

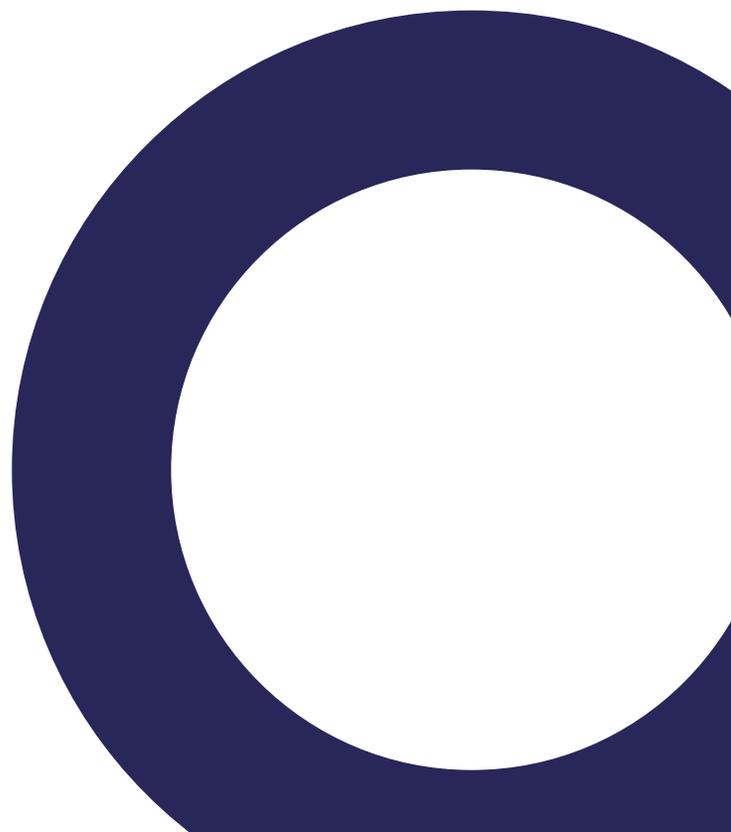
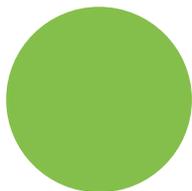


OFFICE OF THE  
**TAX OMBUD**  
*Ensuring fairness*

# TAX OMBUD ANNUAL REPORT 2020/21

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





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## HIGHLIGHTS OF THE 2020/21 FINANCIAL YEAR

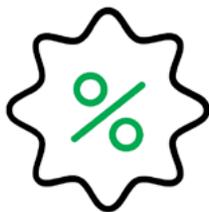
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1 340 accepted complaints were finalised (resolved).



A systemic investigation report was concluded.



SARS implemented 98% of the OTO's recommendations.



6 808 500 listeners were reached through nine radio talk shows and promotional radio adverts.



The OTO received 9 180 queries and 2 967 complaints.



Public relations coverage with a value of over R33 million was received



The top 10 refunds paid to taxpayers collectively amounted to R156 503 153.00



161 outreach activities were conducted, including virtual presentations, advertisements, public relations and media engagements and interviews.

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## PART A. GENERAL INFORMATION

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### 1. INTRODUCTION

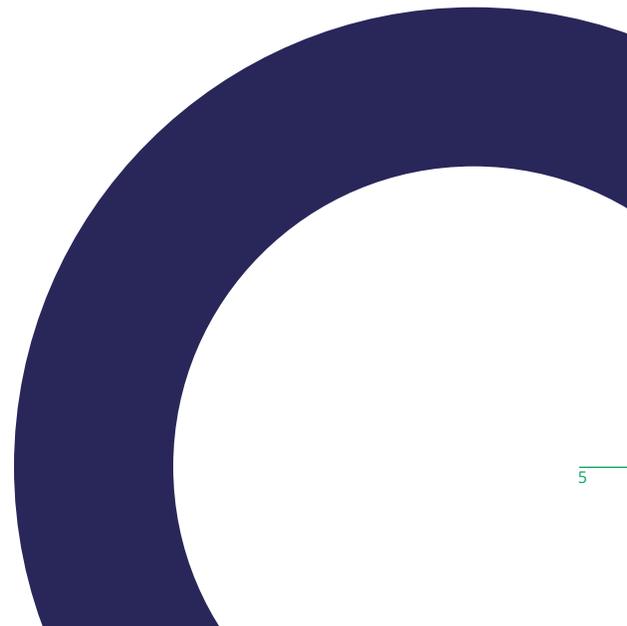
The Tax Ombud's 2020/21 Annual Report complies with the Public Finance Management Act 1 of 1999 (PFMA), giving effect to the legislative framework for the regulation of finances in national and provincial government. The Tax Ombud presents the Annual Report in line with Section 19 of the Tax Administration Act (TAA) and Section 55 of the PFMA. In terms of Section 19 (3) of the TAA, the Minister must table this report in the National Assembly.

### 2. ANNUAL REPORTING PERIOD

The reporting cycle of the Office of the Tax Ombud (OTO) is annual, ending 31 March, as prescribed by the PFMA. The OTO compiles and submits quarterly reports to the National Treasury as per the provisions of the PFMA and Treasury Regulations. This Annual Report records the organisational and financial performance for the period from 1 April 2020 to 31 March 2021.

### 3. SCOPE OF THE REPORT

The report incorporates financial and performance information based on the approved 2020/21 Annual Performance Plan (APP), which was tabled before Parliament in March 2020. The Annual Report provides performance information and governance reports and incorporates financial information relating to the OTO.

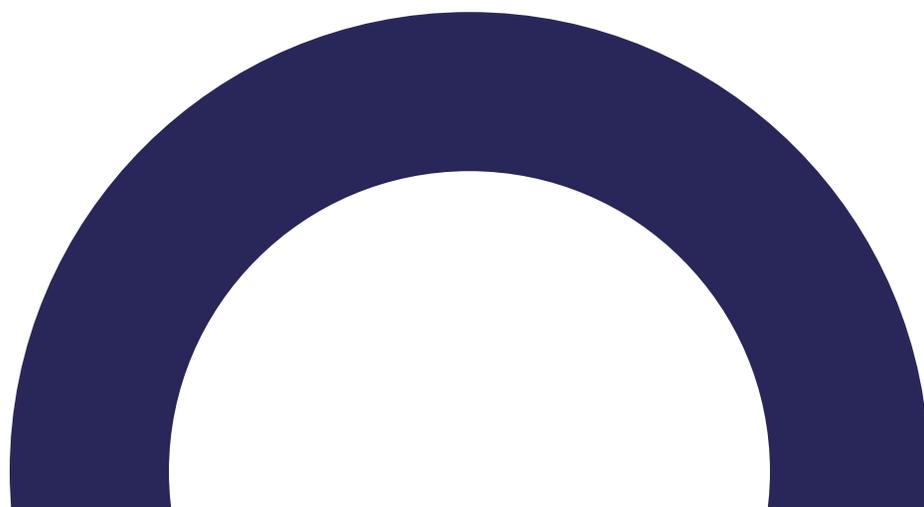
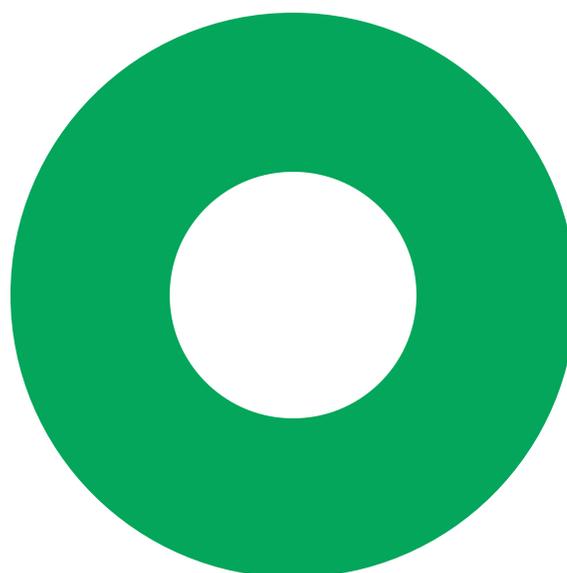


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## 1. ABBREVIATIONS/ ACRONYMS

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



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## 2. MESSAGE FROM THE MINISTER OF FINANCE



*Honourable Enoch Godongwana*

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The Office of the Tax Ombud (OTO) has been pursuing excellence in servicing taxpayers since its establishment eight years ago this October. While this is a relatively short period for an organisation with such a significant mandate, the contribution it has already made in improving the country's tax administration system has been immense.

As a country we value and expect institutions such as the Office of the Tax Ombud to promote well-balanced rights and obligations towards the collection and payment of taxes, thus ensuring the fiscal wellbeing of the economy and fair treatment of taxpayers. The Office has done well to strengthen taxpayers' trust and confidence in tax administration by, among others, managing to conclude systemic investigations into the following two issues:

- a. The fluidity of the Pay as you earn (PAYE) Statement of Account; and
- b. Complaints that the South African Revenue Service (SARS) fails to adhere to the dispute resolution timeframes prescribed

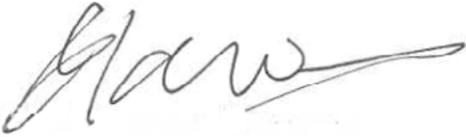
"As a country we value and expect institutions such as the Office of the Tax Ombud to promote well-balanced rights and obligations towards the collection and payment of taxes, thus ensuring the fiscal wellbeing of the economy and fair treatment of taxpayers."

by the Tax Administration Act (TAA) and the Dispute Resolutions Rules promulgated under the Act.

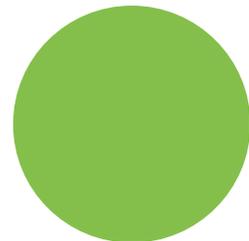
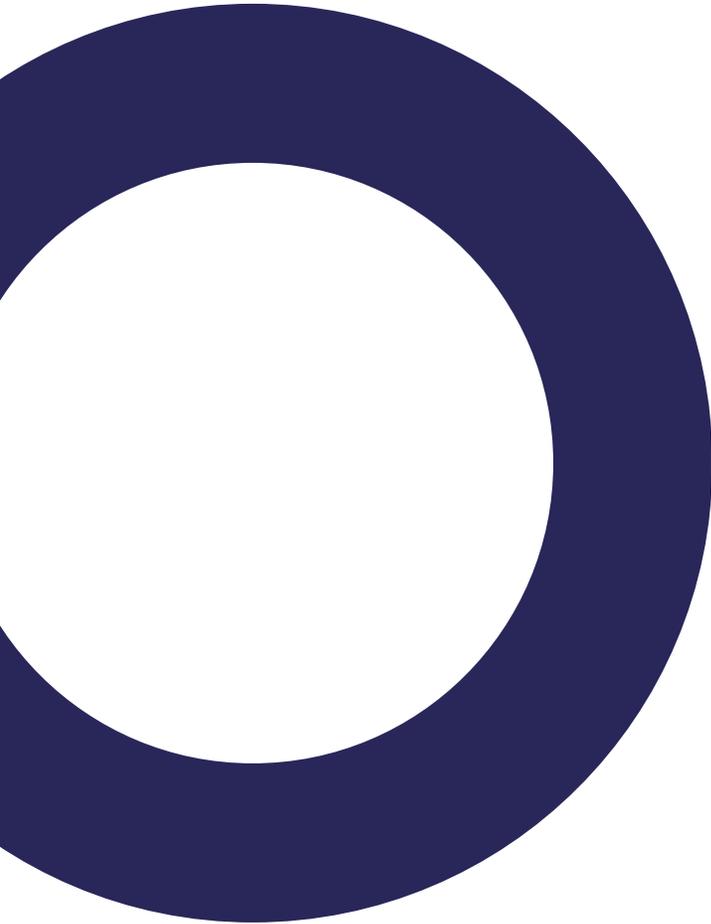
The OTO will continue to receive the necessary support so as to strengthen its contribution to our country's tax system. Significant progress is being made in regaining public trust in the revenue collector.

This is partly the result of the meaningful contribution of the OTO that has kept SARS on its toes. Although both are independent institutions, we are satisfied with the level of cooperation between SARS and the OTO in addressing taxpayer complaints, and the latter providing justice to thousands of taxpayers with tax complaints against SARS.

In conclusion, I would like to thank the Tax Ombud; Judge Bernard Ngoepe and his team for their continued commitment to public service. Their efforts to improve the tax administration system and build tax confidence have not gone unnoticed.



**Honourable Enoch Godongwana**  
**Minister of Finance**



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### 3. MESSAGE FROM THE TAX OMBUD

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*Judge Bernard Makgabo Ngoepe*

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**It is an honour to be presenting this, the eighth Tax Ombud Annual Report, for the period 1 April 2020 to 31 March 2021.**

This has been a year of tremendous change, both for the Office and for South Africa in general. The unprecedented public health emergency caused by COVID-19 has affected all of us, how we work and how we provide free and fair assistance to taxpayers amid this pandemic. The pandemic has put the country's health system under enormous strain and devastated the economy, causing massive job losses, but the horror of losing loved ones is inconsolable. Although we had several colleagues contracting the virus, we are fortunate that there was no loss of life; other institutions were not so lucky.

At the beginning of the financial year, we were joined by our new Chief Executive Officer, Professor Thabo Legwaila, who assumed office on 1 April 2020. He has taken the organisation to another level of professionalism and service excellence with his vast experience, enabling the Office to continue serving taxpayers with integrity. He has inherited the twin strategic challenges of achieving structural independence from the South

*"Despite the need to collect more taxes to fund government projects and fight the COVID-19 pandemic, taxpayers should only pay what is due and not a cent less or more. We remain committed to ensuring this balance is maintained."*

African Revenue Service (SARS) and ensuring that taxpayers have convenient access to the Office's services in this new environment.

I can confidently state that the OTO has responded well to the challenges posed by lockdowns and social distancing measures. By moving to a remote working environment, ensuring minimal interruption to the services we provide and significantly reducing the risks of infection among employees, stakeholders and the taxpayers we are mandated to help with their tax complaints, our work has continued unabated. We are also looking at

innovative ways to improve access to the Office and expand our digital services. This digital innovation will serve taxpayers and enhance the complaints resolution process within the Office and is necessary as we move to paperless systems.

