



OFFICE OF THE
TAX OMBUD

Ensuring fairness

TAX OMBUD'S ANNUAL REPORT 2021/22

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



#TaxpayersRightsMatter

9 YEARS OF
FAIRNESS
2013 - 2022



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Compilation of Taxpayers' Rights, Entitlements and Obligations

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

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

Taxpayer rights and entitlements include:

1. the right of access to information;
2. receiving quality and timely service from SARS;
3. the right to a fair, unbiased and just tax system;
4. paying no more than the correct amount of tax due to SARS;
5. privacy and confidentiality;
6. the right to retain representation;
7. finality on a tax matter;
8. the right to make certain requests, proposals and applications to SARS;
9. complaining without fear of victimisation; and
10. the right to dispute/challenge assessments or decisions.
5. comply with all prescribed tax processes and timeframes related to their tax affairs;
6. in particular, submit full and true tax returns and make payment of taxes when required to do so;
7. submit documents requested by SARS in the format, at the place and within the period specified in the request;
8. notify SARS of any change to their registered details or banking particulars within 21 days;
9. keep all documents and records in relation to their tax declarations for five years from the date of submitting a return;
10. even if not required to submit a return, keep all documents and records for five years from the end of the tax period to which those documents and records relate; and
11. corporate taxpayers must ensure that they are represented at all times by a public officer who resides in South Africa.



Taxpayers have an obligation to:

1. work to the best of their ability and competence and pay the taxes imposed by law;
2. familiarise themselves with their obligations and, if uncertain about any aspect or if their tax affairs are complex, seek appropriate advice;
3. register as a taxpayer as and when liable to do so;
4. be honest and accurate in engagements with SARS and the Tax Ombud;



Highlights of the 2021/22 financial year

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



The Office resolved 1 561 accepted complaints.



17 249 contacts were received, consisting of 13 284 queries and 3 965 complaints.



The collective value of the top 10 refunds paid to taxpayers amounted to R215 734 320.09.



SARS implemented 98% of the OTO's recommendations.



The Office compiled and approved the Compilation of Taxpayers' Rights, Entitlements and Obligations.



The OTO's media engagements generated an estimated R8 390 000 of public relations value.



13 788 000 listeners were reached through six radio stations.



The Office engaged 40 institutions on various subjects.



The Office received coverage on 46 radio stations.



The OTO reached 15 950 960 television viewers through Digital Brand Integration.



The OTO's website was upgraded and an internal workspace (intranet) was developed.



The OTO's #TaxpayersRightsMatter campaign reached 1,7 million social media users.



Part A: General Information



1. INTRODUCTION

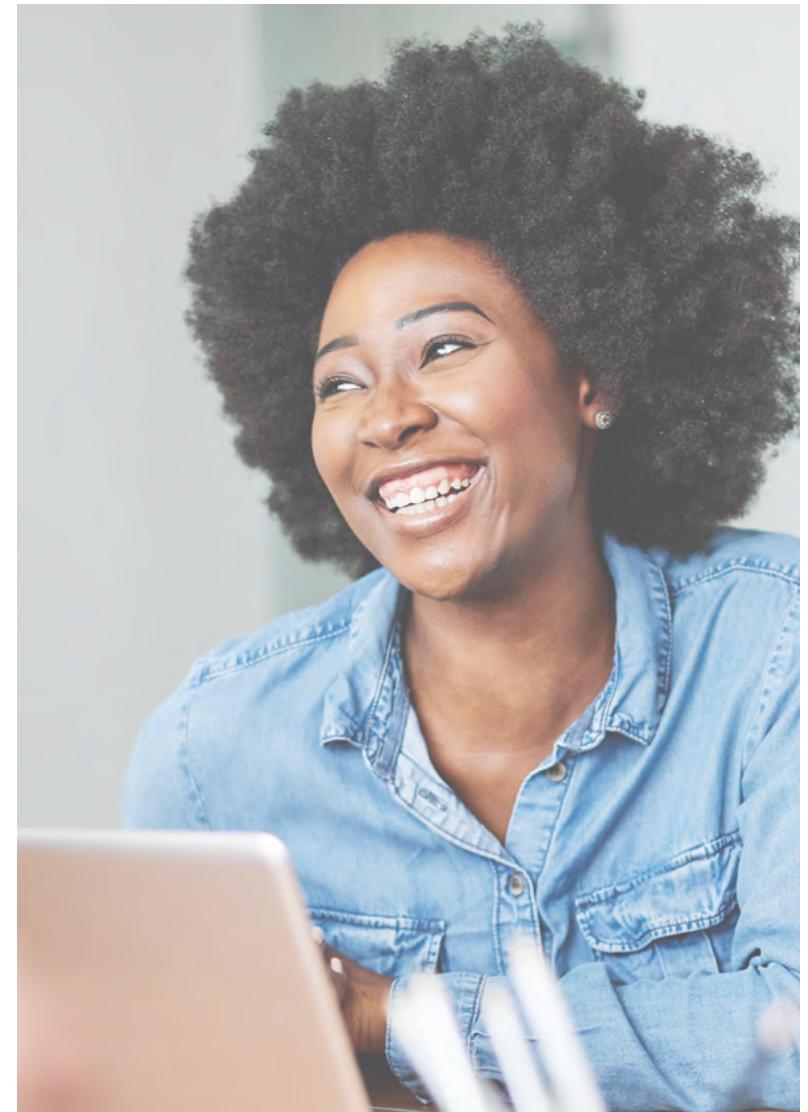
The Tax Ombud's 2021/22 Annual Report complies with the Public Finance Management Act 1 of 1999 (PFMA), giving effect to the legislative framework for the regulation of finances in national and provincial government. The Tax Ombud presents the Annual Report in accordance with Section 19 of the Tax Administration 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 2021 to 31 March 2022.

3. SCOPE OF THE REPORT

The report incorporates financial and performance information based on the approved 2021/22 Annual Performance Plan (APP), which was tabled before Parliament in March 2021. The Annual Report provides performance information and governance reports and incorporates financial information relating to the OTO.



“Thank you for your response. I would like to inform you that SARS has paid out my refund today. **Thank you again** that you were willing to assist, but the pay-out is sorted.”

*Taxpayer feedback. Taxpayers' details remain confidential.

1. Message from the Minister of Finance



Honourable **Enoch Godongwana, MP**

“It is important to emphasise that, under the leadership of the Tax Ombud, the OTO and SARS have established an efficient working relationship, which benefits all South African taxpayers.”

As a country, we look to institutions such as the Office of the Tax Ombud to provide leadership in the promotion and protection of taxpayer rights, thereby increasing confidence in South Africa's tax administration system. In October 2022, the OTO will have performed this role for nine years.

The Office has highlighted this issue of taxpayers' rights in its Compilation of Taxpayers' Rights, Entitlements and Obligations. This is a collation of some of the nation's constitutionally guaranteed rights, tax legislation and SARS practices as they relate to the protections taxpayers enjoy in their interactions with the revenue collector. The publication of this guide in six languages, and the education that goes with it, means that taxpayers and the industry have a useful reference when dealing with tax matters.

This year, as the Covid-19 public health measures were gradually withdrawn, the OTO expanded the options taxpayers have for interacting with the organisation, thereby making its services ever more accessible and convenient.

Additionally, the Office has taken significant steps toward strengthening its independence from SARS, having instituted several governance measures to ensure that it is ready and on a solid governance

footing for the next steps in its evolution. It is important to emphasise that, under the leadership of the Tax Ombud, the OTO and SARS have established an efficient working relationship, which benefits all South African taxpayers.

Lastly, I would like to thank the Tax Ombud, Judge Bernard Makgabo Ngoepe, for his stewardship of the OTO, and express appreciation to all staff at the Office for their dedicated public service. It is through the efforts of the OTO that we are ensuring a fair tax administration system for all.

A handwritten signature in black ink, appearing to read "Gaw".

Mr Enoch Godongwana
Minister of Finance

2. Message from the Tax Ombud

It is a great honour to be presenting the ninth Tax Ombud Annual Report, which also corresponds with my ninth anniversary in October 2022 as the head of this vital institution, formed almost a decade ago to serve the taxpayers of South Africa. I am also pleased that the Office received an unqualified audit conclusion.

Strategic overview and performance

Since the inception of this Office, we have been single-minded in our commitment to helping improve the South African tax administration system and providing a free and fair avenue for resolving taxpayers' complaints against the South African Revenue Service (SARS). While we have succeeded in recovering millions of rands in refunds owing to taxpayers and safeguarded the rights of thousands more, we know there is still much work to be done in promoting taxpayer rights and compliance. In this, we are encouraged by the confirmation we receive from our stakeholders, including taxpayers, the media and tax practitioners, that we have had an impact in increasing awareness about taxpayer rights and protecting those rights, thus enhancing public trust in the tax system. It is also encouraging that our Government has noted our efforts to hold the revenue collector accountable and ensure taxpayers' rights are protected.

A significant milestone in the reporting period was the finalisation of the Compilation of Taxpayers' Rights, Entitlements and Obligations, which is a practical tool for promoting awareness about taxpayers' rights and obligations. We have been spreading the message about the Compilation through our #TaxpayersRightsMatter campaign, using social media, online channels and even popular television dramas to reach our stakeholders.

Strategic relationships with stakeholders

We have been fortunate that, over the years, the Office has enjoyed a strong and reciprocal relationship with our stakeholders, who have supported us in many initiatives and engagements that have benefited taxpayers and the country's tax administration system. Some of these partnerships have been formalised with memoranda of understanding (MoU), and we are preparing to formalise more such partnerships, aligned with our stakeholder engagement framework. We also have great appreciation for the media, whose support has been instrumental in helping us promote awareness about the Office, the services we provide and our free and fair complaint resolution services.



Judge **Bernard Makgabo Ngoepe**
Tax Ombud

"While we have succeeded in recovering millions of rands in refunds owing to taxpayers and safeguarded the rights of thousands more, we know there is still much work to be done in promoting taxpayer rights and compliance."

Challenges faced by the Tax Ombud

Despite the disruptions brought about by the Covid-19 pandemic, we continued assisting taxpayers, using remote working technologies to do so and adhering to all Government's health and safety measures. While some of our employees contracted the Coronavirus, no one succumbed to it. Other institutions were not so fortunate and we convey our condolences.

“Technology has shown its value during the pandemic period and continues to do so. We have embraced digitisation and supporting technology to improve access to our services and simplify the complaints process.”

Strategic focus over the medium to long-term period

To say we have pestered the powers that be with our call for a structurally independent OTO might be an understatement. Since our inception, we have continually called for structural independence from SARS and engaged stakeholders on the

matter. We are grateful that in the past financial year, we had a fruitful engagement with the Finance Minister, Mr Enoch Godongwana, who has shown interest in the matter of our independence from SARS. We trust that he will ensure the implementation of our intent to move the process and discussions forward.

