posts	2022/23 Number of employees	2022/23 vacancies	% of vacancies
CEO's Office	3	3	2	1	2.56%
Office Enablement	12	8	8	0	0.00%
Operations	15	22	17	10	25.64%
Communications and Stakeholder Relations	5	7	5	1	2.56%
Legal Services and Systemic Investigations	6	6	6	0	0.00%
Total	41	51	39	12	30.77%

The number of vacancies remains at 12, comprising six unfunded positions, two graduate trainees, a single Manager: Customer Service and vacancies resulting from the current resignation of an Operational Specialist: Complaints Resolution and the end of contract of the Tax Ombud.

Table 25: Employment and vacancies by levels

Levels	2021/22 No of employees	2022/23 Approved posts	2022/23 No of employees	2022/23 vacancies	% of vacancies
Top Management	2	2	1	1	2.56%
Senior Management	4	4	4	0	0.00%
Professionally qualified	26	33	25	9	23.08%
Skilled	8	11	8	2	5.13%
Semi-skilled	1	1	1	0	0.00%
Unskilled	0	0	0	0	0.00%
TOTAL	41	51	39	12	30.77%

During the year under review, there were only two resignations. The Operational Specialist: Complaints Resolution resigned, as did the Specialist: Communications and Outreach. The Tax Ombud position was left vacant after the end of his term and one Specialist: Communications and Outreach was appointed.

Table 26: Employment changes

Salary band	Employment at beginning of period		Employment at end of the period	
	Appointments	Terminations	Appointments	Terminations
Top Management	2	0	1	1
Senior Management	4	0	0	4
Professional qualified	26	1	2	25
Skilled	8	0	0	8
Semi-skilled	1	0	0	1
Unskilled	0	0	0	0
Total	41	1	3	39

Table 27: Reasons for staff leaving

Reason	Number	% of total no of staff leaving
Death	0	0%
Resignation	2	5.13%
Dismissal	0	0%
Retirement	0	0%
Ill-health	0	0%
Expiry of contract	1	2.56%
Other	0	0%
Total	3	7.69%

Table 28: Labour Relations: Misconduct and disciplinary action

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

Table: 29: 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
Professionally qualified	11	11	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
TOTAL	14	14	0	0	0	0	4	4

Table: 30: 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
Professionally 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
TOTAL	19	19	0	0	0	0	2	2

The OTO does not have employees with disclosed disabilities.





SECTION E:

FINANCIAL INFORMATION



1.

EXPENDITURE RELATING TO THE OFFICE OF THE TAX OMBUD

The objective of the financial report is to provide an overview of the financial expenditure in the OTO from 1 April 2022 to 31 March 2023. The information presented in the tables and graphs shows the expenditure for the year per cost element. The expenditure comparison has been made to show the growth patterns in the previous financial years and between the 2021/22 and 2022/23 financial years.

The National Treasury approved a total budget of R46.5 million for the 2022/23 financial year. Furthermore, the National Treasury approved an amount of R4.9 million relating to the 2021/22 retained surplus in section 53(3) of the PFMA. The budget increased to R51.4 million. The employee cost remained one of the main

cost drivers and represented 87% of the total expenditure. The headcount at the end of the reporting period was 39.

Table 31 represents expenditure per cost element, total expenditure and the variance for the financial year. The revised budget for the 2022/23 financial year, including the retained surplus, was R51.4 million. The total expenditure for the period under review was R48.2 million, resulting in a variance of R3.1 million. The favourable variance is attributable to delays in implementation of ICT projects, savings on vacant positions, timing on creative agency services and delays on finalisation of the perception survey. The run rate at the end of the financial year was 94%.