*"Structural independence from SARS remains an important strategic milestone and is vital for our organisation's credibility in the eyes of taxpayers and other stakeholders."*

However, we should remember that the pandemic effect is not only about access to services. In this constrained economy, our assistance is more often and more urgently called upon. While protecting taxpayer rights, we have not neglected our responsibility of promoting tax compliance and thus contributing to improving the country's tax administration system. Despite the need to collect more taxes to fund government projects and fight the COVID-19 pandemic, taxpayers should only pay what is due and not a cent less or more. We remain committed to ensuring this balance is maintained.

## INDEPENDENCE

Structural independence from SARS remains an important strategic milestone and is vital for our organisation's credibility in the eyes of taxpayers and other stakeholders. Since the Office's inception in 2013, we have been calling for this and believe it is long overdue. We have engaged both SARS and National Treasury in this regard and call on the government to expedite this process so that independence is realised sooner rather than later.

An ongoing priority for the Office in 2020/21 was to invest even greater energy into ensuring its efficiency and effectiveness for the near future. We envisage continual operational improvements, along with targeted communication and outreach initiatives, to promote the Office among taxpayers and ensure we continue to be an innovative institution, always looking for smarter and more expeditious ways to resolve tax complaints. We strive for excellence in carrying out our mandate, ensuring that taxpayers have confidence in our work and feel that their complaints are being addressed timeously and efficiently.

## TRANSPARENCY

In promoting taxpayer confidence and in the interests of transparency and accountability, I requested the Auditor-General of South Africa, Ms Tsakani Maluleke, to provide external audit assurance of the Office's performance information. Since the Office's inception eight years ago, it has never been externally audited, and I felt that this assurance was essential for the

Office's credibility and to show the public, government and other stakeholders that the Office is being run efficiently and in their best interests. In addition, the audit may also highlight areas in which improvements can be made.

## SYSTEMIC INVESTIGATIONS

One of the highlights of the year under review was the release of the Systemic Investigations Report into the fluidity of the PAYE Statement of Account and the failure by SARS to adhere to the dispute resolution rules, procedures and timeframes prescribed in the Regulations and the Tax Administration Act (TAA). This report followed a 20-month investigation into complaints raised by taxpayers and other stakeholders, including Recognised Controlling Bodies (RCBs). The intensive investigation, which included inputs from complainants and SARS, gave the Office insight into some crucial matters in the tax sphere. It revealed that some of the aspects of the two categories of complaints constituted systemic issues while others did not. It was also clear that there had been some breakdowns in communication between SARS and taxpayers, resulting in confusion.

As we advance, we will consolidate our internal process for identifying and investigating systemic issues and trust that this will improve the tax administration system and build confidence in the system. Overall, SARS has implemented over 98% of our recommendations.

## WAY FORWARD

The strategic priorities for the year ahead include continued efforts to ensure our independence, develop a compendium of taxpayer rights and improve communication with primary stakeholders through digital and other means.

I am gratified that the Minister of Finance continues to have faith in my ability to lead this institution and am highly appreciative of the enormous support the Office has received from the National Treasury throughout the eight years of this Office's existence. I also extend gratitude to the SARS Commissioner and his team, who have always been accessible and responsive to our investigations. I thank the OTO team, which has adapted well to the new work environment, and without whom we could not provide the free and fair access to tax justice that taxpayers rely on.



**Judge Bernard Makgabo Ngoepe**  
Tax Ombud

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## 4. OVERVIEW FROM THE CHIEF EXECUTIVE OFFICER



**Prof. Thabo Legwaila**

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It is a pleasure to present my first Tax Ombud Annual Report as the Chief Executive Officer after being appointed on 1 April 2020.

I have enjoyed the journey, peppered as it has been with both challenges and successes. The OTO team and our stakeholders have been supportive during this period, ensuring that we continue to pursue excellence and contribute to improving our country's tax administration system.

A significant milestone for tax justice lies ahead, in October 2021, which marks the OTO's eighth anniversary and eight years of pursuing excellence in service delivery. As an Office, we pride ourselves on making a difference by serving taxpayers, protecting their rights and ensuring they are fairly treated by SARS while at the same time promoting tax compliance. Our achievements in the past eight years speak volumes about our commitment to fostering a healthy balance between taxpayer rights and SARS's power to administer the country's taxes.

*"As an Office, we pride ourselves on making a difference by serving taxpayers, protecting their rights and ensuring they are fairly treated by SARS while at the same time promoting tax compliance."*

This report is tabled under challenging economic and social conditions for the OTO and the global community, primarily due to the COVID-19 pandemic that has crippled economies and caused large-scale loss of life. Despite the pandemic-induced challenges, the Office was able to assist hundreds of taxpayers with their complaints against SARS. Understanding the essential nature of our services, we instituted measures to ensure continuity in serving taxpayers at a time when most institutions were closed due to COVID-19 regulations. Consequently, we succeeded in fulfilling our mandate to serve taxpayers while also promoting

the safety of our colleagues and stakeholders. The OTO is the last resort for many taxpayers who believe SARS has infringed their rights and this is a strong enough motivator for us to go beyond the proverbial extra mile to ensure that even those without the financial muscle to take on SARS know there is a fair and free avenue that will protect their rights.

In 2020/21, through the intervention of the OTO, SARS was compelled to pay over R156 million for the top 10 tax refunds, inclusive of interest. This is a significant increase from the R116 million paid by SARS for the top 10 tax refund cases a year earlier.

## COMPLAINTS MANAGEMENT AND PURSUING EXCELLENCE

Despite the country being under various levels of lockdown throughout the reporting period, queries and complaints from taxpayers continued to flow in and the OTO sought to be as responsive as possible.

The Office received 9 180 queries and 2 967 complaints, of which 2 852 cases were validated, compared to 3 278 in the 2019/20 financial period. We finalised 1 340 complaints, a substantial decrease on the 1 993 complaints finalised in the previous year.

SARS implemented an estimated 98% of the OTO's non-binding recommendations, confirming the soundness of the recommendations we make to the revenue collector.

Another positive trend was the decrease in the number of rejected complaints, from 1 634 in 2019/20 to 1 340 in the reporting period, equating to an 18% decrease. This indicates that taxpayers are starting to become more knowledgeable about the OTO's mandate and complaints processes and are thus submitting relevant complaints. Although the reduction in rejected complaints is to be welcomed, the number is still high and remains a concern for the Office. Continuous and intensified taxpayer education is required for taxpayers to understand the SARS complaints management process and where the OTO can assist them. Plans are in the pipeline to intensify our awareness campaign and ensure that more taxpayers not only know about the OTO but also make use of the services offered.

In the new financial year, we intend implementing an efficient complaints management framework to support our complaints management process. The purpose of this framework will be to formalise the processes we use to manage taxpayers' complaints and promote a high-quality experience that will increase taxpayer satisfaction with the way we investigate and review complaints and strengthen the OTO's brand equity as an unbiased, transparent and accessible complaints resolution body that is fair both to taxpayers and SARS.

## STAKEHOLDER ENGAGEMENTS AND REACHING OUT TO COMMUNITIES

The COVID-19 pandemic put an end to face-to-face engagements with stakeholders and forced us to adopt and embrace new, and in some respects, improved ways of communicating. The OTO conducted numerous virtual presentations with stakeholders in the public and private sectors throughout the country. Some of the stakeholders were engaged on multiple occasions on different topics, and others were introduced to the role and mandate of the OTO. The Office reached out to taxpayers across the provinces, using diverse communications platforms and packaging content relevant to targeted taxpayers. We also initiated various engagements with multiple other stakeholders, including the media, taxpayers, tax practitioners and members of the RCBs to educate and create awareness about the Office. The OTO has embraced digitisation to meet taxpayer demand for

*"SARS implemented an estimated 98% of the OTO's non-binding recommendations, confirming the soundness of the recommendations we make to the revenue collector."*

efficient, accessible services. As part of this, we are implementing a digital communications framework aimed at increasing online brand presence and promoting our services. This framework seeks to provide efficient, real-time, high-quality digitalised communication that is responsive and ensures the clarity of the information we provide to taxpayers. It also details how the Office will embrace new technologies to provide a taxpayer-centric experience that integrates the human element with constantly evolving digital channels. The introduction of new digital channels also improves taxpayers' access to our service and enables OTO employees to engage in innovative working practices.

During the year, the Office launched its successful #TaxpayersRightsMatter campaign, which ran on social media platforms such as Facebook, Twitter, Instagram and Google, reaching millions of stakeholders. These platforms achieved more than six million impressions between September 2020 and March 2021, and increased traffic to the OTO website by 74.8%. The purpose of the campaign was to promote awareness about taxpayers' rights and remind taxpayers that when they feel SARS has infringed their rights, there is free recourse (after exhausting the SARS complaints process) for their tax complaints to be independently and fairly resolved.

The OTO conducted 161 outreach activities in 2021/21, comprising virtual presentations, advertising, public relations and media engagements. We also reached 6 808 500 taxpayers through engagements on nine commercial radio talk shows and promotional radio adverts broadcast.

## AUDITING OF THE OTO

From its establishment and until very recently, the OTO had never been externally audited. That changed in 2020/21 after the Tax Ombud, Judge Bernard Ngoepe, requested external audit assurance of the OTO's performance information from the Auditor-General of South Africa, Ms Tsakani Maluleke. I am excited to state that the request was approved, and an external audit has been conducted for this Annual Report. I am also encouraged by the Auditor-General's positive comment about our proactiveness. "Your commitment to governance and accountability in the management of public finances is greatly appreciated," she wrote. The Tax Ombud's request for the performance information audit is the right step towards ensuring accountability and adherence to corporate governance principles.

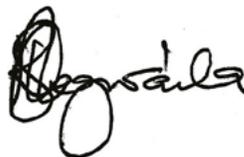
## EMPLOYEE INTEGRITY

During the period under review, the OTO launched and implemented an employee integrity awareness campaign, themed "Integrity starts with me". The aim was to encourage OTO employees to espouse integrity, in addition to embracing the values of Accountability, Independence, Effectiveness, Fairness, Confidentiality and Impartiality, which are aligned with best corporate practices and support the vision and mission of the organisation. The OTO implemented several activities to educate and promote integrity among OTO employees, with the goal of encouraging all employees to embrace integrity in both their private and professional lives.

As a relatively new organisation, the OTO comprises employees with different professional and cultural backgrounds, including many recruited from SARS. Given this diversity, the Office saw the need to create and promote a culture that embraces integrity and living the six OTO values. Integrity is not one of the OTO's existing values but there is a proposal that it be included. This was raised following our 2018 survey of internal and external stakeholders' brand perceptions, which found that integrity was not overtly embraced.

## CONCLUSION

In conclusion, I would like to express my sincere gratitude to the Tax Ombud Judge Ngoepe and his leadership for the continuous support throughout the year. In addition, I would like to extend my appreciation to Team OTO for its continuous commitment to serving taxpayers with professionalism and integrity. My sincere gratitude to the SARS Commissioner and his team for their operational support to ensure that our recommendations are implemented as per the signed MoU between the two organisations. I also extend appreciation to National Treasury for its encouragement and look forward to more support as we pursue structural independence from SARS.



**Prof. Thabo Legwaila**  
Chief Executive Officer

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

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**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 2021.

Yours faithfully



**Prof. T Legwaila**  
Chief Executive Officer



**Judge B.M Ngoepe**  
Tax Ombud

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## 6. STRATEGIC OVERVIEW

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

The vision, mission and values of the Office guide the OTO's conduct and interaction with taxpayers, SARS and other stakeholders.

### 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.

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## 7. LEGISLATIVE AND OTHER MANDATES

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The OTO complies with the legislative mandates of the Constitution of the Republic of South Africa and the Tax Administration Act.

### 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, economic 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 -

- a) Review and address any complaint by a taxpayer regarding a service matter or a procedural or administrative matter arising from the application of the provisions of a tax Act by SARS; and
- b) Review, at the request of the Minister or at the initiative of the Tax Ombud with the approval of the Minister, any systemic and emerging issue related to a service matter or the application of the provisions of this Act or procedural or administrative provisions of a tax Act.

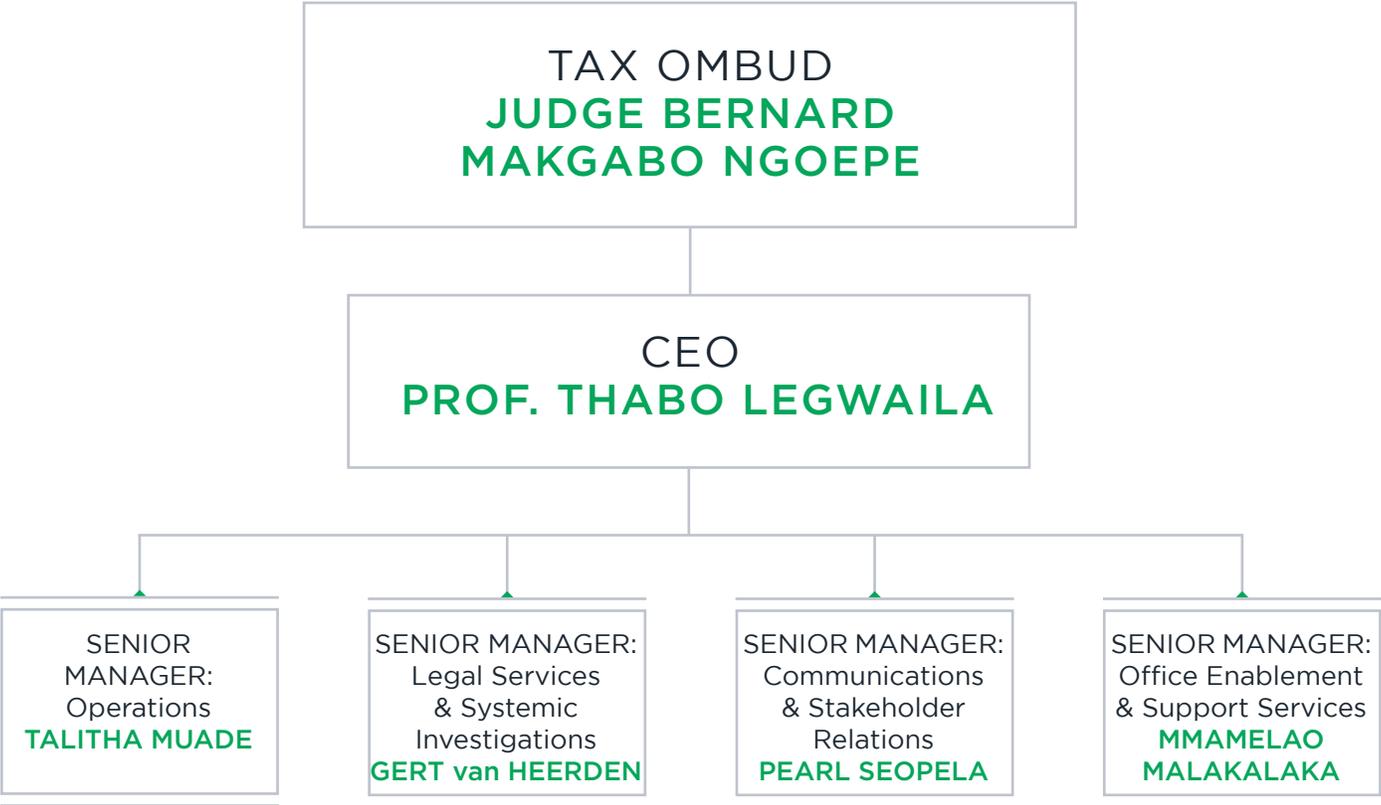


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## 8. ORGANISATIONAL STRUCTURE

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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:



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## 9. LEADERSHIP OF THE TAX OMBUD

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*Updated career and educational information of the OTO  
Senior Management*

### **JUDGE BERNARD MAKGABO NGOEPE** TAX OMBUD

**BJuris, LLB, LLD (h/c), LLD (h/c), LLD (h/c), DEd (h/c)**

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

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

Judge Ngoepe has been a member of many democracy-building fora, such as the Amnesty Committee of the Truth and Reconciliation Commission, the Court of Military Appeals (Chairperson), the Magistrates Commission (Chairperson) and the Judicial Service Commission. He is currently Chairperson of the Appeals Panel of the Press Council of South Africa (a position he has held since 2013); Chairperson of the Appeals Board of the South African Council of Medical Schemes (since 2012); Chairperson of the Final Appeals Committee of the Advertising Standards Authority – Advertising Regulatory Board (since 2014); and Head of the Cricket SA Investigative Unit since 2016.