Improving access to our services

Technology has shown its value during the pandemic period and continues to do so. We have embraced digitisation and supporting technology to improve access to our services and simplify the complaints process. We are closer to being paperless, having finalised the infrastructure for taxpayers to lodge complaints directly online, including on their mobile devices, without having to print forms and sign them. With the revamped website and new employee intranet platform, I am pleased that we are proving to be a digitally and technologically astute institution, able to serve taxpayers' needs with the click of a button.

Conclusion

In closing, I extend my gratitude to all OTO employees whose hard work has enabled the institution to continue assisting taxpayers with their complaints throughout the pandemic period. I also wish to express appreciation to the Minister of Finance, Parliamentarians, the SARS Commissioner and our internal and external stakeholders for their continued support.

Thank you.



**Judge Bernard Makgabo Ngoepe
Tax Ombud**

3. Overview from the Chief Executive Officer

The OTO Annual Report 2021/22 brings the work of the Office to life as we celebrate the OTO's ninth year in business and its ability to provide a consistent, high-quality service to taxpayers, including during a National State of Disaster.

Reshaping the taxpayer experience

The Office implemented a new operating model in 2021/22. At the centre of this model are taxpayer-centricity and the taxpayer experience, which we are reshaping through the use of digital technologies that simplify and personalise interaction between taxpayers and the OTO.

Making steady progress with digitisation

The Office's digitisation drive is being guided by our digital communications framework, which has already resulted in some key milestones being reached. The OTO website has been migrated to a new platform with more features and a more user-friendly interface. The website now has the functionality to allow taxpayers to lodge a complaint with the OTO and to upload supporting documents. If they wish, taxpayers can complete the entire complaints process on their mobile phones.

Another advantage of digitising the taxpayer journey is that it delivers better data that, through the Office's analytics initiative, can be leveraged to improve decision-making in the complaints management process.

Bringing taxpayers' rights to the fore

During 2021/22, we published the Tax Ombud's Compilation of Taxpayers' Rights, Entitlements and Obligations to assist taxpayers in understanding their rights and obligations on tax-related matters. The draft Compilation was published for public comment in early February 2022 and was finalised before the end of the financial year. While the Compilation is not a substitute for an enforceable Bill of Taxpayer Rights, which is long overdue, it is a valuable tool for taxpayers as it brings together all the main principles that have to do with taxpayers' rights and obligations in South Africa.

There was an increase in SARS-related complaints received during the year under review, underlining the importance of the work we do to identify opportunities to improve tax administration. As the number of complaints coming in continues to escalate, a challenge for us will be to manage our resources efficiently so we can maintain



Prof. **Thabo Legwaila**
Chief Executive Officer

"The OTO website has been migrated to a new platform with more features and a more user-friendly interface. The website now has the functionality to allow taxpayers to lodge a complaint with the OTO and to upload supporting documents. If they wish, taxpayers can complete the entire complaints process on their mobile phones."

high standards. The complaints management and complaints feedback frameworks that we have developed will assist us in addressing the challenges.

In addition, the Office has strengthened the mechanisms taxpayers can use to report emerging and systemic issues that could affect many taxpayers. The Systemic Investigation Policy and procedures have been approved to streamline the processes of identifying, investigating, remedying and tracking such matters. Through ongoing awareness campaigns, the Office keeps taxpayers informed about issues that have been identified as systemic in nature and what implications this has for lodging complaints.

Aspiring to move to full audits

This is the second year that the Office has received an external audit report from the Auditor-General of South Africa, providing a limited assurance on the OTO's performance against predetermined objectives. The Office is gradually implementing suitable governance structures with combined assurances to achieve clean audits ultimately. Effective governance is essential for building taxpayer confidence in the OTO and encourages accountability, efficient use of resources and improved management and service delivery.

Reaching out to stakeholders during the pandemic

By implementing the stakeholder engagement and community outreach activity frameworks, the institution promotes optimal engagement and collaboration between the OTO and its stakeholders. For the past two years, we have had to limit stakeholder engagements to virtual channels as the Covid-19 pandemic put a stop to face-to-face interactions.

The OTO continues to reach industry stakeholders and the public through the *Fairness for All* and *Fair Play* newsletters.

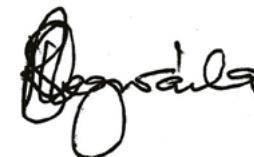
“Effective governance is essential for building taxpayer confidence in the OTO and encourages accountability, efficient use of resources and improved management and service delivery.”

Full independence is a necessity

Until the Office has secured complete structural and operational independence from SARS, we endeavour to hold the revenue authority to account through the memorandum of understanding (MoU) we have with it. Engagement with SARS on updating the MoU to improve its responsiveness is ongoing.

Appreciation

In conclusion, I would like to express my sincere gratitude to the Tax Ombud, Judge Ngoepe, for his leadership and continuous support throughout the year. Further, I extend my appreciation to our employees, Team OTO, for serving taxpayers with professionalism and integrity. I also sincerely thank the SARS Commissioner and his team for the operational support they provide to ensure that our recommendations are implemented according to the MoU between the two organisations. I am grateful 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

4. Statement of responsibility and confirmation of accuracy for the annual report

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

All information disclosed in the annual report is consistent with the annual performance report audited by the Auditor-General.

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 about 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 2022.

Yours faithfully



Prof. T. Legwaila
Chief Executive Officer



Judge B.M. Ngoepe
Tax Ombud

5. Strategic overview

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

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



VISION

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



MISSION

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



VALUES

In executing its mandate, the Office's conduct and interactions are based on a set of values that guide all staff at all levels:

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

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

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

Fairness  The Tax Ombud acts in fairness at all times.

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

Impartial  The Tax Ombud will review taxpayer complaints fairly.

6. Legislative and other mandates

The OTO complies with the legislative mandates of the Constitution of the Republic of South Africa and the 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:

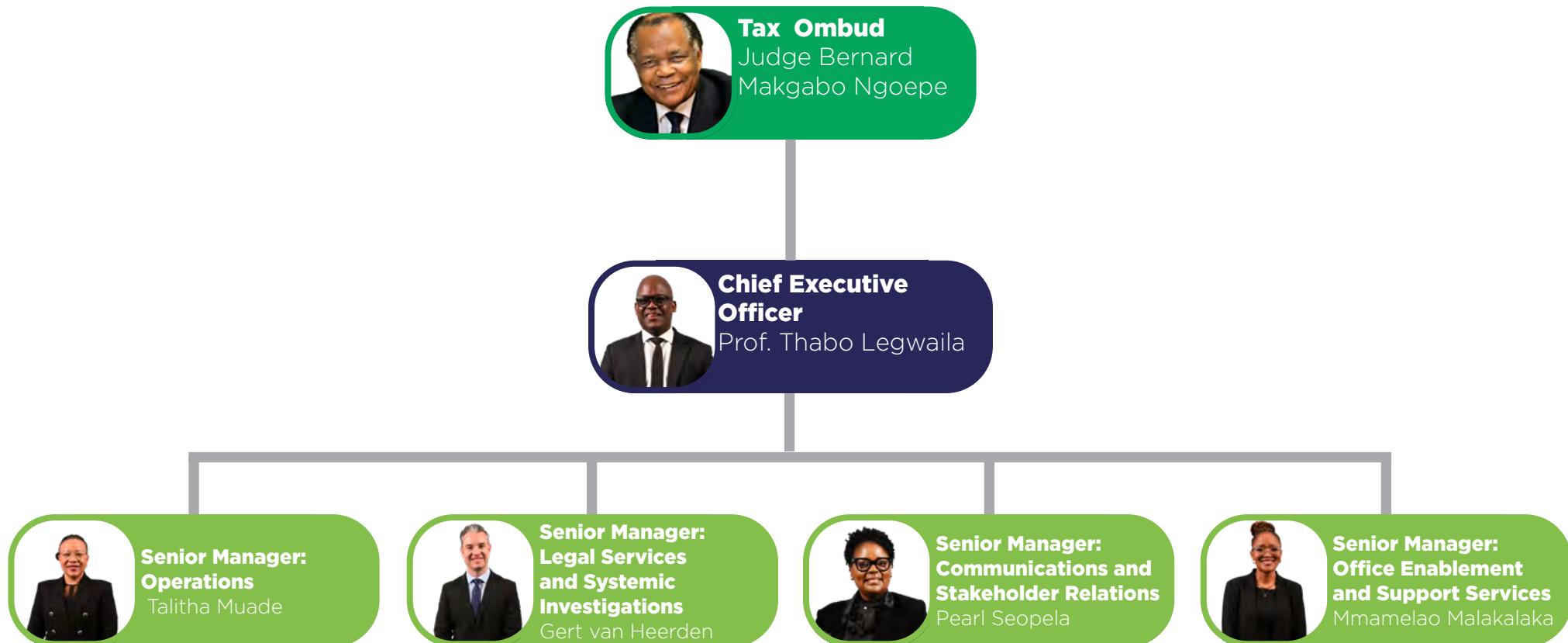
The mandate of the Tax Ombud is to -

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



7. Organisational structure

The OTO is led by the Tax Ombud who is supported by the Chief Executive Officer. The approved structure of the Office consists of five business units. These 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:



Leadership of the Office of the Tax Ombud

Tax Ombud

Judge Bernard Makgabo 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.



Judge **Bernard Makgabo Ngoepe**
Tax Ombud

Chief Executive Officer



Prof. Thabo Legwaila
Chief Executive Officer

B Iuris, LLB, LLM, Postgraduate Diploma in Tax Law, LLM and LLD

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

In 2011 he joined Citibank as Head of Tax for the Africa division. He was appointed as a Professor of Tax Law at the University of Johannesburg in 2014 and as a member of the Davis Tax Committee (DTC) in 2015, which was set up by the Minister of Finance to assess South Africa's tax policy framework and its role in supporting the objectives of inclusive growth, employment, development and fiscal sustainability. Prof. Legwaila published widely in Tax Law both in accredited and peer-reviewed journals, as well as in magazines and newsletters. He also co-authored the tax textbook *Tax Law: An Introduction* in 2013, which is specifically intended to explain "a vast terrain of tax law to students", and edited the second edition of the same book that was published in January 2020.

Senior Manager: Operations

Talitha Muade has been Senior Manager: Operations at the Office of the Tax Ombud since her appointment in October 2014.

In 2014/15, she led the review of the manual Excel OTO complaints system and introduced a digital interactive and user-friendly complaints management platform. In 2019 she led the creation of a more efficient and reliable reporting system, implemented in April 2021, which made it easier for her team to obtain reports.