Table 31: Expenditure per cost element and total expenditure

Cost element	2022/23				2021/22			
	YTD actual (R'000)	Budget (R'000)	Variance (R'000)	% Variance	YTD actual (R'000)	Budget (R'000)	Variance (R'000)	% Variance
Personnel expenditure	41 884	41 866	-18	0%	38 775	39 676	901	2%
Information and communication technology	2 609	4 556	1 947	43%	1 797	3 902	2 105	54%
Physical facilities and related cost	-	50	50	100%	-	7	7	100%
Other cost: related to revenue collection	2 428	3 023	595	20%	2 834	3 019	185	6%
Other cost: statutory	300	308	8	3%	397	397	-	-
Other variable support cost	880	1 404	524	37%	622	1 762	1 140	65%
Capital expenditure	141	217	76	35%	-	562	562	100%
Total operating and capital expenditure	48 242	51 424	3 182	6%	44 425	49 325	4 900	10%

2. Commentary per cost element

1. Personnel expenditure

There is an increase of 8% in personnel expenditure compared to 2021/22 financial year, attributable to a cost of living adjustment and provision for performance bonuses for the 2022/23 financial year.

2. Information and communication technology

The favourable variance of R1,9 million is as a result of delays in implementing the Microsoft D365 customer service solution and the Microsoft partner for the Tenant.

The ICT expenditure increased by 31% when compared to the 2021/22 financial year.

3. Other cost related to revenue collection

The main contributor to the underspending of R595 000 was creative agency services and other travel-related costs.

4. Other variable support cost

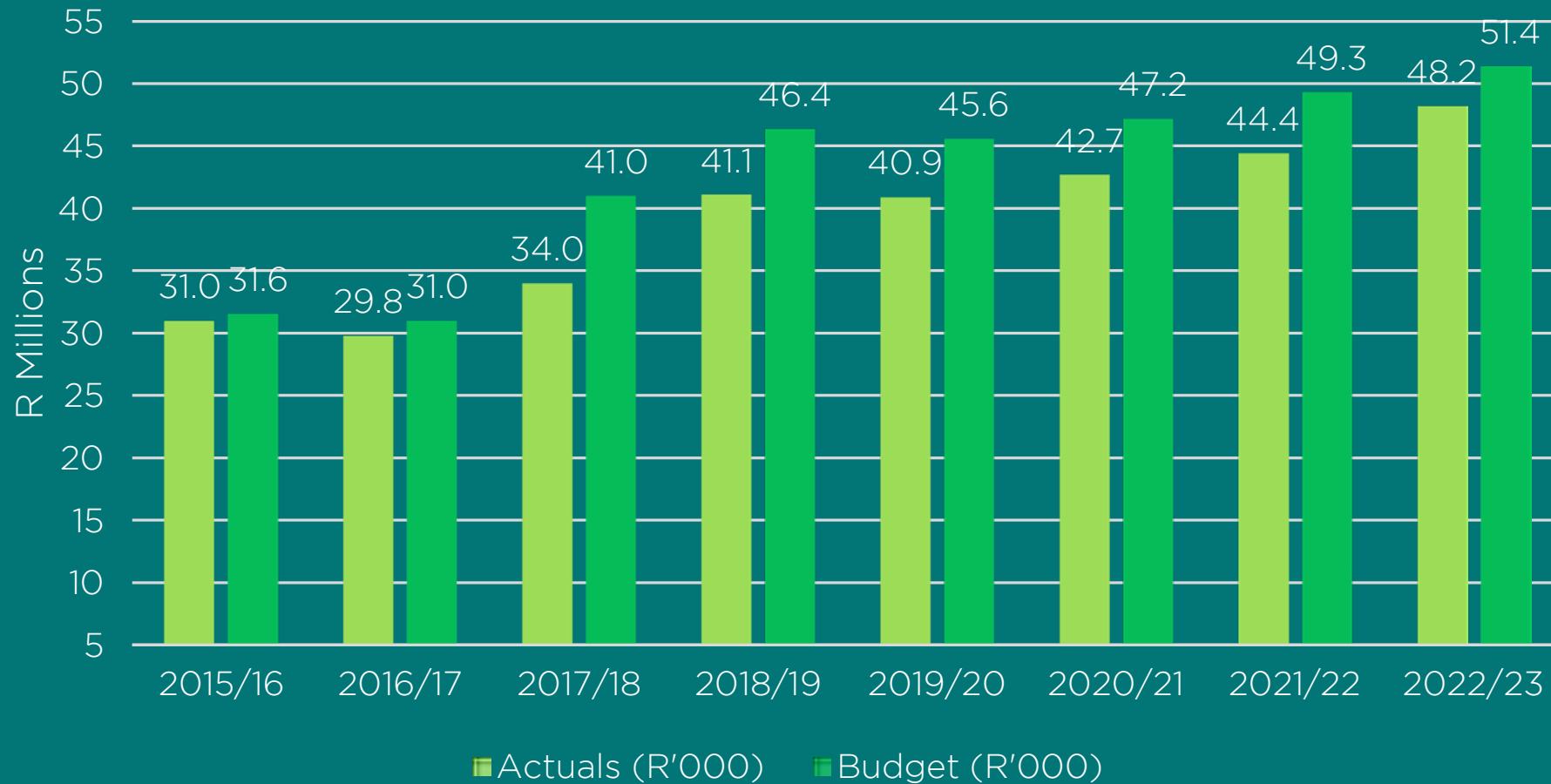
There is an underspending of R524 000 due to the timing of the finalisation of the perception survey project. The other phases of the project will be finalised during the 2023/24 financial year. The cost increased by 41% when compared to the previous financial year.