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



**PROF. THABO LEGWAILA**  
**CHIEF EXECUTIVE OFFICER**

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

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

In 2011 he joined Citibank as Head of Tax for the Africa division. He was appointed as a Professor of Tax Law at the University of Johannesburg in 2014 and as a member of the Davis Tax Committee (DTC) in 2015, which was set up by the Minister of Finance to assess South Africa's tax policy framework and its role in supporting the objectives of inclusive growth, employment, development and fiscal sustainability. Prof. Legwaila published widely in Tax Law both in accredited and peer-reviewed journals, as well as in magazines and newsletters. He also co-authored the tax textbook *Tax Law: An Introduction* in 2013, which is specifically intended 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.



**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 more than 12 years' experience in management generally, and over seven 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 (University of the North West), Management Development Programme (University of Pretoria), MBA: Operations and Decision Management (University of the North West) and Commercial Mediator Skills Training (Conflict Dynamics).

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## GERT VAN HEERDEN

### SENIOR MANAGER: LEGAL SERVICES & 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 12 years' post-admission experience in the legal field specialising in taxation. His key areas of interest are tax dispute resolution, debt recoveries and administrative law.

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

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



## MMAMELAO MOIRA MALAKALAKA

### SENIOR MANAGER: OFFICE ENABLEMENT & 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.

She completed her articles with the Auditor-General of South Africa. She then worked as the Chief Financial Officer (CFO) at the National Electronic Media Institute of South Africa (NEMISA), responsible for Finance, Risk Management, Procurement and Corporate Support Services.



## PEARL SEOPELA

### SENIOR MANAGER: COMMUNICATIONS & 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, 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.



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## PART B. PERFORMANCE INFORMATION

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### 1. AUDITOR'S REPORT: PREDETERMINED OBJECTIVES

The Auditor-General of South Africa (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, with material findings being reported under the heading "Predetermined objectives" in the section on other legal and regulatory requirements of the Auditor's Report.

Refer to page 41 - 42 for the Auditor's Report.



## 2. OVERVIEW OF ORGANISATIONAL PERFORMANCE

### 2.1 Systemic investigation

Tax administration or service issues are considered systemic in nature when they are recurring or have the potential to negatively affect a number of taxpayers. During the 2020/21 financial year, the Office, through effective engagement with SARS, resolved two of the 10 issues that were observed during the year. The issues that were resolved are:

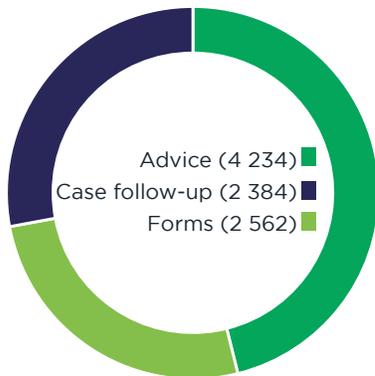
- Incorrect allocation by SARS of payments made by taxpayers.
- Fluidity of the PAYE Statement of Account.

### 2.2 Contact centre

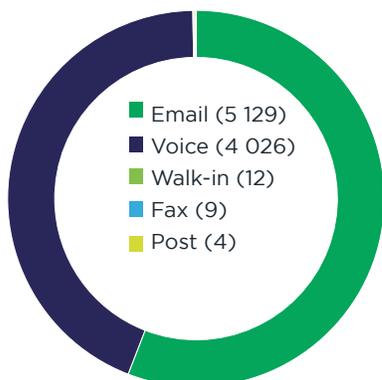
The Office received **12 147** contacts, which consisted of **9 180** queries and **2 967** complaints. The majority (**46%**) of the queries received were requests for advice, inquiries about the status of existing complaints (**26%**) and requests from taxpayers for forms to lodge complaints (**28%**).

The number of contacts received declined by **14%** compared to the previous financial year, which can be attributed to the contact centre being closed during the lockdown level five period and the suspension of walk-in visits by taxpayers inquiring about the services of the Office or wishing to lodge complaints.

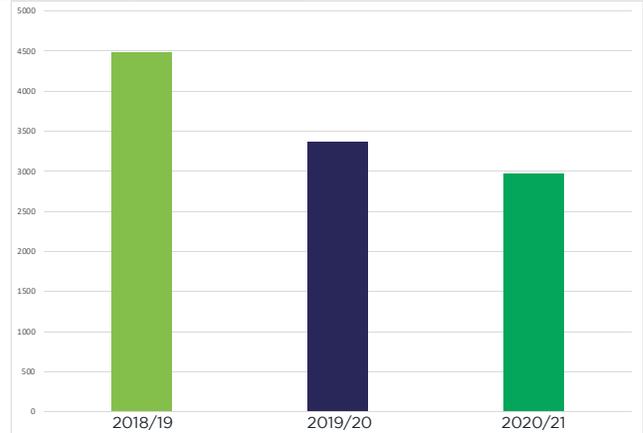
*Graph 1: Types of queries 2020/21*



*Graph 2: Mode of queries 2020/21*



*Graph 3: Complaints received*



### 2.3 Analysis of complaints resolved

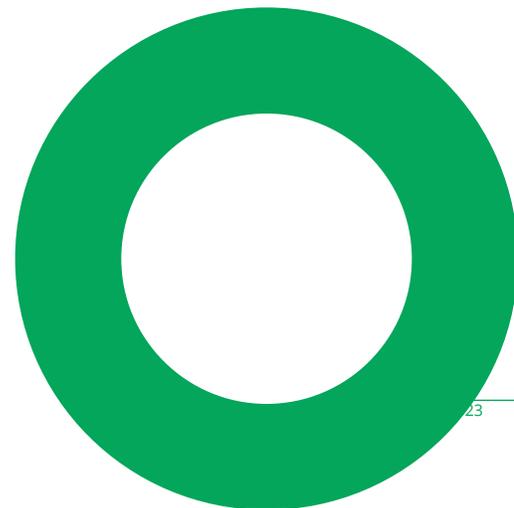
#### Validated complaints

During the reporting period, the Office validated **2 852** cases compared to **3 278** in the 2019/20 financial period, a decrease of **13%**.

Of the **2 852** complaints validated in 2020/21, service matters represented **57.47%**, procedural matters **21.81%**, administrative matters **20.34%** and other matters **0.39%**. "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.

*Table 1: Types of complaints validated*

Types of complaints validated	Number	Percentage
Service	1 639	57.47%
Procedure	622	21.81%
Administrative	580	20.34%
Other (complaints not related to SARS)	11	0.39%
<b>TOTAL</b>	<b>2 852</b>	<b>100%</b>

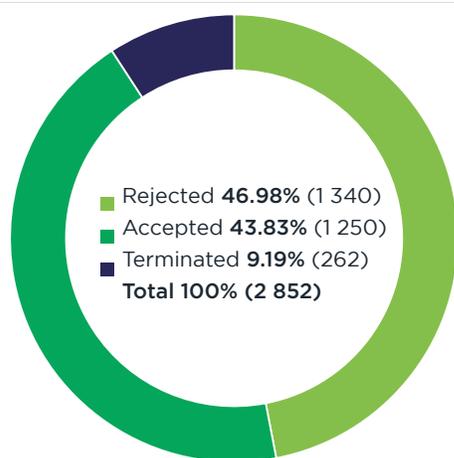


### Categories of validated complaints

The number of accepted complaints decreased from **1 644** in 2019/20 to **1 512**. Accepted complaints include complaints that were later terminated. The latter increased from **203** in 2019/20 to **262** in the 2020/21 financial year.

The number of rejected complaints decreased from **1 634** in 2019/20 to **1 340** in the reporting period, which equates to an 18% 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. This could be as a result of taxpayers not understanding the SARS Complaints Management process, necessitating more taxpayer education about this process.

*Graph 4: Outcomes of complaints validated*



### Sub-categories of accepted complaints

These are complaints that fell within the mandate of the OTO and were referred to SARS for resolution.

*Table 2: Sub-categories of accepted validated complaints*

Sub-categories of complaints validated	Number	Percentage
Audit	391	31.28%
Dispute resolution (appeals and objections)	247	19.76%
Refunds	223	17.84%
Assessment management (tax directives included)	127	10.16%
Debt management	71	5.68%
Fraud investigations	68	5.44%
General services	31	2.48%
Portfolio maintenance	28	2.24%
Verification	26	2.08%
Account maintenance	23	1.84%
Penalties and interest	13	1.04%
Voluntary Disclosure Programme (VDP)	2	0.16%
<b>TOTAL</b>	<b>1 250</b>	<b>100%</b>

### Resolution of accepted complaints

In the year under review, **1 340** accepted complaints were finalised, compared to **1 993** in 2019/20. The **1 340** resolved complaints consisted of unresolved complaints brought forward from the previous reporting periods, as well as complaints accepted in this reporting period. From the **1 340** finalised complaints, SARS implemented **98%** of the OTO recommendations.

Of the **1 340** resolved complaints, **209 (16%)** complaints were finalised within 15 business days as per the Memorandum of Understanding (MOU) signed between the OTO and SARS. The remaining **1 131 (84%)** were resolved outside the 15 business days. SARS' non-adherence to the MOU timeframes remains a concern and has been escalated to the senior leadership of SARS.

*Table 3: Time taken for SARS to finalise OTO recommendations*

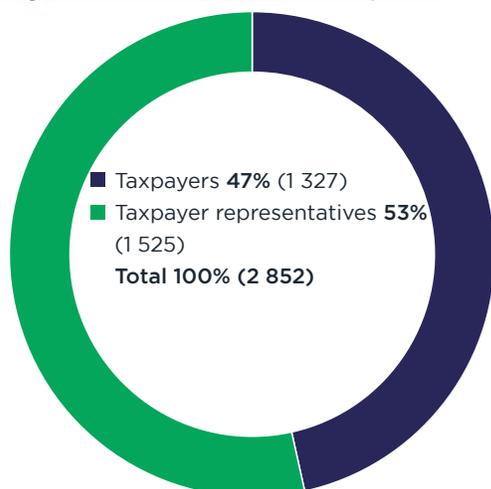
Number of days SARS took to finalise OTO recommendations	Number	Percentage
1 - 15 days	209	16%
16 - 31 days	344	26%
32 - 61 days	257	19%
62 - 91 days	125	9%
Over 92 days	405	30%
<b>TOTAL</b>	<b>1 340</b>	<b>100%</b>



### Categories of users for validated complaints

Individual taxpayers represented 47% of validated complaints and taxpayer representatives 53%.

Graph 5: categories of users for validated complaints



### 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 79.6% of the rejected complaints.

Table 4: Reasons for rejection of complaints

Reasons for rejection of complaints	Number	Percentage
Section 16 of TAA (Not falling within OTO mandate)	65	4.9%
Section 17(a) (Legislation or tax policy)	3	0.2%
Section 17(b) of the Act (SARS policy or practice generally prevailing, other than to the extent that it relates to a service matter or a procedural or administrative matter arising from the application of the provisions of a tax Act by SARS)	1	0.1%
Section 18(4) of the Act (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)	1 066	79.6%
Rejected in terms of section 18(4) read with section 17(c) of the Act. (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, or a decision of, proceeding in or matter before the tax court)	205	15.3%
<b>TOTAL</b>	<b>1 340</b>	<b>100%</b>

### Geographical spread of complainants

Complaints were received from taxpayers in eight of the nine provinces in South Africa during the reporting period. Gauteng accounted for the majority of complaints (64.9%), followed by the Western Cape (15.4%) and KwaZulu-Natal (9.6%). It is concerning to the Office that no complaints were received from taxpayers in the North West Province.

Table 5: Geographical spread of validated complaints

Geographical spread of validated complaints	Number	Percentage
Gauteng	1 852	64.9%
Western Cape	439	15.4%
Kwa-Zulu Natal	274	9.6%
Eastern Cape	134	4.7%
Free State and Northern Cape	103	3.6%
Mpumalanga	49	1.7%
Limpopo	1	0.04%
<b>TOTAL</b>	<b>2 852</b>	<b>100%</b>

\* These regions are as registered on the SARS data base.

### Value of top 10 refunds paid to taxpayers

The top 10 tax refunds paid to taxpayers through the intervention of the OTO collectively exceeded R156 million, compared to R116 million in 2019/20. This was an increase of over 34%. The majority of the top 10 refunds in the reporting period related to Value added tax (VAT), in contrast with the previous reporting period, when most refunds were related to Corporate Income Tax (CIT).