In 2017 she introduced the customer satisfaction survey, which is shared with all taxpayers who lodged complaints with the OTO to gauge their satisfaction level and obtain feedback on how her services can improve. In the 2021/22 financial year, she championed the formulation of an Internal Policy for Complaints Resolution, which provides a legal framework within which all relevant functions of the OTO must operate when evaluating and reviewing tax complaints.

Muade has more than 12 years of experience in management and over seven years in senior management at the OTO. She has extensive experience working for government departments, Chapter 9 institutions and 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). She 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.



Talitha Muade
Senior Manager: Operations

BCom, MDP, MBA, Postgraduate Diploma in Management Practice

Senior Manager: Legal Services and Systemic Issues



Gert van Heerden

Senior Manager: Legal Services and
Systemic Issues

BCom, LLB, LLM

Gert van Heerden was appointed as Senior Manager: Legal Services at the Office of the Tax Ombud in May 2015. At the OTO, he spearheaded several investigations into systemic issues which resulted in improvements in the services rendered to taxpayers, as well as development and publication of the Compilation of Taxpayers' Rights, Entitlements and Obligations.

He has over 15 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, 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, 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.

Senior Manager: Office Enablement and Support Services

Mmamelao Moira Malakalaka joined the Office of the Tax Ombud in March 2016 as the Senior Manager: Office Enablement and Support Services to lead in strategic planning and implementation, governance and reporting, risk management, finance and corporate services. She works closely with the Tax Ombud, CEO and divisional heads to ensure adequate support, alignment and integration of support and enabling functions at the divisional level to enhance effectiveness and human capital utilisation and development.

She has more than 15 years' experience in Financial Management and Corporate Services

with excellent entrepreneurial and negotiation skills. Malakalaka 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. Malakalaka 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.



Mmamelao Moira Malakalaka
Senior Manager: Office Enablement and Support Services

BCompt, MPhil, Professional Accountant (SA)

Senior Manager: Communications and Stakeholder Relations



Pearl Seopela

Senior Manager: Communications and Stakeholder Relations

BA, BCom Honours, MCom, MDP, MMSM

Pearl Seopela joined the Office of the Tax Ombud in August 2014 as the Senior Manager: Communications and Outreach. She established the Communications and Stakeholder Relations Unit and headed the team that repositioned the OTO brand, introducing communications, marketing and stakeholder engagement platforms that nurtured mutually beneficial partnerships with different stakeholders and exposed the OTO brand to taxpayers.

She has more than 15 years' experience in communications and marketing and has a particular passion for consumer communication and consumer rights protection. Her key interests lie in the areas of brand strategy, content communication and stakeholder relations and reputation management.

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, 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.

Part B: Performance information

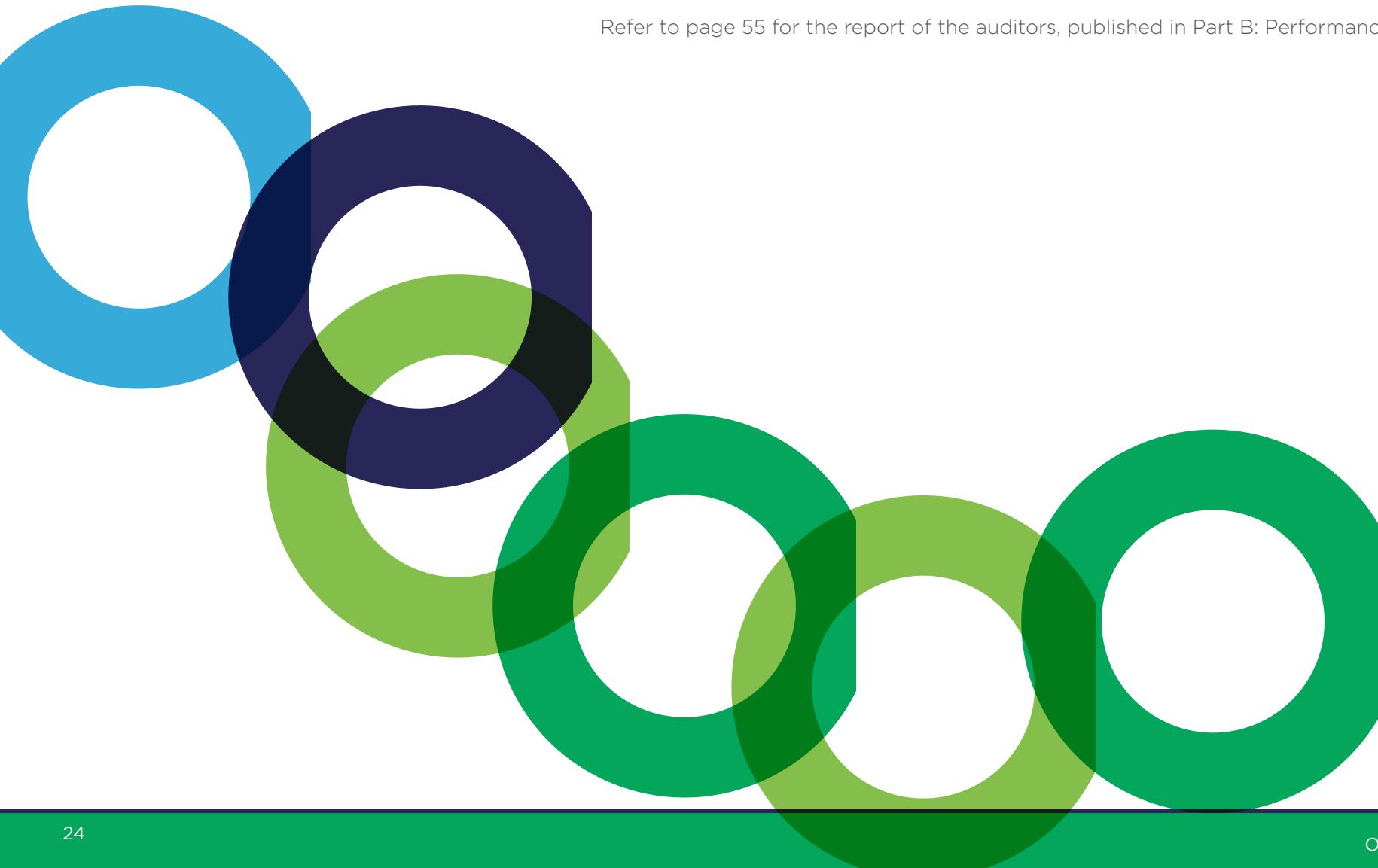


1. Auditor-General's report:

Predetermined objectives

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

Refer to page 55 for the report of the auditors, published in Part B: Performance information.



2. Overview of performance

2.1. Service delivery environment

The effectiveness of the Office of the Tax Ombud (OTO) in achieving its set objectives is dependent on the ability to manage and adapt to the environment in which it operates, amid changes in tax legislation and new tax ICT systems that SARS is introducing. The Office continues to provide a fair, impartial and expeditious avenue for taxpayers seeking to resolve complaints about SARS, while ensuring that there are measures in place to monitor compliance with the Covid-19 protocols.

In the year 2021/22, the Office implemented a new operating model that revolves around the taxpayer's experience and specifically the delivery channels through which taxpayers interact with the OTO. The model identifies the OTO contact centre unit and the resolution of complaints as key elements of the taxpayer's experience. The two functions have now been grouped within one section, ensuring synergy in dealing with taxpayers' complaints. The new operating model embeds agile, cross-functional ways of working and can re-engineer systems to support continuous improvement, disciplined execution and consistent service delivery. Further, by analysing taxpayer journeys, the OTO can now pinpoint the operational improvements needed to enhance the taxpayer experience.

The Legal Services and Systemic Investigations support services will remain independent as they provide independent internal quality assurance. The unit concerned will also intensify the analysis of information and reports from the Complaints Resolution section to examine systemic trends that could impact a significant proportion of the taxpayer population.

Compilation of Taxpayers' Rights, Entitlements and Obligations

The Tax Ombud approved the first Compilation of Taxpayers' Rights, Entitlements and Obligations on 30 March 2022, which is a consolidated point of reference on the rights, entitlements and obligations of taxpayers in the country. The Compilation will be updated annually with any amendments to the Tax Administration Act (TAA).

The Compilation is the first document in South Africa of its kind and contains all the key principles pertaining to taxpayers' rights and obligations in the country. These principles were previously spread across various laws, including the Constitution and the TAA, and have now been brought together in one document. External and internal stakeholders made valuable contributions to the document, which is intended to assist taxpayers in understanding their rights, entitlements and obligations.

Systemic investigations

Based on our Systemic Investigations team's research, the Office placed one new systemic issue on the register for systemic and emerging issues that could affect many taxpayers. This relates to delays on the part of SARS in coding the taxpayer's profile as a deceased estate and updating the executors' contact details. Counting this new matter, there are now nine systemic issues in the systemic issue register. All nine have been sent to SARS as recommendations for tax administration improvements. The submission of these issues to SARS has proven to be crucial in identifying and recommending changes resulting in improved service from the revenue service.

The Tax Ombud is concerned about the time it takes for SARS to resolve the systemic issues we identify as an underlying cause of complaints that fall within the OTO's mandate. The full details of the systemic issues are listed on page 41 in this report under "Section 19 of the TAA".

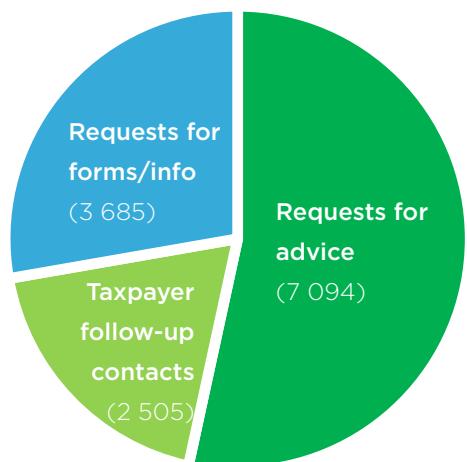
QUERIES AND COMPLAINTS RECEIVED

Queries received

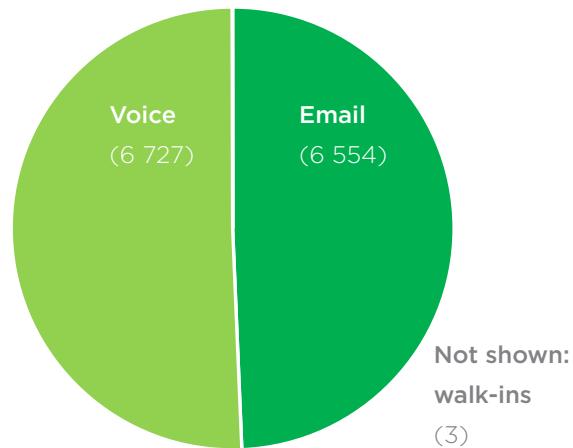
In the reporting period, the Office had contact with 17 249 taxpayers through its contact centre, of which 13 284 contacts were queries and 3 965 were complaints.