Table 32 shows the actuals and budget for the 2021/22 and 2022/23 financial year. Ninety-four percent of the budget was spent during the reporting period, of which 87% was spent on employee costs.

Table 32: Percentage utilisation of the allocated budget

Financial year	Actuals (R'000)	Budget (R'000)	Utilisation of the allocated budget
2021/22	44 425	49 325	90%
2022/23	48 242	51 424	94%

Graph 1: Actuals versus budget trends



Graph 1 compares the actual expenditure to budgeted expenditure for the previous financial years. The trend shows that the expenditure and the budget have been gradually increasing as a result of the increase in demand for the OTO's services.

Graph 2 illustrates the comparison of the actual expenditure and the budgeted expenditure. The main cost driver is personnel cost and represents 87% of the total expenditure.

Graph 2: 2022/23 Actual to budget comparison

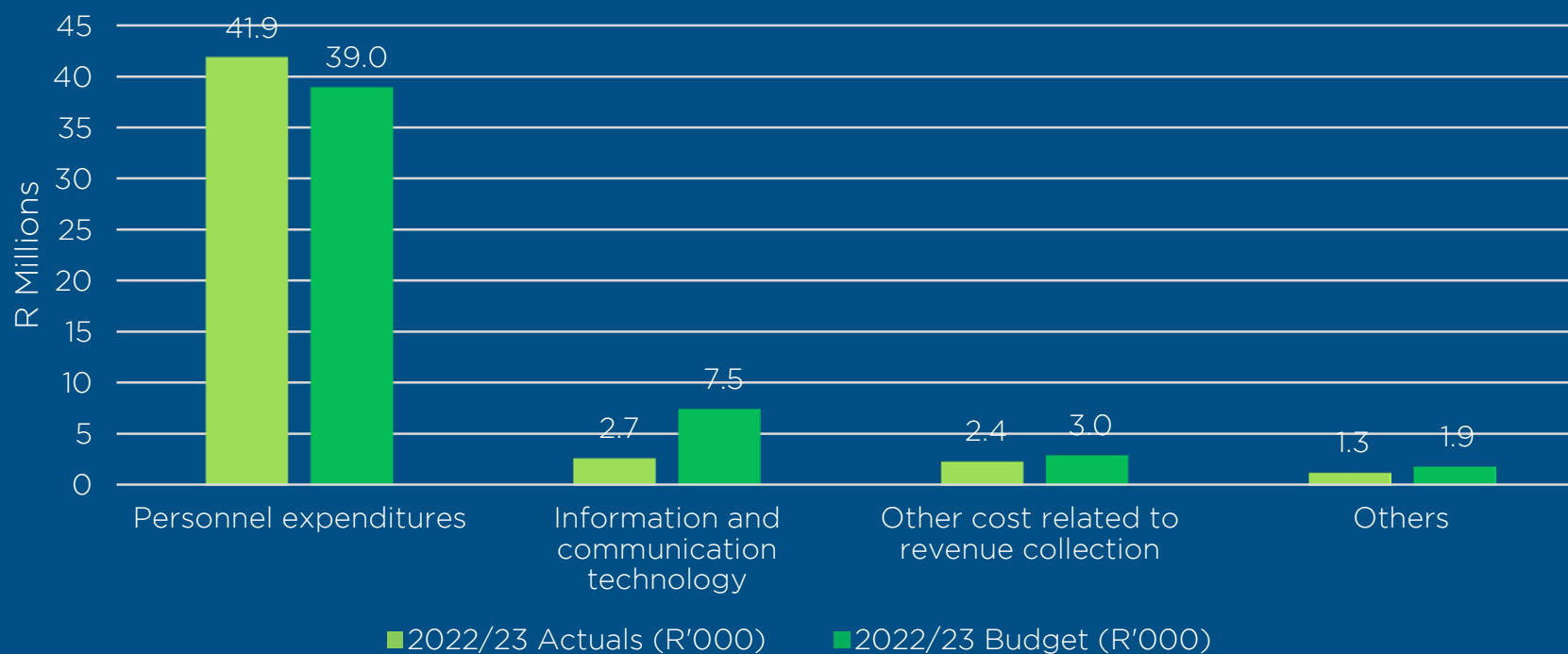


Table 33 depicts the costs incurred by SARS on behalf of the OTO. The costs include building rent and related costs, security services, VIP protection services staff and hospitality staff.

Table 33: Costs incurred by SARS on behalf of the OTO

Description	Amount (R'000)
Building rent	2 406
Operating cost	482
Water and electricity	563
Rates and taxes	380
Security service	805
Hospitality staff	412
VIP protection staff	931
Total	5 979

ACRONYMS

ADR	Alternative Dispute Resolution	PPSA	Public Protector South Africa