Table 6: Value of top 10 refunds paid to taxpayers

Tax type	Refund paid
VAT	R65 682 910.58
VAT	R17 350 668.49
VAT	R16 240 380.37
VAT	R13 654 790.62
PAYE	R12 359 678.94
CIT	R9 756 085.36
VAT	R5 904 306.59
VAT	R5 638 463.17
VAT	R4 997 858.09
CIT	R4 918 010.79
<b>TOTAL</b>	<b>R156 503 153.00</b>



## 3. ORGANISATIONAL ENVIRONMENT

### 3.1. Governance

The Auditor-General of South Africa has agreed to the request from the Tax Ombud to conduct an audit of the OTO's performance information in terms of the Public Finance Management Act. The OTO's performance information was audited for the first time since its inception in 2013. The Tax Ombud's request for the performance information to be audited is a step in the right direction towards deepening accountability and adherence with corporate governance principles.

The Office understands that building governance structures is not an easy journey especially when the OTO is not structurally independent and has budgetary constraints. The OTO took steps to signify the importance of being independent by requesting that the Office's processes be independently evaluated. The Office subsequently engaged SARS to share governance services such as internal audit and audit committee.

### 3.2. Human resources

The operations of the Office of the Tax Ombud are highly dependent on human intervention to ensure their success and the achievement of the set goals and objectives. The OTO headcount was 41 as at 31 March 2021, with 19 employees dealing with complaints, from capturing to reviewing. The headcount as at 31 March 2021 increased by one compared to the headcount of 40 as at 31 March 2020. The Office appointed the Chief Executive Officer Professor Thabo Legwaila on 1 April 2020.

The racial distribution of the workforce as at 31 March 2021 was **85.37%** African and **14.63%** white employees, with the gender distribution being **51.22%** female and **48.78%** male.

### 3.3. Financial resources

The National Treasury approved a total budget of **R47,2 million** for the 2020/21 financial year. Currently, the employee cost remains one of the main cost drivers and represents **87%** of the total expenditure. Total expenditure for the year amounted to **R42.7 million**, resulting in a variance of **R4.5 million**.

### 3.4. Communications and stakeholder relations

In the year under review, the OTO launched a successful multi-channel awareness campaign themed *#TaxpayersRightsMatter*, which reiterated the Office's service delivery philosophy and promoted taxpayer rights.

The campaign ran across various platforms and included an intensive public relations and media activities programme. Some of the highlights were the release of the Systemic Investigation Report, the unpacking of the Tax Ombud Annual Report 2019/20 and a call to taxpayers to utilise the OTO's free and

impartial services during the SARS Revenue Drive. These media engagements generated an estimated **R33 293 929.00** of public relations value.

In addition, the print, digital and broadcast coverage was supplemented by the distribution of the Fairness for All case study newsletter, which explained the legal principles pertaining to tax complaints and highlighted the difference between how SARS treats refunds in practice during audits and how it is supposed to treat refunds according to the law.

#### Social media engagements

The OTO utilised social media to expand its outreach and ensure that taxpayers are informed about its services. The *#TaxpayersRightsMatter* campaign was extended to the OTO social media platforms on Facebook, Twitter, Instagram and Google, achieving more than **6 million impressions** between September 2020 and March 2021. It increased traffic to the website by **74.8%** compared to the previous year. A YouTube campaign in March 2021 achieved **36 299** views of a 30-second animated video.

#### Radio advertising

The Office conducted nine radio talk shows, including promotional adverts, which reached **6 808 500** listeners. The adverts were heard more than seven times by each listener between the ages of 15 to 64 years as measured by Telmar, a media measurement and insight tool. The 6 to 10 Living Standard Measure (LSM) was targeted for maximum reach. The purpose of the campaign was to promote awareness about taxpayers' rights and to remind taxpayers that when they feel their rights have been infringed by SARS, there is a free recourse mechanism to have their tax complaints independently and fairly attended to.

#### Digital advertising

The use of digital brand integration (DBI), a technique that inserts brand assets into broadcast television dramas, increased awareness to primetime television viewers of popular shows such as *Gomora*, *Skeem Saam*, *Rhythm City*, *The River*, *Imbewu*, and *The Queen*. Throughout the two phases of this campaign, 91 broadcast spots reached **25 million viewers** cumulatively.

#### Reputation and issue identification

Utilising Christopher.africa (a social media reputation and issue management artificial intelligence application tool) it was possible to identify and respond, in real-time, to **6 010** conversations about tax issues and the OTO on social media platforms. The three-week campaign was successful in improving audience sentiment towards the OTO and earned **309 524** impressions.

### Employee communications

The Office kept employees up to date on organisational matters and other significant developments in the tax sphere. This was achieved through the distribution of Perspective (an internal newsletter), as well as communiques and leadership addresses. Daily messages with health and safety tips were also distributed to employees to prevent the spread of COVID-19.

### Annual Report launch

On 2 December 2020, the OTO launched the Tax Ombud Annual Report 2019/20. In keeping with OTO tradition, the launch involved discussions with taxpayers, tax practitioners, academia the media and other stakeholders. However, owing to COVID-19 restrictions, the Tax Ombud and CEO unpacked the report in an hour-long live broadcast on Radio 702.

### Community outreach and stakeholder engagements activities

The OTO's three frameworks, namely for community outreach, digital communications and stakeholder relations, provided the blueprint for all communications and stakeholder engagement activities implemented during the reporting period. The emphasis was on intensifying digitisation, promoting much-needed awareness about the OTO's services, building new and mutually beneficial partnerships, and improving access to services offered.

### Community outreach framework activities implemented

In the year under preview, the OTO achieved the targeted 20% of activities as per the community outreach framework. A discussion of related activities follows.

### Stakeholder presentations

The OTO conducted numerous virtual presentations with stakeholders in public and private sector organisations around the country. Some of the stakeholders were engaged on multiple occasions on different subjects, while others were introduced to the role and mandate of the OTO. The table below lists the stakeholders engaged.

### Distribution of electronic marketing material

The Office also distributed infographic marketing leaflets as part of awareness and education about its services. The leaflets were distributed to the organisations listed in Table 8.

### Public relations and media engagements

The distribution of media statements and case studies, complemented by the OTO leadership's willingness to go the proverbial extra mile to be available for interviews on numerous platforms, helped achieve the 20% target set on the community outreach framework. This contributed to the Office featuring numerous times on media platforms.

*Table 7: Stakeholder presentations*

Stakeholder presentations	
Cape Chamber of Commerce and Industry	Proudly South African
Chartered Governance Institute of Southern Africa	South African Institute of Chartered Accountants (SAICA Tax Symposium)
Department of Sports, Arts and Culture & Recreation	Small Enterprise Development Agency (SEDA)
Financial Planning Institute (FPI)	South African Institute of Tax Practitioners (SAIT) Webinar
Gauteng Department: Economic Development	SAIT Tax Indaba
Government Communication and Information Systems (GCIS)	South African Institute of Professional Accountants (SAIPA)
Imperial Logistics	South African Revenue Service
Middelburg Chamber of Commerce and Industry	State Information Technology Agency (SITA)
Mpumalanga Provincial Treasury	University of Stellenbosch
Nolands	
<b>TOTAL</b>	<b>R156 503 153.00</b>

*Table 8: Distribution of electronic marketing material*

Institution	
Department of Community Safety, Security and Liaison	Life Springs Parkland Hospital
Ehlanzeni District Municipality	Life The Glynnwood Hospital
Engen Petroleum	Mpumalanga Regional Training Trust
Eskom	Mpumalanga Department of Agriculture, Rural Development, Land and Environment Affairs
Exxaro Resources Limited	Mpumalanga South African Local Government Association (SALGA)
FirstRand	Mpumalanga Tourism & Parks Agency
Gert Sibande District Municipality	National Department of Human Settlements
Gold Fields	Nedbank
Growthpoint Properties Limited	Nkangala District Municipality
Department of Human Settlements	Old Mutual
Imperial Holdings Limited	Pick 'n Pay Holdings
Electoral Commission of South Africa	Rand Merchant Bank Holdings Limited
Karate South Africa	Small Enterprise Development Agency
Life Anncron Hospital	Department of Social Development
Life Brackenview	South African Equestrian Federation
Life Brenthurst Clinic-Maternity Ward	South African Figure Skating Association
Life Dalview Hospital	South African Football Association
Life Flora Hospital	South African Gymnastics Federation
Life Fourways Hospital	South African Hockey Association
Genesis Maternity Clinic	South African National Archery Association
Life Healthcare Kensington Clinic	South African Police Service (SAPS)
Life Poortview Hospital	South African Sport Anglers and Casting Confederation
Life Riverfield Hospital	Statistics SA
Life Healthcare Robinson Private Hospital	Vodacom
Roseacres Clinic	Working on Fire

Media coverage was obtained in the print, digital and broadcast platforms as shown in Tables 9, 10, 11 and 12.

*Table 9: Radio coverage*

Radio station	
Alex FM	Massiv Metro
Capricorn FM	Mokopane Community Radio
Classic FM	Moutse Community Radio
Eldorado Community FM	Munghana Lonene
Energy FM	Power FM
Ermelo FM	Radio 702
Inakekelo Community Radio	Radio Pulpit
Inkonjane FM	SA FM
Khwezi Community Radio	Setsoto Stereo FM
Lesedi FM	Thobela FM
Ligwalagwala FM	Tubatse Community Radio
Madibeng Community Radio	You FM

*Table 10: Television coverage*

Television station	
Business Day TV	Newzroom Africa
CNBC Africa	SABC 2 Morning Live
ENCA	

*Table 11: Digital advertising*

Outlet	
Business Brief	Moneyweb
Business Day	Netwerk
Business Report	News24
Cape Talk	Personal Finance
City Press	Political Analysis South Africa
CNBC Africa	Radio 702 website
Daily Sun	SABC Morning Live
Engineering News	Sunday World
FAnews	The Citizen
Greening Africa	Wanted Magazine
Imali Matters	Womeninscience.com
IOL	

*Table 12: Print coverage*

Newspaper	
Cape Times	The Citizen
Pretoria News	The Mercury
Rapport	The Star
Sunday World	

### Advertising campaigns

The OTO's advertising campaign, *#TaxpayersRightsMatter*, set out to increase the Office's reach and engagements with taxpayers through radio talk shows, live reads, print, digital and radio promotional adverts. The tables below list all the platforms where the OTO advertised.

*Table 13: Radio advertising talk shows*

Radio advertising talk shows	
Cape Talk	Radio 2000
Ligwalagwala FM	Radio 702
Lotus FM	SAFM
Motsweding FM	Thobela FM
Power FM	

*Table 14: Digital advertising*

Digital advertising	
Biz-Community	Instagram
Business Day	IOL /Business Report
City Press	Netwerk
Daily Sun	News24
Facebook	YouTube
Google Display Network	

*Table 15: Social media advertising*

Social media advertising	
Cape Talk FM Twitter and Facebook	Power FM Twitter and Facebook
Daily Sun Facebook	Radio 702 FM Twitter and Facebook
IOL/Business Report Twitter and Facebook	Wanted Magazine Facebook
Google Display Network	

*Table 16: Print advertising*

Print advertising	
Cape Times	The Star
The Mercury	Wanted Magazine
Pretoria News	

Table 17: Digital brand integration

Programme	
Gomora	Skeem Saam
Imbewu	The Queen
Rhythm City	The River
Scandal	

### Digital communications framework

The Office’s digital communications framework is designed to increase online brand presence and promote the services of the Office. As part of this, the OTO ran a digital advertising campaign utilising a variety of platforms and appointed a Specialist: Digital Media at the beginning of the third quarter to allow the Office to implement more deliverables as per the framework. While the target of 20% for digital communications framework was missed, there was an increase in engagements on social media and website traffic.

The table below shows the growth in social media engagements.

Table 18: Digital growth

Description	2019/20	2020/21	Change
Website users	30 776	53 797	74.8%
Website page views	99 325	124 957	25.8%
Facebook likes	595	743	24.87%
Facebook average reach	1 710	4 637	171.17%
Twitter followers	6 858	7 765	13.23%

### Digital advertising

Some of the social media growth was driven by investment in digital advertising, including on new platforms such as Google Display Network (GDN), YouTube and Christopher.africa. These were supplemented by advertising on Facebook.

The Facebook campaign consisted of three phases between December 2020 and March 2021, including one phase focused on North-West, Mpumalanga, Limpopo, Free State, Eastern Cape and Northern Cape – the provinces targeted in the community outreach framework. Through the three phases of the educational campaign, the OTO reached **686 000** Facebook users, driving an additional **17 000** users to the Tax Ombud’s website for more information and assistance.

The campaign targeted users searching for specific keywords relating to the OTO, tax and the SARS Revenue Drive, and was also conducted in three phases aligned to the Facebook campaign. It received **3,6 million impressions**.

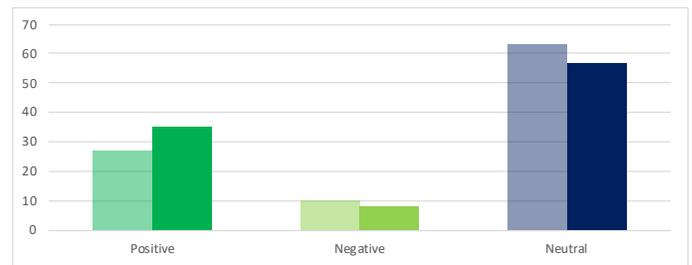
The OTO also produced a two-minute animation on the services the Office offers and how to access them. A shorter 30-second, cut-down version was promoted on YouTube and played a crucial

part in driving awareness during the **#TaxpayersRightsMatter** campaign, which had **36 299** views at **0.41c** per view.

An additional element of the campaign was the use of Christopher.africa to monitor and respond to social media mentions of the OTO, SARS and commonly experienced taxpayers’ complaints against the revenue collector. It provided **6 010** real-time responses to the issues raised, including advice on how the OTO could assist. In total, this element of the campaign earned **309 524** impressions across social media.

Christopher.africa was also used to monitor sentiment, based on the algorithmic analysis of social posts to determine whether the user has a positive, negative or neutral view of the subject. An analysis showed an uplift in positive sentiment towards the OTO from **27%** to **35%**. Negative sentiment dropped from **10%** to **8%** after the campaign.