The majority of the queries received (53%) were requests for advice, while 19% concerned the status of existing complaints and 28% were requests from taxpayers for forms and information on how to lodge complaints with the Office.

[Chart 1: General enquiries contact type by category](#)



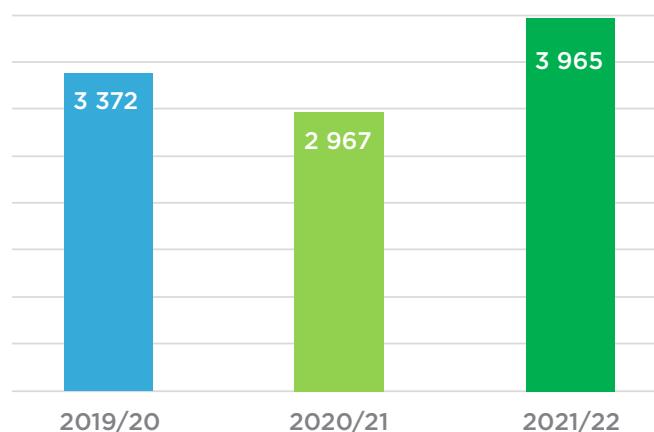
[Chart 2: Mode of queries](#)



Complaints received

In the reporting period, 3 965 complaints were captured compared to 2 967 in 2020/21. The Office captured and acknowledged 85% of the complaints within two business days.

[Chart 3: Yearly comparison of complaints received](#)

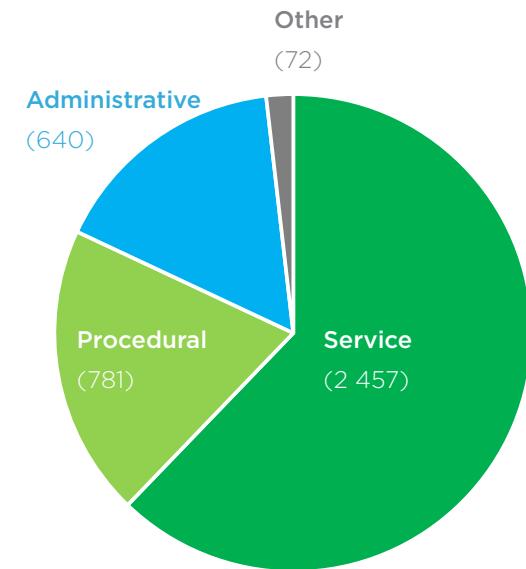


Validated complaints

As part of the complaints management process, the Office validated 3 950 complaints to determine if a complaint falls within the mandate of the Tax Ombud. This compares to 2 852 validated complaints in 2020/21, representing a 38% increase in validated complaints.

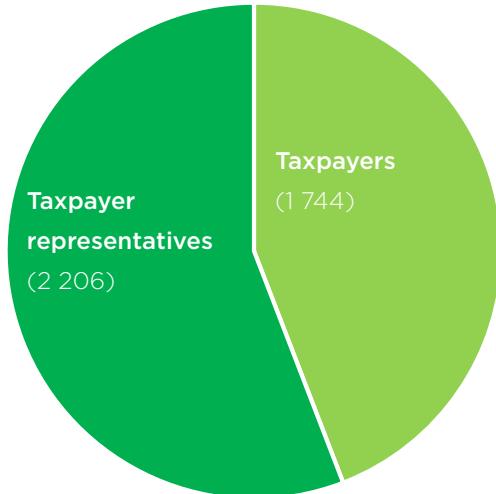
Of the 3 950 complaints validated in 2021/22, 2 457 (62.20%) were categorised as service matters, 781 (19.77%) as procedural matters, 640 (16.20 %) as administrative matters and 72 (1.82%) as "Other" matters. "Other" refers to complaints that were lodged with the OTO but were not about complaints involving SARS and did not fall within the mandate of the Office.

[Chart 4: Categories of validated complaints](#)



Individual taxpayers were responsible for 44.1% of validated complaints and taxpayer representatives for 55.8%.

Chart 5: Users who lodged validated complaints



Outcomes of validated complaints

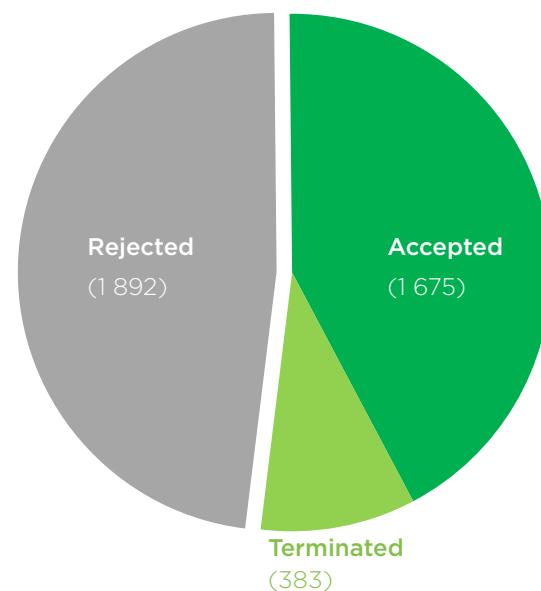
When a complaint is submitted to the OTO, it is evaluated and reviewed. A complaint that does not fall within the mandate of the Tax Ombud or is affected by any of the limitations to the Tax Ombud's authority is rejected and the reasons for not accepting are sent to the complainant. Valid complaints that fall within the mandate of the Tax Ombud are accepted, and the recommendations are sent to SARS for resolution.

The total number of accepted complaints increased from 1 512 in 2020/21 to 2 058 (including 383 which were later terminated). The number of

terminated complaints increased from 262 in the previous year to 383 in the 2021/22 financial year.

Chart 6 indicates that the Office rejected more complaints (47.9%) in 2021/22 than in the previous year. The number of rejected complaints increased from 1 340 in 2020/21 to 1 892 in the reporting period. The increase in rejected complaints remains a concern as the majority (96.51%) of them were prematurely lodged with the Tax Ombud and had not first been submitted to the SARS Complaints Management Office. The reason could be taxpayers not understanding the SARS complaints management process, necessitating more taxpayer education about this process.

Chart 6: Outcomes of complaints validated



Reasons for rejecting complaints

Table 1 specifies the reasons for the OTO rejecting complaints and indicates the applicable TAA section in which the complaint was rejected, the number of complaints rejected in a particular section and a percentage-based comparison of the total rejected cases.

Table 1: Reasons for rejecting complaints

Reasons for rejecting complaints	Number	Percentage
Section 18(4) of the TAA (the Tax Ombud may only review a request if the requester has exhausted the available complaints resolution mechanisms in SARS unless there are compelling circumstances for not doing so)	1 826	96.51%
Section 16 of TAA (the complaint does not fall within the OTO's mandate)	62	3.28%
Section 17(d) of the Act (a decision of, proceeding in or matter before the tax court.)	3	0.16%
Section 17(a) (legislation or tax policy)	1	0.05%
TOTAL	1 892	100.00%

Sub-categories of accepted, validated complaints

Table 2 gives an analysis of issues often raised in complaints, arranged from the highest number of complaints raised by complainants. There has been an increase in the number of accepted complaints being investigated under criminal investigation at SARS, whereas in the previous financial year, complaints that fell under criminal investigations did not reach the top 10 complaints referred to the revenue collector for resolution. Furthermore, the Office noticed that the complaints related to refunds are no longer in the top three; this could mean taxpayers are now receiving their refunds quicker and there is no need to complain.

Table 2: Sub-categories of accepted, validated complaints

Sub-categories of complaints validated	Number	Percentage
Audits and criminal investigations	687	41.01%
Dispute resolution (appeals and objections)	236	14.09%
Account maintenance	199	11.88%
Assessment management (tax directives included)	175	10.45%
Refunds	92	5.49%
Debt management	83	4.96%
General service	75	4.48%
Fraud investigations	57	3.40%
Portfolio management	48	2.87%
Verification	23	1.37%
TOTAL	1 675	100.00%

Resolution of accepted complaints by SARS

In 2021/22, the Office finalised 1 561 accepted complaints compared to 1 340 in 2020/21, which yielded a 16% increase in the resolution rate. The 1 561 resolved complaints consisted of unresolved complaints brought forward from the previous reporting periods and complaints accepted in this reporting period. Of the 1 561 finalised complaints, SARS implemented 98% of the OTO's recommendations.

Of the resolved complaints, only 261 (16.72%) complaints were finalised within 15 business days, in accordance with the Memorandum of Understanding (MoU) between the OTO and SARS. The remaining 1 300 (83.28%) 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 the revenue authority.

Table 3: Time taken by SARS to finalise OTO recommendations

Number of days SARS took to finalise OTO recommendations	Number	Percentage
1 - 15 days	261	16.72%
16 - 31 days	426	27.29%
32 - 61 days	351	22.49%
62 - 91 days	192	12.30%
Over 92 days	331	21.20%
TOTAL	1 561	100.00%

Value of top 10 refunds paid to taxpayers

The top 10 tax refunds collectively paid to taxpayers through the intervention of the OTO exceeded R215 million, compared to R156 million in 2020/21. This was an increase of over 38%. Most of the top 10 refunds in the reporting period are related to value added tax (VAT).