AGSA	Auditor-General of South Africa	PR	Public Relations
APP	Annual Performance Plan	RAF	Retirement Annuity Contribution
ARC	Audit and Risk Committee	RCB	Recognised Controlling Bodies
CEO	Chief Executive Officer	RCE	Return control enquiry
CFO	Chief Financial Officer	RCTs	Return control tables
CIT	Corporate Income Tax	SABC	South African Broadcasting Corporation
CMO	Complaints Management Office	SAICA	South African Institute of Chartered Accountants
COVID-19	Coronavirus disease 2019	SAIPA	South African Institute of Professional Accountants
EAP	Economically active population	SAIT	South African Institute of Tax Professionals
EE	Employment equity	SARS	South African Revenue Service
FPI	Financial Planning Institute	SC	Senior Counsel
GEPF	Government Employees Pension Fund	SDL	Skills Development Levy
HR	Human resources	SLA	Service level agreement
IT	Information technology	SMC	Senior Management Committee
IT	Individual tax	SOA	Statement of account
ITS	Income tax system	SOP	Standard operating procedures
MOU	Memorandum of understanding	TAA	Tax Administration Act 28 of 2011
NQF	National Qualification Framework	TCS	Tax Compliance System
Office	Office of the Tax Ombud	TPA	Third-party appointment
OTO	Office of the Tax Ombud	UIF	Unemployment Insurance Fund
PAYE	Pay as you earn	VAT	Value added tax
PFMA	Public Finance Management Act 1 of 1999	VDP	Voluntary Disclosure Programme



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