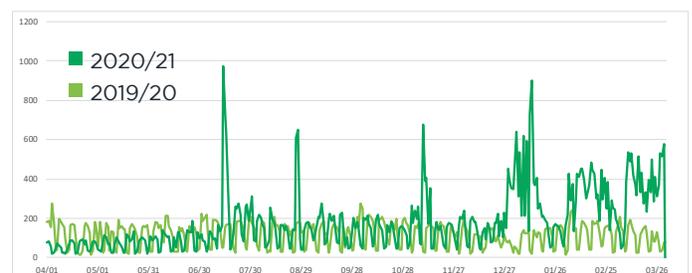
Graph 6: Sentiment analysis

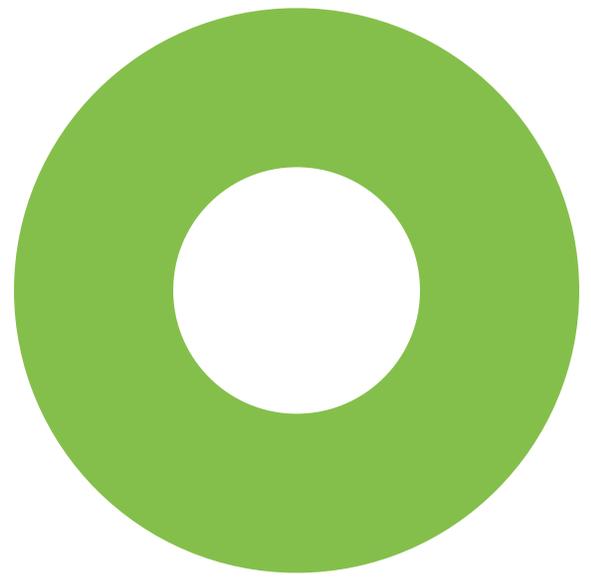


The combined campaigns increased traffic to [www.taxombud.gov.za](http://www.taxombud.gov.za) by **74.8%** compared to the previous year, with page views up by **25.81%**. Looking specifically at the fourth quarter, during the period of the paid campaign, there was a **190.35%** increase in website visitors and a **107.8%** increase in page views compared to the same quarter in the previous year. Engagement with OTO on social media increased by up to **49 056%**. This indicates both a low base, and the effects of paid advertising on social media.

The graph below compares website traffic in 2019/20 to 2020/21, and shows the effects of the coordinated campaigns, starting in September 2020.

Graph 7: Website traffic





#### **External stakeholder newsletters**

The OTO distributed its quarterly newsletter Fair Play to stakeholders through email, social media and RCBs. During the year under review, the OTO introduced a new case study newsletter, Fairness for All, in which significant case studies are featured and utilised to promote awareness on pertinent legal matters relating to tax.

#### **Stakeholder engagement framework**

The OTO executed numerous stakeholder engagements and collaborations aligned to the stakeholder engagement framework. The framework provides a plan for the Office's key actions and approaches to risk oversight and management of relations with the media, organisations, individual taxpayers and employees. The OTO held quarterly virtual meetings with RCBs and co-hosted webinars and presentations with stakeholders in the tax sphere.

See Table 7 on page 27 for the list of stakeholders who were engaged on tax-related matters. The OTO achieved the 20% target set.

#### **Key policy developments and legislative changes**

There were no key policy developments and legislative changes.



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

In terms of section 19(1)(b), the Tax Ombud is required to submit an annual report to the Minister of Finance within five months of the end of SARS' financial year. The report must contain, in terms of section 19(2), a summary of at least 10 of the most serious issues encountered by taxpayers, as well as identified systemic and emerging issues. It must also contain the inventory made of such issues and recommendations, including the administrative action appropriate to resolve the problems encountered by taxpayers. This report presents a summary of the most serious issues experienced by taxpayers in 2020/21, as well as identified systemic and emerging issues.

### *Summary of identified systemic and emerging issues*

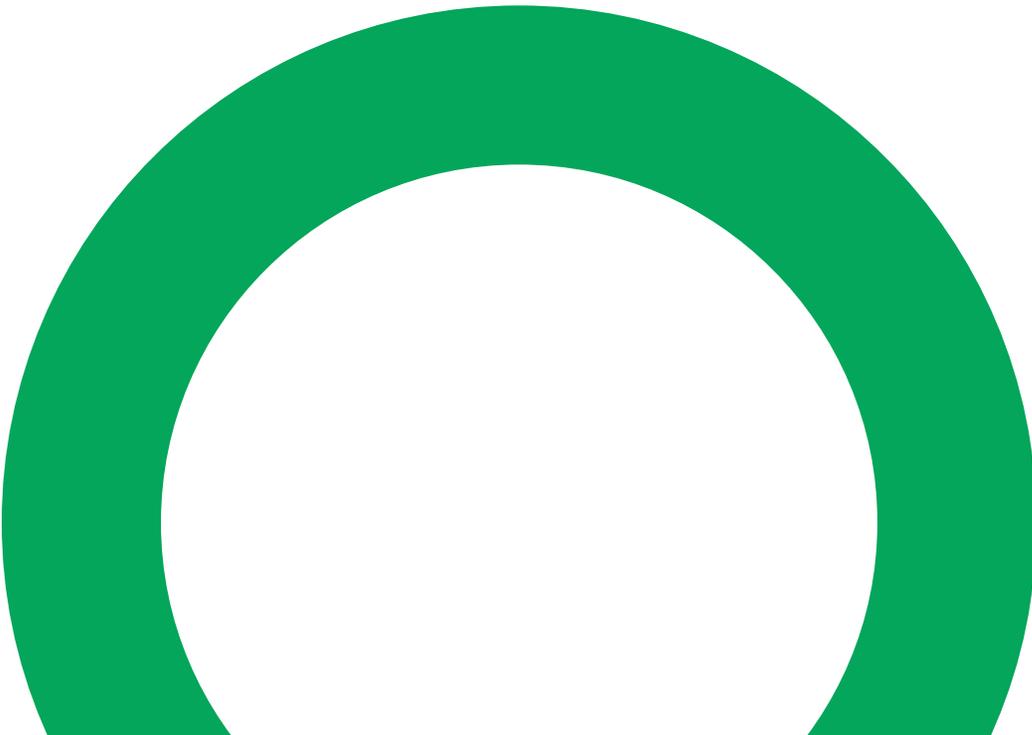
No.	Issue	Summary	Category	Action taken by OTO	Action taken by SARS	Period in OTO inventory	Result
1	Delay in payment of refunds.	1.1 Delay in the lifting of stoppers and lack of timeframes for doing so (not finalising verification within the turnaround time of 21 days)	Systemic	The remedial actions 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 placing unnecessary stoppers; however, due to the complexity of the matter, further investigation is required before a future design can be approved. (Ongoing process)	88 months	Ongoing
		1.2 Diesel refunds	Systemic	The occurrence and prevalence of the systemic issue are being monitored. The remedial actions implemented by SARS are noted. The effectiveness thereof is being monitored.	SARS indicated on 7 February 2018 that they recognise that the industry preferred separate returns as reflected in the 2017/18 budget review.  SARS further indicated that after significant risks were identified, it increased its focus on the audit of diesel refunds.  SARS further indicated on 12 October 2018 that extensive work was concluded on identifying high-volume, low-risk refunds that have been auto released and that the risk alerts associated with diesel cases have been amended in line with the available capacity; therefore, fewer alerts should be generated.  SARS indicated on 24 March 2021 that they are continuously monitoring the process.	88 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.	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.  The debt management process was further enhanced internally on 17 September 2018 to simplify the deferred payment arrangements thresholds, auto issuing of deferral payment termination notices, automation of the issuing and withdrawal of a third party appointment, etc.  SARS indicated on 24 March 2021 that the remedial actions were implemented on the various dates and that the process was continuously monitored.	88 months	Ongoing

No.	Issue	Summary	Category	Action taken by OTO	Action taken by SARS	Period in OTO inventory	Result
2	Incorrect allocation by SARS of payments made by taxpayers.	Payments made by taxpayers are incorrectly allocated, resulting in debt on SARS' systems. In some instances, SARS erroneously institutes collection steps to recover this supposed debt.	Systemic	<p>Aspects of this systemic issue were investigated and addressed by the Fluidity of the PAYE Statement of Account systemic investigation approved by the Minister of Finance on 10 September 2018.</p> <p>The investigation was finalised, and the Tax Ombud approved the findings on 23 July 2020. The investigation revealed four aspects that might have given rise to the complaints lodged about PAYE Statement of Account and could also impact taxpayers' perception that payments are incorrectly allocated.</p> <p>This included inadequate communication, SARS human errors, questionable letters issued by SARS and lack of knowledge of the payment allocation rules.</p> <p>The four aspects listed above are not systemic however, and the OTO decided to finalise the matter by removing it from the register on 23 July 2020.</p>	<p>SARS updated both the collection and account guide to ensure alignment with the TAA requirements and to ensure the correct process will be followed to address incorrectly allocated payments or credits made by taxpayers timeously.</p> <p>On 6 December 2018 and 28 May 2019, the SARS payment rules were updated to ensure alignment across all the tax products. The updated external guide listed below can be accessed via the SARS website: GEN-PAYM-01-G01 – SARS Payment Rules – External Guide.</p> <p>There are specific rules for making a payment (quote the correct 19-digit PRN) to ensure that the payments are easily identified and correctly allocated to the payment on the account. Unallocated payments and credits are also visible on the Statement of Account of various tax products.</p>	51 months	Finalised
3	<p>Dispute resolution</p> <p>System-automated calculation of days</p>	<p>SARS's system does not calculate dates for dispute resolution correctly. It does not exclude public holidays, weekends and the dies non period.</p> <p>This not only has a negative impact on taxpayers who are forced to apply for condonation unnecessarily but also on SARS in the form of 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 corrects its system to calculate the number of days during the dispute resolution procedure correctly and in accordance with the DR Rules.</p> <p>The OTO will continue to monitor if the system is correctly calculating the days to determine if a condonation case should be created.</p>	SARS indicated on 24 February 2021 that a call was logged for identified cases to be investigated and adjusted if required and that the process is still in progress.	10 months	Ongoing
3.2	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 thereof. The letters issued by SARS under these circumstances correctly inform the taxpayer that SARS has no discretion to entertain appeals that are lodged more than 75 days after delivery of the Notice of Disallowance of Objection. The problem is that this letter includes a standard paragraph stating:</p> <p>"A new NOA 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>In situations where appeals are submitted this late and SARS does not have the discretion to extend the period beyond 45 days, the use of a standardised letter would be justified.</p> <p>Taking this into account, the recommendation is made for a standard letter to be included on SARS' system to cater specifically for s107 (2) (b) matters to avoid confusion and instances where taxpayers try to lodge new NOA forms as per the current standard letters.</p> <p>The OTO will monitor the successful implementation of the letters.</p>	SARS indicated on 24 March 2021 that an amended letter was prepared and that a system change request was submitted in the week of 1 March 2021 to effect the change.	10 months	Ongoing



No.	Issue	Summary	Category	Action taken by OTO	Action taken by SARS	Period in OTO inventory	Result
3.3	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 requested additional supporting documentation, the objection must be finalised within 45 days after receiving the supporting documentation.	Serious/systemic	It is recommended that SARS ensures compliance with the timeframes.  The project plan as described by SARS will be monitored to determine and evaluate the effectiveness of the plan in reducing the existence of 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 is dealing with all disputes.  SARS further indicated that Part 1 of the project plan was presented to all SARS Regional Directors, who supported it.  Part 2 of the project plan will take longer to implement since these matters, by their nature, take longer to amend/improve.	10 months	Ongoing
3.4	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.	Serious/systemic	It is recommended that SARS ensures compliance with the timeframes.  The project plan as described by SARS will be monitored to determine and evaluate the effectiveness of the plan in reducing the existence of 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 is dealing with all disputes.  SARS further indicated that Part 1 of the project plan was presented to all SARS Regional Directors, who supported it.  Part 2 of the project plan will take longer to implement since these matters, by their nature, take longer to amend/improve.	10 months	Ongoing
3.5	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	It is recommended that SARS ensures compliance with the timeframes.  The project plan as described by SARS will be monitored to determine and evaluate the effectiveness of the plan in reducing the existence of 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 is dealing with all disputes.  SARS further indicated that Part 1 of the project plan was presented to all SARS Regional Directors, who supported it.  Part 2 of the project plan will take longer to implement since these matters, by their nature, take longer to amend/improve.  SARS indicated on 24 March 2021 that this Dispute Project further 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.	10 months	Ongoing

No.	Issue	Summary	Category	Action taken by OTO	Action taken by SARS	Period in OTO inventory	Result
3.6	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 ensures compliance with the timeframes.</p> <p>The project plan as described by SARS will be monitored to determine and evaluate the effectiveness of the plan in reducing the existence of the raised systemic issue.</p>	SARS indicated on 24 March 21 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 that are made at the objection stage in order 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.	10 months	Ongoing
3.7	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>Recommendation 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, as this would enable accurate inventory management and also make it easy to identify where the bottlenecks are within the process.</p> <p>The project plan as described by SARS will be monitored to determine and evaluate its effectiveness in reducing the existence of 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:</p> <p>Part 1 – Appeals inventory reduction plan; and</p> <p>Part 2 – Reinvention of the way SARS is dealing with all disputes.</p> <p>SARS further indicated that Part 1 of the project plan was presented to all SARS Regional Directors and that it was supported by them.</p> <p>Part 2 of the project plan will take longer to implement since these matters, by their nature, take longer to amend/improve.</p> <p>SARS indicated on 24 March 2021 that the Dispute Project is also mobilising additional staff capacity to the Legal Council 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>	10 months	Ongoing



No.	Issue	Summary	Category	Action taken by OTO	Action taken by SARS	Period in OTO inventory	Result
3.8	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 objection.</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, and 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 the high number of condonation cases that SARS received.</p>	Serious/systemic	Taking into account that almost 90% of all requests for condonation are allowed, we believe that consideration should instead be given to allow 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 are of the view that during the appeal process, the timeframe could be set at 75 days with no further option of extension.	SARS indicated on 24 March 2021 that the draft version for the revised rules, promulgated under section 103 of the TAA, proposed in rule 7 thereof to increase the 30-day period for lodging an objection to 80 days after the assessment or decision date, will reduce the number of condonation cases received.	10 months	Ongoing
3.9	Inventory management (appeals)	In the entire appeal process, the Invalid Appeal letter is the only piece of correspondence that consistently features on SARS's system for appeal cases. The OTO found very few cases involving other essential letters and documents, such as the so-called "suitability letters", that lead 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 to them. Based on the information received by SARS, it would be near impossible for it to track compliance with the rules in relation to any of these documents.	Serious/systemic	It is recommended that the system be aligned to record each step of the appeal process and its accompanying correspondence, as this would enable accurate inventory management and also make it easy to identify where the bottlenecks are within the process.	<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 the regions having difficulty sourcing their cases.</p> <p>Additional staff will be mobilised to Legal Council.</p>	10 months	Ongoing