Table 4: Value of top 10 refunds paid to taxpayers

Tax type	Refund paid
CIT	R57 988 449.30
VAT	R54 793 675.79
VAT	R37 048 938.28
VAT	R22 089 016.31
VAT	R17 692 958.62
VAT	R5 692 468.35
VAT	R5 482 255.95
VAT	R5 173 977.05
VAT	R5 051 521.08
VAT	R4 721 059.36
TOTAL	R215 734 320.09

Geographical spread of validated complaints

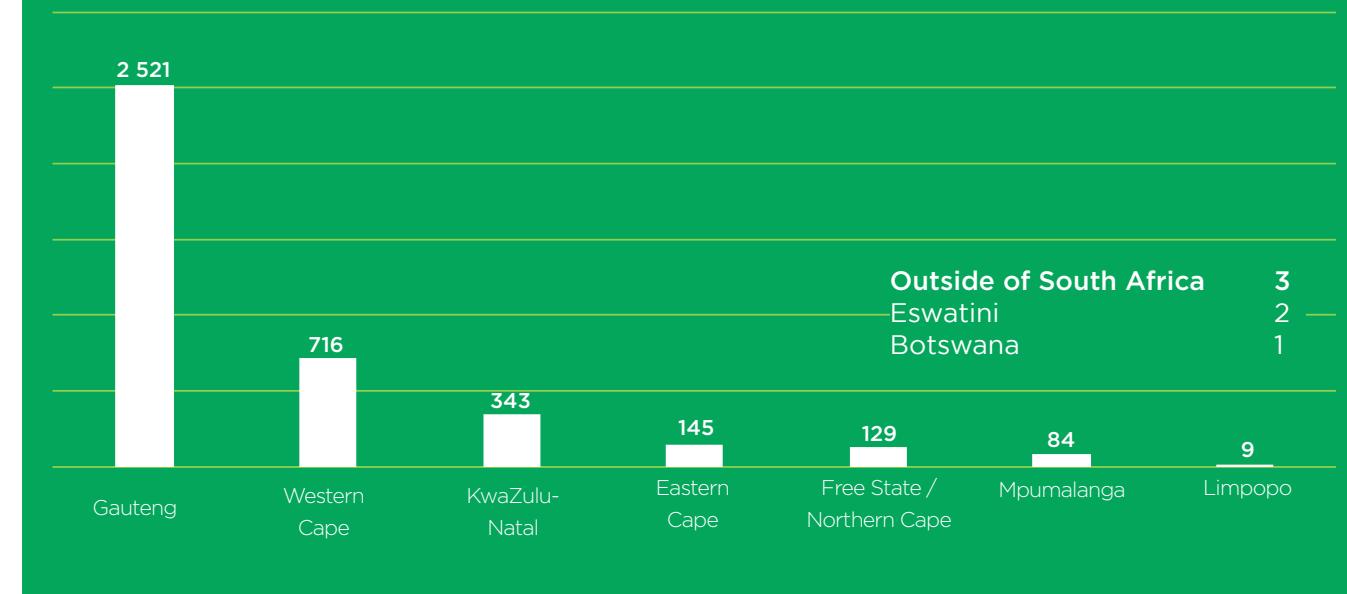
Complaints were received from taxpayers from eight of the nine provinces in South Africa during the reporting period. Gauteng accounted for the majority of complaints (63.8%), followed by the Western Cape (18.1%) and KwaZulu-Natal (8.6%). There were no complaints from the North West Province.

Taxpayer experience

Complaints management is particularly challenging as the OTO has to balance multiple objectives at the same time: providing a user-friendly experience (for example, by offering web or mobile interfaces that enable self-service), managing expectations in real-time through alerts or updates, and creating an emotional connection with taxpayers who are going through a potentially traumatic situation—all while collecting the most accurate information possible and being cost-effective.

Taxpayer feedback can be helpful in simplifying the OTO's services and the taxpayer experience, capturing economic value and linking the improved experience to underlying operational processes. In the year under review, all OTO customers with finalised complaints were invited to respond to a three-question customer experience survey. A total of 258 customers responded to the survey, for a response rate of 6%. The survey questions covered access to service, satisfaction with service delivery and ideas for improvements.

Chart 7: Geographical spread of validated complaints



Customers believe the OTO is relevant and value its support and services: 57% of all respondents reported that they were satisfied, while 77% of the respondents understood the contents of the letter the Office sent to them with the outcome of their case, and 77% found it easy to lodge a complaint.

While generally satisfied, the survey results indicate areas where customers feel improvement is needed. The speed of complaint processing and frequency of customer interaction is the top priority for improvement, according to an analysis of survey responses. Another priority is improving the OTO's information technology (IT) platforms to be more interactive and automating the Office's customer-facing processes. The responses indicate

that improvements in these areas will increase overall customer satisfaction to a greater degree than improvements made in any other areas.

Chart 8: Customer satisfaction survey



Sample cases reviewed during the 2021/22 financial year

The below is a sample of some of the cases that the Office of the Tax Ombud received and resolved during the year.

1. DELAYS IN PAYING OUT REFUNDS

Background: What was the tax complaint?

The complaint relates to a request for SARS to pay refunds for the 2020/04 and 2020/06 VAT periods as the verifications had been finalised. Furthermore, the complainant requested that SARS finalise the verifications and pay refunds for the 2020/08 and 2020/10 VAT periods.

Findings: Who was at fault?

SARS finalised the verification for the 2020/04 and 2020/06 VAT periods on 8 June 2020 and 21 August 2020. For both these VAT periods, SARS finalised the verification cases within the required turnaround time. However, it placed two stoppers on the taxpayer's refunds: one was automatically placed by SARS' system, and the other was placed manually by a SARS official. The system-generated stopper was removed automatically on the same day as the verification was finalised. The manual stopper was not removed, however, and blocked the refunds from being paid.

Furthermore, SARS selected the declarations for verification on 15 October 2020 and 2 December

2020 for the 2020/08 and 2020/10 VAT periods. The taxpayer submitted the requested supporting information to SARS on 20 October 2020 and 28 December 2020. After that, SARS failed to finalise the VAT verification within the turnaround time of 21 business days, thus delaying the payment of possible refunds.

Recommendations: What should happen?

The OTO recommended that SARS pay the refunds for the 2020/04 and 2020/06 VAT periods as the verifications had been finalised or provide valid reasons for not doing so. Furthermore, SARS was to finalise the verification for the 2020/08 and 2020/10 VAT periods and pay out the refunds if applicable.

Resolution: What was the outcome?

On 15 March 2021, SARS finalised the verification for the 2020/08 and 2020/10 VAT periods and paid the VAT refunds to the amount of R86 573.64 for all four periods in question, including interest (R1197.62) for the 2020/04 – 2020/10 VAT periods.

Conclusion

When lodging complaints against SARS, especially for refunds, taxpayers should remember to ask for interest.

2. COMPLAINT REJECTED AFTER TAXPAYER CHANGES DETAILS

Background: What was the tax complaint?

The complaint was about SARS issuing a third-party appointment for R10 000.00 from a company's bank account to settle its director's outstanding income tax debt. The taxpayer is a non-profit organisation (NPO), and the director of the company had an outstanding personal income tax debt with SARS. When applying for the NPO's bank account, the director was listed as the company bank account holder instead of the taxpayer, the NPO.

Findings: Who was at fault?

During the debt collection process to recover the director's outstanding income tax debt, SARS did a bank search and found that the company's bank account was linked to its director. As a result, SARS issued a third-party appointment for R10 000.00 against the company bank account, held in the director's name. The bank then paid over the amount to SARS to honour the third-party appointment.

Only after the amount was paid over to SARS was the account holder of the company bank account changed from the director to the taxpayer, the company. The taxpayer then lodged a complaint

with the SARS Complaints Management Office to recover the R10 000.00 that was deducted from the taxpayer's account. SARS conducted further investigations and discovered that the account had been linked to the director and was only changed after the third-party appointment was honoured. The taxpayer was accordingly informed that the third-party appointment was lawful, and that the R10 000.00 could not be refunded to the taxpayer. The taxpayer then lodged a complaint with the OTO.

Recommendation: What should happen?

The OTO could not make any recommendations, as the third-party appointment was not unlawful since it was linked to the company's director at the time of the third-party appointment.

Resolution: What was the outcome?

The complaint was rejected.

Conclusion

Directors of companies should ensure that the details used for their companies are those of the company. Changing details after SARS has acted will not make their action unlawful.

3. OTO SECURES REFUND OF R3 MILLION

Background: What was the tax complaint?

The complaint against SARS was for their delay in finalising the verification of the 02/2021 VAT period, thereby delaying the payment of a possible refund to the vendor. SARS repeatedly requested the same documents, causing the delay in finalising the verification and processing of the refund.

Findings: Who was at fault?

The Vendor submitted its supporting documents for verification of the 02/2021 VAT period on 13 April 2021. This was more than 21 business days (40 calendar days) since the first batch of documents was submitted to SARS. The subsequent submissions contained the same documents that the vendor would have submitted whenever there was a follow-up. SARS failed to finalise the case within the prescribed period, which delayed the payment of a possible refund to the taxpayer.

The Tax Ombud accepted the case as the complaint raised an identified systemic issue as contemplated by Section 18(5)(a) of the TAA in that SARS delayed finalising the verification in respect of the 02/2021 VAT period. This delayed the payment of a possible refund.

Recommendations: What should happen?

It was recommended that SARS finalise verification of the 02/2021 VAT period and release the refund, if applicable.

Resolution: What was the outcome?

The verification of the 2021/02 VAT assessment was finalised on 8 June 2021, and a refund of R3 102 709.76 was paid to the vendor on 9 June 2021.

No interest was paid as the refund was immediately released after SARS finalised the verification.

Conclusion

SARS has 21 business days to finalise the verification of an assessment. If SARS does not adhere to this timeframe, it is in contravention of its Service Charter. However, taxpayers should note that the period of 21 business days only starts from the date the taxpayer submits all the documents requested by SARS in respect of the verification. Should SARS request the same documents after the first batch has been submitted, SARS is delaying the process. The taxpayer can approach the Tax Ombud for assistance, unless SARS requests additional documents or new information not previously submitted.

4. SARS UNLAWFULLY CLAIMED FROM TAXPAYER'S BANK ACCOUNT

Background: What was the tax complaint?

The complaint relates to a request for SARS to reimburse R895 143.00 recovered from a taxpayer's bank account through a third-party appointment. This was over eight times more than the amounts reflected on Notices of Final Demand sent by SARS and resulted in financial difficulties for the taxpayer in running its business.

Findings: Who was at fault?

SARS issued Notices of Final Demand on 25 February 2021 and 11 March 2021 for R49 069.41 and R52 866.69, respectively. After that, the revenue collector issued a third-party appointment on 19 March 2021 to Absa Bank for R895 143.00, which was recovered from the taxpayer's bank account on 26 March 2021.

The amount recovered did not correspond with the amount due on the Notice of Final Demand dated 11 March 2021. Furthermore, in email correspondence on 30 March 2021, the taxpayer queried the R895 143.00 recovered by SARS and explained the financial hardship the business was experiencing since an overdraft had to be requested from the bank as a result of SARS having taken more money than it should have.

The OTO noted that the taxpayer had outstanding returns, debit and credit amounts in the VAT account, but could not find any confirmation that the amount reflecting on the third-party appointment and paid to SARS was in fact owed as a tax liability.

The OTO accepted the case on the basis that SARS appeared to have incorrectly issued the third-party appointment.

Recommendation: What should happen?

The OTO recommended that SARS withdraw the Notice of Third-Party Appointment issued for R895 143.00 and reimburse the taxpayer this amount since the Notice of Final Demand issued on 11 March 2021 reflected R52 866.69, or to provide valid reasons for not doing so.

Resolution: What was the outcome?

The OTO's intervention secured the return of R895 143.00 into the taxpayer's bank account on 6 June 2021.