No.	Issue	Summary	Category	Action taken by OTO	Action taken by SARS	Period in OTO inventory	Result
3.10	The raising of non-meritorious additional assessments management (appeals)	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 in the first place 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 such 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 the way additional assessments are made and the efficiency of its objections committee mechanism, as too many assessments are raised without merit, clogging the system unnecessarily, 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>	10 months	Ongoing
3.11	Delayed submission of information by taxpayers	From SARS's responses across all three divisions involved in the entire dispute resolution process, the OTO observed that a common theme arose around the submission of documents by taxpayers when asked about their own challenges and views on reasons for delays in finalising objections and appeals. This issue may tie in with the high level of 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 owing to new information being provided only after the disputes were lodged. If new information (for instance, 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 that arises is 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 failed to submit the information required.	10 months	Ongoing

No.	Issue	Summary	Category	Action taken by OTO	Action taken by SARS	Period in OTO inventory	Result
4	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 provide proof 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. 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 eFiling view in Service Manager to determine whether or not a taxpayer received correspondence.</p> <p>The systemic issue is therefore expanded to not only include manual correspondence but also correspondence that should be reflecting on a taxpayer's eFiling 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 ensures that it keeps records of all correspondence sent to taxpayers and also that the correspondence was received by the recipient.</p> <p>SARS's response is noted.</p> <p>The OTO still seeks further clarity on SARS' process in cases where the taxpayer has elected to receive all communication via post. What audit trail is kept in this regard to ensure that documentation is indeed posted?</p> <p>The OTO will continue to monitor the systemic issue.</p> <p>SARS responds 31 October 2019:</p> <p>"In reference to our telephonic engagement is respect of the matter relating to postal correspondence being sent:</p> <p>a) We recognise the issue detailed by the OTO.</p> <p>b) A proper record system that can withstand legal scrutiny is being considered.</p> <p>c) In the interim, we are installing a manual record system that demonstrates 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> <p>We are also looking at ensuring that the primary channel of communication is electronic (email, lithotech, etc.) and the use of postal services is limited to when electronic channels are not available".</p>	SARS indicated that they would make sure 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.	54 months	Ongoing



No.	Issue	Summary	Category	Action taken by OTO	Action taken by SARS	Period in OTO inventory	Result
5	Tax Compliance System (TCS)	<p>Various factors could lead to the taxpayer being non-compliant. These include (i) outstanding debts even when R1 is outstanding; (ii) Outstanding returns; (iii) Non-submission of certain relevant material requested by SARS; and (iv) any transgression that is deemed to be non-compliance by SARS. There are, however, certain challenges that are causing undue hardship to various taxpayers due to how the system was designed.</p> <p>Some taxpayers had a non-compliant tax status in the following cases:</p> <ol style="list-style-type: none"> <li>1. There was an outstanding liability of R1;</li> <li>2. Taxpayers were still within time to submit a specific return and make payment, but the system had already reflected this as outstanding;</li> <li>3. A debt emanated from fraudulent activities conducted by SARS or ex-SARS officials, resulting in taxpayers being non-compliant and failing to obtain a tax clearance certificate;</li> <li>4. Payment arrangements were in place, including approved suspension of any debt in question;</li> <li>5. Taxpayers experienced PIN-related challenges when emigrating. Upon receiving the PIN from SARS, it only reflected the details of the main applicant. The spouse's details were not shown, which was problematic for the emigration process and caused unnecessary delays and financial hardship for the affected taxpayers.</li> </ol>	Systemic	The OTO will continue to monitor the systemic issue for any possible system issues that might arise.	<p>SARS indicated that various updates were made and implemented in September 2017 to the standard operating procedures and Tax Compliance System, addressing most of the issues identified. There is also a function available for taxpayers to request an "override", and SARS will investigate and confirm the approval in exceptional cases.</p> <p>Furthermore, SARS indicated that taxpayer education is a key factor in the resolution of this matter as the SARS system is built for the majority of taxpayers and not based on exceptions.</p>	38 months	Ongoing
6	Assessments 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 further monitored with cases that might follow from the past Filing season.	<p>SARS introduced various enhancements for Filing season 2018 to address shortcomings and improve service and communication.</p> <p>Internally, the existing processes and various standard operating procedures were updated to ensure alignment and SARS adherence to legislative requirements. Previous issues escalated were addressed, and SARS is not aware of new issues identified.</p>	35 months	Ongoing

No.	Issue	Summary	Category	Action taken by OTO	Action taken by SARS	Period in OTO inventory	Result
7	The fluidity of the PAYE Statement of Account.	SARS processes journals in the PAYE, UIF and SDL accounts without informing taxpayers or providing reasons. This results in endless reconciliation issues for taxpayers.	Serious/systemic	<p>The investigation was approved by the Minister of Finance on 10 September 2018.</p> <p>The investigation was finalised, and the Tax Ombud approved the findings on 23 July 2020. The investigation revealed four aspects that might have given rise to the complaints lodged about PAYE Statement of Account and could also impact taxpayers' perception that payments are incorrectly allocated.</p> <p>These aspects are inadequate communication, SARS human errors, questionable letters issued by SARS and lack of knowledge of the payment allocation rules.</p> <p>These four aspects are not systemic in nature, and a decision was taken to finalise the systemic issue by removing it from the system issues register on 23 July 2020.</p>	<p>SARS has welcomed the investigation and is currently cooperating with the OTO.</p> <p>SARS implemented some enhancements to address PAYE and the Employment Tax Incentive process issues and these have been operational since August 2017. SARS also released further enhancements on the new layout from 12 May 2019.</p> <p>SARS is expected to respond to the provisional report.</p>	26 months	Ongoing
8	Failure to respond to the request for a <b>deferred payment arrangement</b> within the prescribed turnaround time (21 days)	We have noticed an increase in complaints about SARS' failure to respond to such requests. This negatively affects taxpayers who are attempting to become compliant and 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 for SARS non-adherence.</p> <p>The OTO will continue monitoring the issue and highlighting any root causes that impact SARS' 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 this issue 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>	31 months	Ongoing
9	Failure to respond to the request for a <b>compromise</b> within the prescribed turnaround time (30 days)	We have noticed an increase in complaints about SARS' failure to respond to such requests. This negatively affects taxpayers who are attempting to become compliant and 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 for SARS non-adherence.</p> <p>The OTO will continue monitoring the issue and highlighting any root causes that impact SARS' 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 this issue effectively.</p>	31 months	Ongoing
10	Failure to respond to the request for a <b>suspension of payment</b> within the prescribed turnaround time (21 days)	We have noticed an increase in complaints about SARS' failure to respond to such requests. This negatively affects taxpayers who are attempting to become compliant and SARS, whose 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 for SARS non-adherence.</p> <p>The OTO will continue monitoring the issue and highlighting any root causes that impact SARS' 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 this issue 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>	31 months	Ongoing



## 5. STRATEGIC OUTCOME-ORIENTED GOALS

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

Strategic goals	Goal statement	Link to key strategic objectives (programme outputs)
<b>Accountability</b>	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.
		Contribute to improvement of the tax administration system and build confidence in the system.
<b>Efficacy</b>	Provide a consistently high-quality service that is taxpayer-centric and provided at minimal cost.	Create an agile organisation that can scale efficiently to meet taxpayer demands.
		Promote stakeholder engagement and collaboration.
<b>Independence</b>	An Office of the Tax Ombud that is independent structurally and operationally, so as to limit the risk of perceived bias.	Optimise governance structures, risk management and business processes.
		Enhance and strengthen the mandate of the Office of the Tax Ombud.
<b>Security and confidentiality</b>	Continuously address the evolving threats associated with ensuring that all information, data and communications remain confidential.	Maintain security and confidentiality of organisational information.



## 6. 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, I have a responsibility to report on the usefulness and reliability of the reported performance information against predetermined objectives for selected objectives presented in the annual performance report. I performed procedures to identify material findings but not to gather evidence to express assurance.

2. My procedures address the usefulness and reliability of the reported performance information, which must be based on the approved performance planning documents. I have not evaluated the completeness and appropriateness of the performance indicators included in the planning documents. My procedures do not examine whether the actions taken by the entity enabled service delivery. My procedures do not extend to any disclosures or assertions relating to the extent of achievements in the current year or planned performance strategies and information in respect of future periods that may be included as part of the reported performance information. Accordingly, my findings do not extend to these matters.

3. I evaluated the usefulness and reliability of the reported performance information in accordance with the criteria developed from the performance management and reporting framework, as defined by management, for the following selected objectives presented in the annual performance report for the year ended 31 March 2021:

Objectives	Pages in the annual performance report
Strategic Objective 1: Review and address complaints by taxpayers against SARS	43
Strategic Objective 2: Contribute to improvement of the tax administration system and build confidence in the system	44

4. I performed procedures to determine whether the reported performance information was properly presented and whether performance was consistent with the approved performance planning documents. I performed further procedures to determine whether the indicators and related targets were measurable and relevant, and assessed the reliability of the reported performance information to determine whether it was valid, accurate and complete.

5. I did not identify any material findings on the usefulness and reliability of the reported performance information for this objective:

- Strategic objective 1: review and address complaints by taxpayers against SARS.

6. I did not identify any material findings on the reliability of the reported performance information for this objective:

- Strategic objective 2: contribute to improvement of the tax administration system and build confidence in the system.

7. The material finding on the usefulness of the performance information of the selected objective is as follows:

Strategic objective 2: contribute to improvement of the tax administration system and build confidence in the system.

*Indicator: Percentage of systemic issues identified and investigated within three months.*

8. The source information for achieving the planned indicator was not clearly defined. The definition of the indicator on technical indicator description (TID) states that it is the number of approved systemic issues identified and investigated within three months over the number of systemic issues identified and investigated. However, the indicator measures the possible systemic issues identified and investigated to confirm whether they resulted in systemic issues or not, and if they are confirmed to be systemic issues, the approval is obtained to be included on the systemic register and perform a full systemic investigation. The indicator description is not aligned to the achievement that management was initially intending to measure.

### Other matters

9. I draw attention to the matters below.

### Achievement of planned targets

10. Refer to the annual performance report on page 43 - 45 for information on the achievement of planned targets for the year and management's explanations provided for the achievement of targets.

### Adjustment of material misstatements

11. I identified material misstatements in the annual performance report submitted for auditing. These material misstatements were on the reported performance information of strategic objective 2: contribute to improvement of the tax administration system and build confidence in the system. As management subsequently corrected only some of the misstatements, we raised material findings on the usefulness and reliability of the reported performance information. Those that were not corrected are reported above.

### Unaudited comparison achievements

12. We have not audited the comparison achievement set out on the annual performance report, therefore, we do not conclude thereon.

### Other information

13. 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 systemic 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 thereon and those selected objectives presented in the annual performance report that have been specifically reported on in the auditor's report.

14. My findings on the reported performance information does not cover the other information and I do not express an audit opinion or any form of assurance conclusion on it.

15. In connection with my audit, my responsibility is to read the other information and, in doing so, consider whether the other information 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. 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 the fact.

16. I have nothing to report in this regard.

### Internal control deficiencies

17. I considered internal control relevant to my audit of the reported performance information; however, my objective was not to express any form of assurance on it. The matters reported below are limited to the significant internal control deficiencies that resulted in the basis for the qualified conclusion and the findings on the performance report included in this report.

18. The indicator description and method of calculation was not well-defined on the TID due to management indicating that it is a measure of the approved systemic issues whereas the indicator is measuring the potential or possible systemic issues. The indicator description is not aligned to the achievement that management was initially intending to measure, which led to a qualified conclusion of the strategic objective 2: contribute to improvement of the tax administration system and build confidence in the system. Furthermore, there were inadequate controls to ensure that other strategic objectives are accurately reported, which led to the annual performance report submitted for the audit purposes containing misstatements that were subsequently corrected by management.

*Auditor General*

Pretoria  
31 July 2021



A U D I T O R - G E N E R A L  
S O U T H A F R I C A

## 7. PERFORMANCE INFORMATION ACHIEVEMENTS BY OBJECTIVES

### Strategic objectives and indicators

No	Programme purpose	Strategic objectives contribution	Indicator contribution
1	To review and address complaints in a fair, efficient and impartial manner.	Review and address complaints by taxpayers against SARS.	Percentage of complaints reviewed within eight days of date captured. Percentage of close-out reports actioned within four business days of date received.
		Create an agile organisation that can scale efficiently to meet taxpayer demands.	Percentage of customers satisfied with the OTO's complaints resolution process.
2	To identify and review systemic and emerging issues related to service matters or the application of the provisions of the Tax Administration Act or procedural or administrative provisions of a tax Act that impact negatively on taxpayers	Contribute to improvement of the tax administration system and build confidence in the system.	Percentage of systemic issues identified and investigated within three months. Time taken to complete systemic reports approved/requested by the Minister.
			Percentage reduction of existing systemic issues implemented by SARS. Develop a taxpayer tax compendium of rights and obligations.
		Enhance and strengthen the mandate of the Office of the Tax Ombud.	Tax administration amendment proposals sent to National Treasury for consideration. Number of SLAs, MOUs or formal interventions with stakeholders.
3	To promote awareness about the services of the Office of the Tax Ombud.	Create an agile organisation that can scale efficiently to meet taxpayer demands.	Number of external newsletters published. Percentage of digital framework activities implemented. Percentage of community outreach activity framework implemented.
			Promote stakeholder engagement and collaboration.
		4	To ensure the highest level of corporate governance, including financial management, strive for the relevant legislative and structural changes for independence, ensure performance management throughout the organisation and build a culture of professionalism and excellence.
Create an agile organisation that can scale efficiently to meet taxpayer demands.	Percentage reduction in the average cost of reviewing a complaint, year-on-year.		
		Optimise governance structures, risk management and business processes.	No indicator/s for 2020/21; the objective will be measured in 2021/22.

### 1. Strategic objective: Review and address complaints by taxpayers against SARS

Indicator	Tabled actual performance 2018/19	Tabled actual performance 2019/20	Planned annual target 2020/21	Annual Achievement 2020/21	Deviation from planned target to actual achievement 2020/21	Reasons for deviation
Percentage of complaints acknowledged within two business days of receipt.	Target not planned	94%	95%	Not achieved 86% 2563/2967 = 86%	-9%	In the beginning on the first quarter when COVID-19 started, the OTO encountered a challenge with connectivity, where personnel did not have resources to work from home and delays with the procurement of IT resources resulted in complaints backlogs. In the second quarter and third quarter there was an improvement. In the last quarter again the OTO experienced technology challenges due to changes in Adobe flash, resulting in another backlog.
Percentage of complaints reviewed within eight days of date captured.	Target not planned	94%	93%	Not achieved 89% 2 527/2 852 = 89%	-4%	The OTO experienced a slowdown due to lack of resources and connectivity issues from working from home in the first and second quarters.
Percentage of close-out reports actioned within four business days of date received.	Target not planned	83%	83%	Achieved 87% 1 168/1 340 = 87%	4%	The interventions by the OTO and SARS CMO with SARS business units has led to improved quality and efficiency on close-out reports finalised. SARS Business units were coached on the correct way of writing close-out reports to avoid rejection and delays.

## Strategy to overcome areas of under performance

Under performing indicator	Strategy to overcome under performance
Percentage of complaints acknowledged within two business days of receipt.	The Office will implement a new operating model which will serve as a bridge between the Strategic Plan 2025 and day-to-day operations. The model will guide the OTO team, provide the context and enable behaviours that will realise the strategic mandate, vision and mission. The taxpayer experience is at the centre of the OTO operating models. The use of digital technologies is imperative in reshaping taxpayer experience.
Percentage of complaints reviewed within eight days of date captured.	New information and communication technology (ICT) resources were procured to enable all employees to work from home. Online monitoring methods are to be implemented in the new financial year to support staff working from home.

## 2. Strategic objective: Contribute to improvement of the tax administration system and build confidence in the system

Indicator	Tabled actual performance 2018/19	Tabled actual performance 2019/20	Planned annual target 2020/21	Annual Achievement 2020/21	Deviation from planned target to actual achievement 2020/21	Reasons for deviation
Percentage of systemic issues identified and investigated within three months.	100%	100%	100%	Achieved 100% (7/7)*100=100%	0%	N/A
Time taken to complete systemic reports approved/requested by the Minister.	Target not planned	Target not planned	6 months	Not achieved 21 months after approval	-15 months	The turnaround time was not achieved due to the process of reviewing the systemic issues, and the sample of 500 000 cases of data to be analysed from SARS posed a personnel capacity challenge for the OTO.
Percentage reduction of existing systemic issues implemented by SARS.	Target not planned	Target not planned	10%	Achieved 20% (2/10)*100=20%	10%	The issue relating to the fluidity of PAYE statements that formed part of an investigation approved by the Minister was found to be mostly due to isolated incidents of human error. Therefore, SARS addressed the matter quicker than anticipated.
Develop a taxpayer tax compendium of rights and obligations.	Target not planned	Target not planned	Research report	Achieved A research on the tax compendium was conducted and the CEO considered the report.	No deviation	N/A

## Strategy to overcome areas of under performance

Under performing indicator	Strategy to overcome under performance
Time taken to complete systemic reports approved/requested by the Minister.	The Office will develop and implement controls such as setting deadlines for information requested from stakeholders including SARS. The controls will allow the investigations to proceed without delays. Analysis of large datasets will be split between more resources to ensure they are finalised in time.

## 3. Strategic objective: Create an agile organisation that can scale efficiently to meet taxpayer demands

Indicator	Tabled actual performance 2018/19	Tabled actual performance 2019/20	Planned annual target 2020/21	Annual Achievement 2020/21	Deviation from planned target to actual achievement 2020/21	Reasons for deviation
Percentage of customers satisfied with the OTO's complaints resolution process.	60%	66%	65%	Not achieved 61%	-4%	The low response is attributed to taxpayers not being satisfied with the outcome of the rejection of their complaints after the OTO has reviewed them. This is further affected by taxpayers not wanting to follow the SARS process and thus sending complaints prematurely.
Number of external newsletters published.	Target not planned	4	4	Achieved 4	0	N/A
Percentage of digital framework activities implemented.	Target not planned	Target not planned	20%	Not achieved 15%	-5%	The website and intranet project was not implemented as planned due to delays caused by software licensing challenges. The project will be implemented in the 2021/22 financial year.
Percentage of community outreach activity framework implemented.	Target not planned	Target not planned	20%	Achieved 20%	0%	N/A
Percentage reduction in the average cost of reviewing a complaint, year-on-year.	0%	75%	1%	Not achieved 43.5%	44.5%	The average cost of reviewing complaints in 2020/21 was R4 368. In the first three quarters of the financial year, the OTO encountered a decrease in the number of complaints received as a result of the COVID-19 national lockdown.

## Strategy to overcome areas of under performance

Under performing indicator	Strategy to overcome under performance
Percentage of customers satisfied with the OTO's complaints resolution process.	The Office is working on plan to separate cases per category, e.g. rejected, terminated and accepted and finalised, when the customer satisfaction survey is sent out. This will enable the Office to provide more taxpayer education on OTO processes and mandate from the responses received per category.
Percentage of digital framework activities implemented.	<ul style="list-style-type: none"> <li>Review the scope of the project implementation and further request approval of licensing to implement the final designed intranet.</li> <li>Website enhancement will require software that will enable a mobile-friendly site. Moving the site to a more modern platform will improve the functionality available, including interactivity and integration on social media.</li> </ul>
Percentage reduction in the average cost of reviewing a complaint, year-on-year.	The Office removed the indicator from the 2021/22 Annual Performance Plan at the National Treasury's advice.

## 4. Strategic objective: Promote stakeholder engagement and collaboration

Indicator	Tabled actual performance 2018/19	Tabled actual performance 2019/20	Planned annual target 2020/21	Annual Achievement 2020/21	Deviation from planned target to actual achievement 2020/21	Reasons for deviation
Percentage of stakeholder engagement framework implemented.	Target not planned	Target not planned	20%	Achieved 20%	0%	N/A

## 5. Strategic objective: Enhance and strengthen the mandate of the Office of the Tax Ombud

Indicator	Tabled actual performance 2018/19	Tabled actual performance 2019/20	Planned annual target 2020/21	Annual Achievement 2020/21	Deviation from planned target to actual achievement 2020/21	Reasons for deviation
Tax administration amendment proposals sent to National Treasury for consideration.	Target not planned	Target not planned	1	Not achieved 0	-1	After reviewing the Tax Administration Act sections that relate to the OTO, a decision was taken not to make any proposals for this year, albeit before the deadline.
Number of SLAs, MOUs or formal interventions with stakeholders.	Target not planned	Target not planned	2 MOUs reviewed	Not achieved 0 MOUs reviewed	0	Two MOUs were reviewed during the year and weaknesses were identified that could be addressed through amendments. The proposed changes for the MOU with the Public Protector South Africa (PPSA) were discussed and sent to the PPSA, who have not been able to respond with a final answer. The negotiations around the changes to the MOU with SARS were delayed due to governance decisions around an Audit and Risk Committee that had to be clarified with the Commissioner before changes could be made.
	Target not planned	Target not planned	1 SLA reviewed	Not achieved 0	-1	The SLA with procurement was reviewed and sent to Corporate Legal at SARS for their consideration. The Office has not received feedback from SARS.
	Target not planned	Target not planned	1 SLA approved	Not achieved 0	-1	A new SLA was required in relation to hospitality personnel. SARS Corporate Legal was engaged, but the SLA has not yet been negotiated, pending SARS' finalisation of their delegations of authority
	Target not planned	Target not planned	2 formal interventions	Achieved 2 formal interventions were finalised with SARS.	0	N/A

## Strategy to overcome areas of under performance

Under performing indicator	Strategy to overcome under performance
Tax Administration Act amendment proposals sent to National Treasury for consideration.	The Office reviewed the indicator to include the review of the TAA sections that relate to the OTO; therefore, the achievement going forward will also include the review of the TAA sections that relate to the OTO.
Number of SLAs, MOUs or formal interventions with stakeholders – Approved SLA	The OTO will propose the revision of the MOU between SARS and the OTO to deal with clearly defined turnaround times for services that are conducted between the two entities.
Number of SLAs, MOUs or formal interventions with stakeholders.	The OTO will follow up with SARS Corporate Legal to finalise the SLA. The OTO will follow up with the Public Protector and SARS to finalise the MOUs.

## 8. REPORTING ON THE OTO'S RESPONSE TO THE COVID-19 PANDEMIC

*Table 19: Progress on institutional response to the COVID-19 pandemic*

Programme/Sub-programme	Intervention	Geographic location (province/district/local municipality) (where possible)	No of beneficiaries (where possible)	Disaggregation of beneficiaries (where possible)	Total budget allocation per intervention (R'000)	Budget spent per intervention	Contribution to the outputs in the APP (where applicable)	Immediate outcomes
Optimise governance structures, risk management and business processes.	Internal intervention (PPE, IT equipment and communication costs)	Gauteng	41	Not applicable	R450 000	R411 354	Increased percentage of complaints captured and reviewed per quarter.	OTO employees are able to work remotely.



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# PART C.

## GOVERNANCE

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### 1. INTRODUCTION

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

The Auditor-General of South Africa accepted the request by the Tax Ombud to perform an external audit on the performance information of the OTO.

The Office of the Tax Ombud's performance information for the period under review was audited by the office of the Auditor-General of South Africa for the first time since the inception of the Office in 2013. This is a step in the right direction towards ensuring that the published information is accurate, reliable, complete and valid.

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

### 2. PORTFOLIO COMMITTEES

The Office of the Tax Ombud was not scheduled to attend portfolio committee meetings during the 2020/21 financial year. Therefore, no meetings were attended.

### 3. ACCOUNTING AUTHORITY

The Tax Ombud is the Accounting Authority in terms of section 49 of the PFMA, and is responsible for all duties and responsibilities described in section 50 and 51 of the PFMA.

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

- Absolute responsibility for organisational performance in line with the OTO's mandate;
- Ensuring full and effective control over the organisation;
- Ensuring compliance with applicable laws, regulations and government policy;

- Ensuring the preparation of reports and financial statements;
- Formulating, monitoring and reviewing the corporate strategy, major plans of action, budget and plans;
- Ensuring an adequate and effective risk management framework, and
- Developing a clear definition of materiality.

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

In 2020/21, all reports and plans that were required by the Minister and Parliament were submitted to National Treasury within the prescribed time. To execute his duties, the Tax Ombud is assisted by the Chief Executive Officer and Senior Management.

#### Governing body meeting

##### Purpose

The Governing Body exists to provide effective and ethical leadership and control of the OTO. The Governing Body acts as the focal point for and custodian of corporate governance. The Tax Ombud chairs the Governing Body.

During the year under review the Governing Body held two quarterly meetings.

*Table 20: Governing Body meetings*

Member	Position	Number of committee meetings attended
Judge Bernard Ngoepe	Tax Ombud	2
Prof. Thabo Legwaila	Chief Executive Officer	2
Gert van Heerden	Senior Manager Legal Services and Systemic Investigations	2
Talitha Muade	Senior Manager Operations	2
Pearl Seopela	Senior Manager Communications and Stakeholder Relations	2
Mmamela Malakalaka	Senior Manager Office Enablement and Support Services	2

## Senior management committee (SMC)

### Purpose

The committee exists to support the Tax Ombud in executing the mandate of the Office.

From 1 April 2020, Professor Thabo Legwaila was appointed as Chief Executive Officer of the OTO and he simultaneously assumed the chairpersonship of the SMC. The committee held nine monthly meetings, including the planning session meeting to finalise the Annual Performance Plan. The monthly meetings were substituted with weekly meetings during lockdown level 5 for a period of two months (April and May 2020).

*Table 21: Senior management committee meetings*

Member	Position	Number of committee meetings attended
Prof. Thabo Legwaila	Chief Executive Officer	10
Gert van Heerden	Senior Manager Legal Services and Systemic Investigations	9
Talitha Muade	Senior Manager Operations	9
Pearl Seopela	Senior Manager Communications and Stakeholder Relations	10
Mmamela Malakalaka	Senior Manager Office Enablement and Support Services	10

## 4. RISK MANAGEMENT

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

The risks were reviewed in preparation for the Senior Management strategic session that was held on 19 November 2020.

The Office of the Tax Ombud did not have a dedicated risk committee during the period under review. Quarterly risks reports were tabled at the Senior Management Committee for deliberation and noting.

## 5. INTERNAL CONTROL

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

### 1. Continuous Improvement

Continuous Improvement embarked on a number of projects during the reporting period. One of the key projects was the review of all standard operating procedures and guidelines for the Office. The purpose of reviewing the procedures and guidelines was to streamline and improve processes in order to

provide better services to our customers. The processes that were reviewed in the reporting period were:

- The procedures to be followed to evaluate and finalise complaints received by the OTO. The process includes complaint case allocation, complaint evaluation, OTO Review Committee presentation, sending recommendation to the South African Revenue Service and the finalisation of complaints.
- The internal appeal process and procedures to be followed when complainants are not in agreement with decisions taken by the Office of the Tax Ombud concerning the outcome of a complaint provided by the Office, or when an Operational Specialist: Complaints Resolution is not in agreement with the decision taken by the Case Review Committee (CRC);
- The document approval process, which is a governance process that outlines the procedures to be followed to obtain approval for official OTO documents.
- The mailing services process, which outlines procedures to be followed when requesting mailing services. The process entails sending requests by post using the franking machine or courier services, preparing the letter, sending the letter and tracking the postal item sent; and
- The petty cash guideline which outlines the procedures to be followed when requesting petty cash for operational purposes.

## 6. CODE OF CONDUCT

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

## 7. HEALTH AND SAFETY

Following the President's announcement of a national shutdown to combat the spread of COVID-19, the OTO had to review its operational arrangements in order to ensure continuity of service delivery and the wellbeing of employees and stakeholders.

The Office developed and implemented a business continuity plan to address areas that require special attention, in line with preventive measures. These areas included:

- Ensuring that employees who have resources are able to work from home and keeping a prescribed minimum number of employees working at the Office at any given time.
- Implementing all precautionary measures for employees and continue to communicate COVID-19 safety regulations on a daily basis.
- Ensuring the social distancing measures are still in place for employees who were working in the office, and suspending walk-ins visits to the OTO premises until further notice. The Office continued to service taxpayers remotely through email, telephone and WhatsApp messaging.
- The Contact Centre was not operational during level 5 of the lockdown, due to connectivity issues, but the OTO continued to encourage taxpayers to obtain an update on the status of their

complaint through text messages or WhatsApp messaging or by sending an email to [complaints@taxombud.gov.za](mailto:complaints@taxombud.gov.za).

- Continuing to create awareness among stakeholders using email, the website and social media platforms.