Conclusion

Taxpayers are only required to pay what is due and not a cent more or less. In instances where SARS issues a third-party appointment for monies not due, taxpayers can lodge complaints with the OTC if they are unsuccessful in obtaining refunds from SARS.

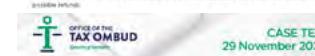
5. TAXPAYER APPEAL REJECTED FOR FAILURE TO FOLLOW SARS PROCESSES

Background: What was the complaint?

The taxpayer lodged a complaint after SARS failed to issue a Deceased Estate Duty Clearance Letter to an executor.

On 27 May 2021, a taxpayer representative requested SARS to assess and email a Deceased Estate Duty Clearance Letter and a Deceased Estate Compliance Letter to an executor. On 23 August 2021, the requested Deceased Estate Compliance Letter was issued, but not the Deceased Estate Duty Clearance Letter. After SARS failed to issue the letter, a complaint was lodged with the OTO, but was rejected due to the failure to exhaust the SARS internal complaints mechanisms as required under section 18(4) of the Tax Administration Act.

No compelling circumstances were advanced to justify the Tax Ombud accepting the complaint before SARS had had an opportunity to resolve it. The taxpayer's representative disagreed with the OTO's decision to reject the matter and appealed the decision, claiming to have lodged a complaint with the SARS Complaints Management Office (CMO). The matter was presented to the OTO's Appeal Committee but no evidence of such a complaint lodged with the CMO could be found.



2.2. ORGANISATIONAL ENVIRONMENT

Promoting taxpayers' rights

Three frameworks guide the OTO in its efforts to ensure that taxpayers are aware, engaged, informed and educated about its services. These are the community outreach, digital communications and stakeholder relations frameworks.

In 2021/22, the Office built on the #TaxpayersRightsMatter campaign, which had been launched in September 2020. The intensified campaign reached a far wider, more diverse audience by age, profession and industry, among others, than before and used numerous platforms, including virtual presentations, digital distribution of newsletters and educational articles and print, broadcast, digital and social media. The campaign, together with other structured public relations initiatives such as media interviews, helped promote awareness about taxpayer rights and the services of the Office.

Reaching out to taxpayers through community outreach and stakeholder engagements

During the reporting period, the OTO reached out to taxpayers through virtual presentations, seminars, advertising, taxpayer publications and social media in the public and private sectors.

The majority of outreach activities were initiated by the OTO, although there were also instances where stakeholders requested the Office to deliver presentations to their employees and members of their respective bodies.

The Office engaged stakeholders, grouped according to the stakeholder mapping process of the OTO, on matters such as taxpayers' rights, the OTO's complaints processes and other issues raised by individual stakeholders.

Fostering mutually beneficial partnerships with Government departments

Government departments and state-owned institutions represent a high percentage of taxpayers and the OTO continues to foster relationships with them and to use their communications platforms to engage employees. During 2021/22, the OTO engaged with the following government organisations:

- Department of Agriculture, Land Reform and Rural Development (DALRRD)
- Department of Cooperative Governance and Traditional Affairs (COGTA)
- Department of Forestry, Fisheries and Environment (DFFE)
- Department of Public Service and Administration (DPSA)
- Department of Sports, Arts and Culture (DSAC)
- Department of Women, Youth and Persons with Disabilities (DWYPD)
- Gauteng Department of Economic Development (GDED)
- Gauteng Office of Consumer Affairs (GOCA)

- Limpopo Department of Economic Development, Environment and Tourism (LEDET)
- Limpopo Provincial Treasury
- South African Revenue Service (SARS)
- Statistics South Africa (Stats SA)

In addition, the office engaged with:

- Auditor-General of South Africa (AGSA)
- Legal Aid South Africa
- South African Social Security Agency (SASSA)
- The Southern African Institute of Government Auditors (SAIGA)
- Office of the Legal Services Ombud

Engaging with SMMEs

The OTO has monthly engagements with small, medium and micro-enterprises (SMMEs) to keep them informed about the OTO's work and mandate, reminding them of the free and impartial assistance it provides. SMMEs are an important stakeholder group, which has many complaints against SARS. During 2021/22, the Office engaged with the following bodies that represent business, including SMMEs:

- Capital City Business Chamber (CCBC)
- Cullinan Chamber of Commerce
- Free State Gold Fields Chamber of Business (FSGCB)
- Johannesburg Chamber of Commerce and Industry (JCCI)

- Nelson Mandela Bay Business Chamber
- Northern Cape Chamber of Commerce and Industry (NOCCI)
- Randburg Chamber of Commerce and Industry (RCCI)
- Durban Chamber of Commerce and Industry

Engaging with professional tax practitioners

The OTO continued to present to tax practitioners and accountants and members of affiliate controlling bodies, focusing on various tax matters that affect them and their clients. These engagements have enabled the OTO to reach a wider audience at no cost and obtain important inputs on tax recourse matters. Some of the organisations with which we engaged in 2021/22 are:

- Chartered Governance Institute of Southern Africa (Chartgov)
- Financial Planning Institute of Southern Africa (FPI)
- South African Institute of Professional Accountants (SAIPA)
- South African Institute of Taxation (SAIT)
- The Tax Faculty

Thought leadership discussions

The OTO leadership, which is widely seen as an influential voice in the tax recourse sphere, shared its expertise in the following important national discussions:

- Proudly South Africa Summit
- thought leadership discussion on Business

- Day TV, in which presenter Michael Avery interviewed the Tax Ombud Judge Bernard Ngoepe and CEO Prof. Thabo Legwaila on the eighth anniversary of the Office
- 2021 Tax Indaba, where Prof. Legwaila participated in a thought leadership discussion
 - the 6th International Conference on Taxpayer Rights, where Judge Ngoepe and Prof. Legwaila took part in a discussion

Strengthening relationships with members of RCBs

The Tax Ombud appreciates the important role that members of the Recognised Controlling Bodies (RCBs) play in the success of the Office and in improving the country's tax administration system. He engaged RCBs on important matters such as the Tax Ombud 2020/21 Annual Report and Annual Performance Plan, updates on systemic investigations, the Office's eighth anniversary celebration and the preparation of the Compilation of Taxpayers' Rights, Entitlements and Obligations.

Engagements were held with the following:

- Association of Chartered Certified Accountants (ACCA)
- Chartgov
- Chartered Institute of Management Accountants (CIMA)
- FPI
- Fiduciary Institute of Southern Africa (FISA)

- SAIPA
- SAIT
- South African Institute of Chartered Accountants
- The Tax Faculty
- The Professional Accounting Institute
- Institute of Accounting and Commerce (IAC)

Distributing educational newsletters to taxpayers and other stakeholders

The OTO has a quarterly newsletter, *Fair Play*, which it distributes through different platforms, including social media and Mailchimp, to stakeholders in both the public and private sectors. During 2021/22, the Office distributed four newsletters featuring a variety of educational articles about the Office and its services, as well as topics such as the Tax Ombud Annual Report, the Compilation of Taxpayers' Rights, Entitlements and Obligations, the #TaxpayersRightsMatter campaign and featured experts' insights on tax-related matters.

In addition, the OTO distributed its monthly case studies newsletter *Fairness for All*. Ten issues were shared with taxpayers and other stakeholders during the year, providing examples of the types of complaints the OTO receives and how these are dealt with and resolved. *Fairness for All* has been an important tool to promote the Office in the media and cases featured have been widely covered on numerous media platforms.

Fairness for All was distributed to the institutions listed below, in addition to being shared on various OTO communication platforms.

RCB stakeholders

- CIMA
- FISA
- FPI
- PAI
- SAICA
- SAIT
- SAIPA
- The Tax Faculty

Government institutions

- Department of Cultural Affairs and Sports (DCAS)
- Department of Economic Development (DED)
- Department of Social Development (DSD)
- South African Social Security Agency (SASSA)
- Statistics South Africa (Stats SA)
- Western Cape Office of the Premier

Growing the OTO media presence

Intensified media engagements on digital, print and broadcast platforms empowered taxpayers with knowledge about the OTO and its services. These media engagements generated an estimated R8 390 000.00 of public relations value. Digital brand integration on popular TV shows ensured that information about the organisation was beamed to millions of homes across the country.

The Office's investment in social media advertising also significantly increased the OTO's reach and was seen by over 1,7 million users in six months.

The distribution of media statements, case studies and requests for educational material was complemented by the OTO leadership's willingness to go the extra mile to be available for media interviews on numerous platforms. This was instrumental in the Office achieving the coverage targets set in the Annual Performance Plan and the community outreach framework.

Media coverage the Office received on broadcast, digital and print platforms

Radio coverage

- 90.6 FM Stereo
- Alex FM
- Bergman Square FM
- Bokone Bophirima FM
- Botlokwa FM
- Cape Talk
- Capricorn FM
- Chai FM
- Classic FM
- Energy FM
- Gold FM
- HOT 1027
- Icora FM
- Izwi Lethemba FM
- Khwezi FM
- Kopanong FM
- KQ FM
- Ligwalagwala FM
- Mabopane Rise Radio
- Maruleng FM
- Masemola FM
- Mkhondo FM
- Mmabatho FM
- Moletsi FM
- Munghana Lonene

- Nkangala Community Radio
- Power FM
- Pretoria FM
- Radio 2000
- Radio 702
- Radio 786
- Radio Grahamstown
- Radio Pulpit
- Radio Sonder Grense

- Radio Tygerberg
- Ratlou FM
- SA FM
- Sekgosese FM
- SK FM
- Thobela FM
- Tshepo FM
- uKhahlamba FM
- Univen FM
- Valley FM
- Voice of Cape Town
- Vukani FM

TV coverage

- ENCA channel 403
- Newzroom Afrika
- SABC channel 405
- SABC Channel 404

Digital coverage

- Daily Maverick
- Business Tech
- FA News
- IOL
- Money Web
- SABC Online
- The Citizen

Print coverage

- Daily Maverick
- Rapport

Investing in advertising

The Office flighted a paid advertising campaign to celebrate its eighth anniversary on broadcast and digital platforms. Live reads, adverts and a thought leadership panel discussion were broadcast on Business Day TV during the period. The panel discussion was also published in Business Day Digital and the Business Day newspaper. Generic adverts about OTO's services, and promotional adverts to celebrate the OTO's eighth anniversary, were flighted as follows:

Generic and promotional radio advertising

- Energy FM
- Radio 702
- Metro FM
- SAFM
- Motswedeng FM
- Thobela FM

Promoting the OTO brand

The OTO's investment in Digital Brand Integration (DBI) through paid advertising brought the campaign to millions of South African living rooms. DBI is a technique that inserts brand assets and messages into popular TV broadcast shows to maximise audience reach. The campaign reached 15 195 960 viewers within the Living Standards Measure (LSM) of 3 to 10 in October 2021 and 14 084 616 in February 2022.

Digital Brand Integration advertising

- Durban Gen
- Skeem Saam
- Gomora
- The Queen
- House of Zwide
- The River

Call-to-action radio advertising promoting the OTO

The Office flighted 30-second generic adverts on six radio stations with high audience reach. The radio stations combined have 13 788 000 listeners aged 15 to 64 years within the LSM of 3 to 10 as measured by the Broadcast Research Council of South Africa.

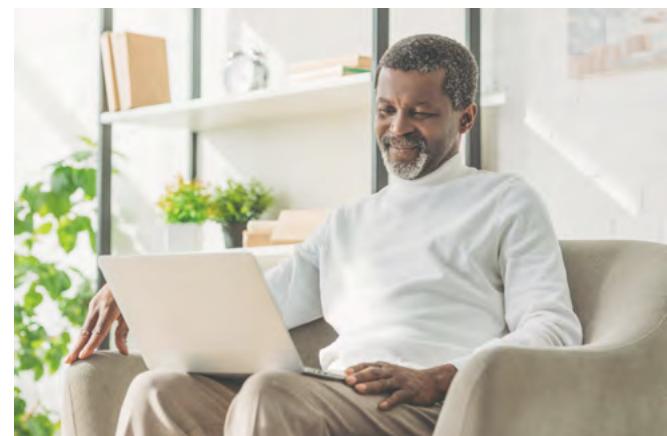
Transforming the OTO website to improve the taxpayer experience

The Office's digital communications framework is designed to increase online brand presence and promote the services of the Office.

During the 2020/21 financial year, the OTO was busy developing a new website based on a specialised content management system. This new site offers an improved mobile experience and a facility for the online submission of complaints. This is a major step forward in the Office's capacity to serve taxpayers where they are. The new site has been fully developed and tested and is due for launch on 1 April 2022.

In addition, the OTO concluded a major licensing upgrade with Microsoft, providing staff with upgraded, cloud-based tools. The centrepiece of this upgrade was the development of a separate, branded intranet hosted on SharePoint online, enabling improved communication and collaboration and accommodating the new reality of the hybrid workforce. The intranet site has been developed and deployed and will be launched on 12 April 2022.

While SharePoint Online is the primary outcome of this licensing, it is just one part of the IT ecosystem towards which the Office is moving. Gradual upgrades will continue into the 2022/23 financial year as the OTO moves to a paperless environment and fully digitised complaints process.



Connecting with taxpayers via digital platforms

The OTO used digital platforms to create awareness and engage taxpayers on its services, including complaints resolution processes. As the social media presence provides additional channels through which taxpayers can communicate with the OTO, the Office ran differentiated social media campaigns, using Facebook, Twitter and Instagram to appeal to taxpayers, and LinkedIn to grow its audience of tax professionals. The campaign was run under the banner of #TaxpayersRightsMatter.

The table below shows the trends in social media engagements over the past two years:

Table 5: Digital growth

	2020/21	2021/22	Change
Website users	53 797	51 675	-3.94%
Website page views	124 957	132 571	6.09%
Facebook likes	743	874	17.63%
Twitter followers	7 765	8 260	6.37%
LinkedIn followers	741	990	33.60%
Instagram followers	617	669	8.04%

Although website traffic dropped slightly compared to the previous year, this was on the back of exceptional growth in 2020/21, when there was a 74.8% increase on the previous year, and an aggressive digital campaign. With the launch of the new site on 1 April 2022, it is anticipated that website traffic will increase, as mobile users are accommodated.

Connecting through digital and social media advertising

A paid campaign highlighting the OTO's eighth anniversary, as well as tax education, ran on Facebook, LinkedIn and Google AdWords from October 2021 to March 2022. This campaign resulted in the OTO's messaging being exposed to 1 756 874 web users during that period, with 41 592 of those users acting on the advert, whether by clicking through for more information or signing up for the OTO's newsletter and case studies.

It is important to note the cost per click (CPC) variance between LinkedIn, where a single action can cost approximately R65, and Facebook and Google, where the CPC is closer to R3. That reflects the value of the LinkedIn audience, who are primarily tax professionals.

Table 6: Digital advertising

	Date	Impressions	Clicks	CPC
Facebook	1 Oct 2021 – 30 Nov 2021	1 334 161	17 309	R3,09
LinkedIn	1 Oct 2021 – 1 Nov 2021	147 278	623	R65
Google AdWords	1 Oct 2021 – 31 Mar 2022	275 435	23 660	R2.98

Employee engagement and communications

OTO values high-quality employee engagement and communications and thus uses various tools, campaigns and platforms for this. In the reporting period the OTO launched #IamTeamOTO.

#IamTeamOTO is an internal campaign that supports the Office's human resources policies by encouraging employee innovation, stimulating new ways of thinking and promoting the development of new competencies to contribute to organisational success. The campaign was integrated into various aspects of internal communication and served as a call-to-action for all employees to embrace the team spirit and teamwork.

In addition, the Office used internal communication to keep Team OTO updated on important developments in the tax sphere and in the organisation.

Employee newsletters

The OTO published 22 editions of the internal newsletter, Perspective, which is an important platform for employee engagement and education. The newsletter profiled performance and excellence within the OTO and issued a call-to-action for Team OTO to embrace the institution's values and intensify customer-centricity. Staff also received copies of the Office's external newsletters, Fair Play and Fairness for All.

Continuous communications

As Covid-19 changed traditional ways of working and made remote working the norm, the OTO went out of its way to keep all employees updated on workplace matters and the latest developments regarding the pandemic.

Weekly health and safety messages were sent out, ensuring that Team OTO had the latest information about measures to prevent the spread of the virus. The Office virtually commemorated important dates on the South African calendar, such as Human Rights Day, Youth Day and Women's Day. When Covid-19 restrictions are lowered in the new financial year, as is expected, the OTO plans to revive in-person celebrations, which have been found to boost employee morale and promote a healthy team spirit, and to hold Quarterly Leadership Updates, where OTO Senior Leadership engage employees on issues such as quarterly performance.

2.3. Key policy developments and legislative changes

Since the legislative amendments of 2016, there have been no key policy developments regarding the Tax Ombud in the Tax Administration Act 2011. Internally, the Office developed two policies in support of its service delivery mandate in the 2021/22 financial year for the approval of the Tax Ombud. The Tax Ombud approved the Systemic Investigations Policy to provide the legal framework in which all relevant roles within the OTO must function when identifying and reviewing systemic and emerging issues. This includes matters such as communicating with external stakeholders on systemic and emerging issues.

The Tax Ombud also approved the Complaints Resolution Policy, providing a legal framework for evaluating and reviewing complaints.

2.4. Progress towards achievement of institutional impacts and outcomes

The Medium Term Strategic Framework (MTSF) 2019-2024 lays out the set of programmes that define how to implement the National Development Plan vision 2030 and the seven electoral priorities adopted by the Government, and the OTO continues to play its part and contribute to building a capable, ethical and developmental State. These deliverables are

monitored and assessed by reference to various performance measures set out in the Office's Strategic Plan 2020-2025.

It is common cause that government institutions may revise their five-year Strategic Plans and Annual Performance Plans if there are significant changes to policy, the service delivery environment or the planning methodology. South Africa's response to the Covid-19 pandemic has fundamentally changed the operating environment of the Government, and these changes have in turn affected the service delivery environment. The OTO Strategic Plan 2025 has not been revised, but the pandemic has had a negative impact on the implementation of set targets as per the Annual Performance Plan 2021/22.

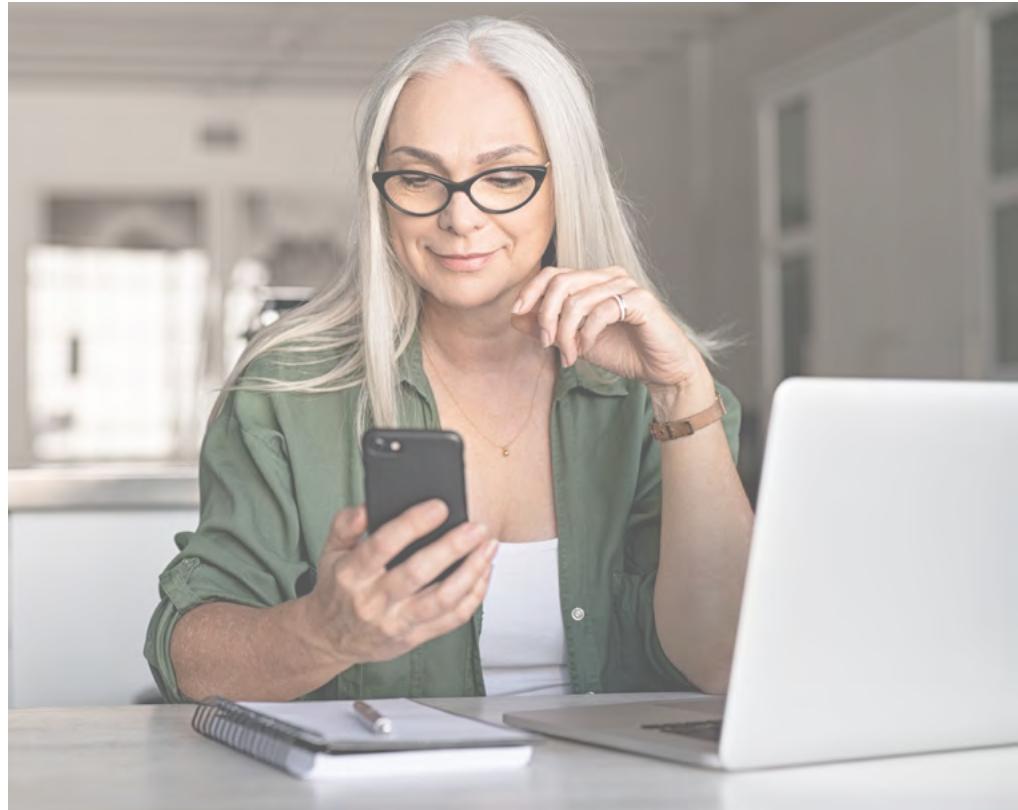
The Office developed and approved a taxpayers' complaints feedback framework, which provides a concise and uniform enterprise-wide framework for managing taxpayer feedback and recognises the value that taxpayer feedback brings to the OTO's efforts to provide excellent service.

The Office also developed and approved a complaints management framework that formalises the practices required for effective management and handling of taxpayer complaints. Furthermore, the framework outlines the planned objectives and activities for the next five years.