The Health and Safety Committee had three formal meetings during the 2020/21 financial year; there were two resignations and one appointment to the Committee.

## 8. AUDIT AND RISK COMMITTEE REPORT

### **Audit and Risk Committee responsibility**

The OTO has requested assistance from SARS with setting up an independent Audit and Risk Committee (ARC) for the Office.

SARS had agreed that the OTO's affairs be dealt with at a sub-committee level of the ARC of SARS. SARS staff members excuse themselves from the sub-committee meeting.

The Committee comprises external and independent members. The Committee reports directly to the Tax Ombud on the OTO's affairs to protect the Office's independence.

This sub-committee ("the Committee") was consequently established subsequent to the financial year ended 31 March 2021 and held its inaugural meeting on 28 June 2021, thereby commencing its duties.

The Committee has reviewed the Audit Strategy and Audit engagement letter for the 2020/21 external audit by the Auditor-General on performance information.

### **The effectiveness of internal control**

Structurally, the OTO is part of SARS and is acting in the capacity of a "complaints resolution intermediary".

The effectiveness of internal control has, for the financial year ended 31 March 2021, been assessed as part of the internal control environment of SARS. The reason for this is that the OTO is currently utilising SARS systems. The AGSA opinion on the internal controls deficiencies about the performance information of the OTO has been included in the AGSA report.

It has further been agreed that, in future financial periods, SARS Internal Audit will act as OTO internal audit. The scope of internal audit coverage would be limited to audit of performance information as most of the processes that are utilised by OTO are SARS processes, including funding which is provided by SARS.

### **Evaluation of financial statements**

The OTO has to comply with the provisions of the PFMA and Treasury Regulations, being an organ of state reporting to the Minister of Finance and Parliament, and being part of SARS and receiving public money.

The Annual Report (in terms of section 19 of the Tax Administration Act 28 of 2011) that must be submitted to the Minister, is not a

financial report but a report on the operations of the OTO. There is no requirement in the Act that OTO should prepare a set of financial statements.

Although the OTO functions independently in carrying out their mandate, it is not financially independent. All staff of the OTO are employees of SARS and expenditure connected with the functions of the OTO is paid out of SARS funds in line with sections 15(1) and (4) of the Act, therefore SARS budgets for these expenses and accounts for them in their financial statements.

### **Auditor-General's Report**

The Tax Ombud voluntarily requested the Auditor-General to perform an audit assurance review on the performance information of the OTO. On 31 March 2021 the Auditor-General responded, noting that after reviewing the request in line with the requirements of the Public Audit Act, 25 of 2004 (PAA) and relevant international auditing standards, she had accepted it and would perform a limited audit assurance in accordance with the International Standard on Assurance Engagement (ISAE) 3000(R) on performance information of the OTO.

The acceptance was subject to the conclusion of the engagement risk assessment and engagement letter by the audit team, which has been reviewed by the Committee and the assurance review accordingly performed, and a report been provided to the Committee for their consideration.

The Committee concurs and accepts the conclusions of the Auditor-General on the annual performance information and is of the opinion that the audited annual performance information as stated in this Annual Report be accepted and read together with the report of the Auditor-General.

### **Doris Dondur**

Chairperson of the Office of Tax Ombud Audit Committee



29 July 2021

## PART D.

# HUMAN RESOURCE MANAGEMENT

### 1. 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. The majority of the employees within the OTO are in the Professionally Qualified Occupational category (63.00%), which confirms that taxpayers have access to specialists with the right technical competencies (skills and knowledge) to deal with their complaints.

The total headcount of the OTO as at 31 March 2021 was 41 employees, excluding 11 vacancies for Specialist: Corporate Editing and Publications; four Operational Specialists: Complaints Resolution; an Operational Specialist: Taxes; Manager: Contact Centre, and three Graduate Trainees.

### 2. EMPLOYEE WELLNESS

COVID-19 has put unprecedented pressure on the physical, mental and spiritual wellbeing of employees. Employee wellbeing drives productivity, and employees who feel physically, mentally and spiritually well will be able to show up for work each day and undertake their work to the best of their ability. Employers have to adapt to a new approach to employee wellness.

With work-from-home being the new normal for many employees, the focus on wellbeing has to extend to how well staff are coping at home or anywhere else where they may work. By finding new ways to continue taking excellent care of employees, the Office sustains high-performing teams that are better able to serve taxpayers. A special COVID-19 leave category was implemented as a way of demonstrating care and concern for employees who tested positive.

### 3. HUMAN RESOURCES OVERSIGHT STATISTICS

The personnel expenditure remains the main cost driver, and represented **87%** of the total expenditure for the 2020/21 financial year.

*Table 22: Personnel cost by programme*

Programme/activity/objective	Total expenditure for the entity (R'000)	Personnel expenditure (R'000)	Personnel expenditure as a % of total exp. (R'000)	No of employees	Average personnel cost per employee (R'000)
OTO	42 774	37 291	87%	41	920

Because of the impact of COVID-19, there was a significant decrease in the number of employees who attended training. The majority of training interventions were either distance learning or web-based. In this regard only 40 training interventions were recorded for the year under review. This was all internal training done through the SARS Institute of Learning, and hence there was no direct cost to it. The main training participants, as indicated in Table 23, were staff from the Operations unit, who spent 165 hours attending training.

*Table 23: Training costs*

Programme	Number of training events	Number of training in hours
Office of the CEO	1	24
Office Enablement	2	24
Operations	37	165
Communications and Stakeholder Relations	0	0
Legal	0	0
<b>Total</b>	<b>40</b>	<b>213</b>

Table 24: Employment and vacancies by programme

Programme	2019/20 No of employees	2020/21 approved posts	2020/21 No of employees	2020/21 vacancies	% of vacancies
CEO's office	2	3	3	0	0%
Office Enablement	12	13	12	1	7.69%
Operations	18	22	15	7	31.82%
Communications	4	7	5	3	42.86%
Legal	4	6	6	0	0%
<b>Total</b>	<b>40</b>	<b>51*</b>	<b>41</b>	<b>11</b>	<b>21.57%</b>

\*This includes both funded and unfunded posts

During the year under review, we had only one resignation, that of an Operational Specialist: Taxes, and two appointments, those being the Chief Executive Officer and Specialist: Digital Media.

Table 25: Employment and vacancies by level

For the 2020/21, our headcount decreases were due to the resignation of an Operational Specialist: Taxes.

Programme	2019/20 No of employees	2020/21 approved posts	2020/21 No of employees	2020/21 vacancies	% of vacancies
Top Management	1	2	2	0	0%
Senior Management	4	4	4	0	0%
Professional qualified	26	33	26	8	24.24%
Skilled	8	11	8	3	27.27%
Semi-skilled	1	1	1	0	0%
Unskilled	0	0	0	0	0%
<b>Total</b>	<b>40</b>	<b>51*</b>	<b>41</b>	<b>11</b>	<b>21.57%</b>

\*This includes both funded and unfunded posts

Table 26: Employment changes

Salary Band	Employment at beginning of period			Employment at end of the period	
	Employment	Appointments	Terminations	Employment	
Top Management	1	1	0	2	
Senior Management	4	0	0	4	
Professional qualified	26	1	1	26	
Skilled	8	0	0	8	
Semi-skilled	1	0	0	1	
Unskilled	0	0	0	0	
<b>Total</b>	<b>40</b>	<b>2</b>	<b>1</b>	<b>41</b>	

Table 27: Reasons for staff leaving

Reason	Number	% of total no. of staff leaving
Death	0	0%
Resignation	1	100%
Dismissal	0	0%
Retirement	0	0%
Ill health	0	0%
Expiry of contract	0	0%
Other	0	0%
<b>Total</b>	<b>1</b>	<b>100%</b>

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

## 4. EQUITY TARGETS AND EMPLOYMENT EQUITY STATUS

The main objective of the employment equity (EE) agenda was to ensure that the Office's workforce was reflective of the country's economically active population (EAP) demographics. To achieve this, divisions strived for inclusivity and diversity, focusing on previously disadvantaged employees. As a result of the pandemic, there were limited recruitment activities during the year under review.

*Table 29: Employment equity by gender - Males*

Programme	African		Coloured		Indian		White	
	Current	Target	Current	Target	Current	Target	Current	Target
Top Management	2	2	0	0	0	0	0	0
Senior Management	0	0	0	0	0	0	1	1
Professional qualified	12	12	0	0	0	0	3	3
Skilled	2	2	0	0	0	0	0	0
Semi-skilled	0	0	0	0	0	0	0	0
Unskilled	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>16</b>	<b>16</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>4</b>	<b>4</b>

*Table 30: Employment equity by gender - Females*

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

*Table 31: Employment equity by disability*

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

## PART E.

# FINANCIAL INFORMATION

### 1. EXPENDITURE RELATING TO THE OFFICE OF THE TAX OMBUD

The purpose of the financial report is to provide an overview of the financial expenditure in the OTO from 1 April 2020 to 31 March 2021. The information that is outlined in the tables and graphs shows the expenditure for the year per cost element. Comparisons have been made to show the expenditure growth patterns since the establishment of the OTO, and between the 2019/20 and 2020/21 financial years.

The National Treasury approved a total budget of **R42,5 million** for the 2020/21 financial year. National Treasury further approved an amount of **R4,7 million** relating to the 2019/20 retained surplus in terms of section 53(3) of the Public Finance Management Act of 1999. The budget increased to R47, 2 million. Currently, the employee cost remains one of the main cost drivers and represents **87%** of the total expenditure. The OTO headcount for the year under review was 41; there were two appointments and one resignation. The costs were kept at a minimum due to budget constraints.

Table 32 indicates expenditure per cost element, total expenditure, and the variance for the year. The total revised budget for the 2020/21 financial year, including the retained surplus, is **R47,2 million**. The total expenditure for the year is **R42,7 million** resulting in a variance of **R4,5 million**. The main contributors to the favourable variance were underspending on IT system enhancements, savings on vacant positions, underspending on bursaries, delays in procurement of a service provider for training and development (commercial mediation training) and delays in implementation of the OTO digital SharePoint. The IT system enhancements project was impacted by the COVID-19 pandemic and started during the last quarter of 2020. The run rate at the end of the financial year was **91%**.

*Table 32: Expenditure per cost element and total expenditure*

Cost element	2020/21				2019/20			
	YTD actual (R'000)	Budget (R'000)	Variance (R'000)	% Variance	YTD actual (R'000)	Budget (R'000)	Variance (R'000)	% Variance
Personnel Expenditures	37 291	37 439	148	0%	35 343	36 135	792	2%
Information & Communication Technology	181	368	188	51%	95	1 782	1 687	95%
Corporate Real Estate	54	92	38	41%	214	336	123	36%
Professional and special services	3 276	3 758	481	13%	4 191	5 441	1 250	23%
Other Variable Support Costs	530	1 427	898	63%	1 032	1 700	669	39%
Capital Expenditure	1 442	4 151	2 709	65%	40	230	190	83%
<b>Total Operating and Capital Expenditure</b>	<b>42 774</b>	<b>47 235</b>	<b>4 461</b>	<b>9%</b>	<b>40 916</b>	<b>45 626</b>	<b>4 711</b>	<b>10%</b>

## 2. COMMENTARY PER COST ELEMENT

### 1. Personnel expenditure

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

Personnel expenditure increased by **6%** from **R35,3 million** in 2019/20 financial year to **R37,7 million** in the 2020/21 financial year. The variance of **R148 000** is due to savings on vacant positions, underspending on bursaries and delays in the procurement of a service provider for commercial mediation training. The Office will be restructuring its business processes for optimal utilisation of limited resources to achieve quality outcomes.

### 2. Professional and special services

These costs consists travel costs, printing costs and advertising costs. The variance of **R481 000** is due to underspending on printing of marketing materials as a result of outreach activities that were not conducted because of lockdown restrictions.

### 3. Other variable support costs

There is an underspending of **R898 000** due to delays in implementation of the designed OTO digital SharePoint, timing on editing and proof reading, underspending on bursaries and delays in the procurement of service provider for commercial mediation training.

### 4. Capital expenditure

There is an underspending of R2,7 million and the main contributor to the positive variance is the IT system enhancement project. The approval from National Treasury for the 2019/20 retained surplus was received in January 2021 and hence there were delays in implementation of the project. There were delays in procurement of laptops.

Table 33 depicts the actuals and budget for the 2019/20 and 2020/21 financial years, as well as the budgets for those years. For both years, **91%** of the budget was spent and **87%** was spent on employee cost.

*Table 33: Percentage utilisation of the allocated budget*

Financial year	Actuals (R'000)	Budget (R'000)	Utilisation of the allocated budget
2019/20	40 916	45 626	90%
2020/21	42 774	47 235	91%

Graph 8 shows the actual expenditure and budgets for the previous financial years since the establishment of the OTO. There was an increase in actuals and budget because of the increase in demand for service.

*Graph 8: Actuals versus budget trends*



Graph 9 compares the actual expenditure to budgeted expenditure. It shows that the main cost driver is personnel expenditure.

*Graph 9: 2020/21 Actual to budget comparison*

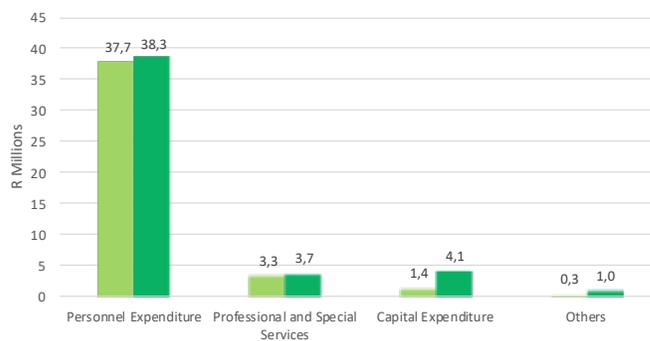


Table 34 indicates costs incurred by SARS on behalf of the OTO, including building rent, security and cleaning services and protection services and a portion of COVID-19 PPE. Some PPE was procured centrally by SARS and distributed to all the buildings. In November 2020, SARS appointed the hospitality staff, who were previously outsourced.

*Table 34: Costs incurred by SARS on behalf of OTO*

Description	Amount
Building rent	2 839 895
Operating cost	613 709
Water and electricity	467 489
Rates and taxes	343 516
Security service	768 076
Cleaning service	177 100
Hospitality staff	164 736
VIP protection staff	886 106
COVID-19 PPE	31 302
<b>Total</b>	<b>6 291 929</b>



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