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

Programme	Programme purpose	Output (objectives)	Strategic planned activities achieved
Accountability	Ensure a balanced and fair application of the tax administration process and contribute to a culture of tax compliance.	Review and address complaints by taxpayers against SARS.	<p>1. Implement a complaints management framework that will improve the feedback provided to taxpayers.</p> <ul style="list-style-type: none"> The complaint management framework was developed and approved by the Senior Management Committee for implementation on 15 June 2021. The implementation of the complaints management framework is in progress.
		Contribute to improving the tax administration system and building confidence in the system.	<p>1. Develop and promote a tax compendium of the rights and obligations of taxpayers.</p> <ul style="list-style-type: none"> The tax compendium of the rights, entitlements and obligations of taxpayers was developed and approved in March 2022. The promotion of the compendium will commence in the 2022/23 financial year.
Efficacy	Provide a consistently high-quality service that is taxpayer-centric and provided at a minimal cost.	Create an agile organisation that can scale efficiently to meet taxpayer demands.	<p>1. Implement a feedback plan that will assist taxpayers in ensuring that they comprehend the outcome of their complaints.</p> <ul style="list-style-type: none"> The taxpayer feedback framework was developed and approved on 22 February 2022. The implementation of the feedback framework is in progress.
			<p>2. Implement a five-year digital framework through continuous interactive online platforms that will improve the OTO's brand presence and promote accessibility of its services to all taxpayers.</p> <ul style="list-style-type: none"> The digital framework was developed and approved on 4 June 2020. The implementation of the framework is in progress.
			<p>3. Develop and implement a human resources strategy that encourages professionalism and high performance by OTO employees.</p> <ul style="list-style-type: none"> A human resources strategy was developed and approved in October 2021.
		Promote stakeholder engagement and collaboration.	<p>1. Develop a five-year community outreach activity framework that will ensure taxpayers in all nine provinces are aware of the OTO's mandate and understand its processes.</p> <ul style="list-style-type: none"> The community outreach framework was developed and approved on 18 November 2020. The implementation of the framework is in progress. <p>2. Develop a five-year stakeholder framework that promotes optimal engagement and collaboration to ensure efficient interaction between the OTO and its stakeholders and strengthen relationships.</p> <ul style="list-style-type: none"> The stakeholder engagement framework was developed and approved on 17 March 2021. The implementation of the framework is in progress.

Programme	Programme purpose	Output (objectives)	Strategic planned activities achieved
Independence	An Office of the Tax Ombud that is independent, structurally and operationally, to limit the risk of perceived bias.	Optimise governance structures, risk management and business processes.	<p>1. Develop and implement an independent governance framework with efficient and effective governance structures, including internal and external assurances</p> <ul style="list-style-type: none"> External limited assurance is provided by the Auditor-General South Africa (AGSA) from the 2020/21 financial year. The development of a comprehensive framework is in progress.
		Enhance and strengthen the mandate of the Office of the Tax Ombud.	<p>2. Draft annual proposals on legislative amendments to enhance the OTO's mandate.</p> <ul style="list-style-type: none"> A proposal on legislative amendments was drafted and submitted to National Treasury in the 2021/22 financial year.



“I would like to thank you for your prompt assistance with my SARS complaints. I have no words to show my gratitude regarding your professionalism and prompt assistance on the matter. **I rate you 4.9/5** for your excellent service. Is there perhaps a survey where I can rate your service? SARS has just sent me a notification of completion of the audit.”

*Taxpayer feedback. Taxpayers' details remain confidential.

2.5. Report in terms of section 19 of the Tax Administration Act

In section 19 (1)(b), the Tax Ombud must submit an annual report to the Minister of Finance within five months of the end of the SARS financial year. In terms of section 19 (2), the report must summarise at least 10 of the most serious issues encountered by taxpayers and identify systemic and emerging issues. It must also include an inventory of such issues and recommendations, including the administrative action appropriate to resolve the problems encountered by taxpayers.

Summary of identified systemic and emerging issues

Issue no	Summary	Category (Serious/ Systemic/ Emerging)	Action taken by SARS	Action taken by the OTO	Period in the OTO's inventory	Result
1. Delay in payment of refunds.	1.1 Delay in the lifting of stoppers and lack of a timeframe for doing so; (not finalising verification within the turnaround time of 21 days).	Systemic	<p>SARS has identified the backlog to be cleared by looking at a systemic fix for stoppers placed. The interim process is in place to mitigate unnecessary stoppers; however, further investigation is required before a future design can be approved due to the complexity of the matter. (This is an ongoing process).</p> <p>SARS indicated on 4 October 2021 that corrective actions were implemented to address previously referred cases; however, it did not provide details of the corrective actions.</p>	The remedial actions implemented by SARS are noted. The effectiveness thereof is being monitored.	100 months	Ongoing
	1.2 Diesel refunds		<p>SARS indicated on 7 February 2018 that it recognises that the industry preferred separate returns as reflected in the 2017/18 budget review.</p> <p>SARS further indicated that after significant risks were identified, it increased its focus on the audit of diesel refunds.</p> <p>SARS further indicated on 12 October 2018 that extensive work was concluded on identifying high-volume, low-risk refunds that have been auto released. The risk alerts associated with diesel cases have been amended according to the available capacity; therefore, fewer alerts should be generated.</p> <p>SARS indicated on 24 March 2021 that it is continuously monitoring the process.</p>	<p>The occurrence and prevalence of the systemic issues are being monitored.</p> <p>The remedial actions implemented by SARS are noted. The effectiveness thereof is being monitored.</p>	100 months	Ongoing

Issue no	Summary	Category (Serious/ Systemic/ Emerging)	Action taken by SARS	Action taken by the OTO	Period in the OTO's inventory	Result
	1.3 Debt set-off and recovery steps are taken despite a request for suspension of payment.	Systemic	<p>SARS indicated that the process for applying for the suspension of payment has been automated and is now a separate process; it has been operational since May 2017.</p> <p>The debt management process was further enhanced internally on 17 September 2018 to simplify the deferred payment arrangements thresholds, auto issuing of deferral payment termination notices, automation of the issuing and withdrawal of a TPA, etc.</p> <p>SARS indicated on 24 March 2021 that since the remedial actions were implemented on various dates, the process was continuously monitored.</p>	<p>The remedial actions implemented by SARS are noted. The effectiveness thereof is being monitored.</p>	100 months	Ongoing



“Thank you so much for your feedback. The professionalism of **the Office of the Tax Ombud has been the only silver lining in this process to keep SARS accountable.**”

*Taxpayer feedback. Taxpayers' details remain confidential.

Issue no	Summary	Category (Serious/ Systemic/ Emerging)	Action taken by SARS	Action taken by the OTO	Period in the OTO's inventory	Result
2. Dispute resolution 2.1 System-automated calculation of days	<p>The SARS system does not calculate dates for dispute resolution correctly. It does not exclude public holidays, weekends and the <i>dies non</i> period.</p> <p>This has a negative impact on taxpayers who are forced to apply for condonation unnecessarily and 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>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.</p> <p>SARS indicated on 4 October 2021 that a solution was incorporated into a business case to be considered.</p>	<p>It is recommended that SARS correct 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 correctly calculates the days to determine if a condonation case should be created.</p>	22 months	Ongoing
2.2 Notification of invalidation of appeal	<p>The problem arises in matters where taxpayers submit appeals so late that SARS does not have the discretion to condone the late filing. Under these circumstances, the letters issued by SARS correctly inform the taxpayer that SARS has no discretion to entertain appeals lodged more than 75 days after delivery of the Notice of Disallowance of Objection.</p> <p>The problem is that this letter includes a standard paragraph stating:</p> <p>"A new 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>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.</p> <p>SARS indicated on 4 October 2021 that a solution was incorporated into a business case to be considered.</p>	<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>Therefore, the recommendation is made for a standard letter on SARS system to cater specifically for s107 (2)(b) matters to avoid confusion and instances where taxpayers try to lodge new NOA forms per the current standard letters.</p> <p>The OTO will monitor the successful implementation of the letters.</p>	22 months	Ongoing

Issue no	Summary	Category (Serious/ Systemic/ Emerging)	Action taken by SARS	Action taken by the OTO	Period in the OTO's inventory	Result
2.3 The general end-to-end periods for taking decisions on objection: Rule 9	SARS must finalise the objection within 60 days after receiving the objection if no additional supporting documentation was requested. If SARS requests additional supporting documentation, the objection must be finalised within 45 days after receiving the supporting documentation.	Serious/systemic	<p>SARS indicated on 3 February 2021 that a decision was taken in September 2020 to develop a project plan to address the issues reported. The project plan entails two parts:</p> <p>Part 1 – Appeals inventory reduction plan; and 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 and that they supported it.</p> <p>Part 2 of the project plan will take longer to implement since these matters take longer to amend/improve.</p>	<p>It is recommended that SARS ensure compliance with the timeframes. The project plan described by SARS will be monitored to determine and evaluate the plan's effectiveness in addressing the raised systemic issue.</p>	22 months	Ongoing
2.4 Request for reasons for the assessment: Rule 6	<p>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.</p>	Serious/systemic	<p>SARS indicated on 3 February 2021 that a decision was taken in September 2020 to develop a project plan to address the issues reported. The project plan entails two parts:</p> <p>Part 1 – Appeals inventory reduction plan; and 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 and that they supported it.</p> <p>Part 2 of the project plan will take longer to implement since these matters take longer to amend/improve.</p>	<p>It is recommended that SARS ensure compliance with the timeframes. The project plan described by SARS will be monitored to determine and evaluate the plan's effectiveness in addressing the raised systemic issue.</p>	22 months	Ongoing

Issue no	Summary	Category (Serious/ Systemic/ Emerging)	Action taken by SARS	Action taken by the OTO	Period in the OTO's inventory	Result
2.5 Notice of invalidity: Rule 7(4)	If SARS receives an objection that does not comply with rule 7(2) of the Dispute Resolution Rules, SARS may regard the objection as invalid and must notify the taxpayer accordingly and state the ground for invalidation in the notice within 30 days after receiving the invalid objection.	Serious/systemic	<p>SARS indicated on 3 February 2021 that a decision was taken in September 2020 to develop a project plan to address the issues reported. The project plan entails two parts:</p> <p>Part 1 – Appeals inventory reduction plan; and</p> <p>Part 2 – Reinvention of the way SARS 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 they supported it.</p> <p>Part 2 of the project plan will take longer to implement since these matters take longer to amend/improve.</p> <p>SARS indicated on 24 March 2021 that this dispute project aims to address the high invalidation rate in the Compliance Audit space by introducing dispute coordinators to reduce the number of invalid cases and improve compliance with the turnaround times.</p>	<p>It is recommended that SARS ensure compliance with the timeframes.</p> <p>The project plan described by SARS will be monitored to determine and evaluate the plan's effectiveness in addressing the raised systemic issue.</p>	22 months	Ongoing
2.6 Request for substantiating documents: Rule 8(1)	SARS must request substantiating documents within 30 days as prescribed.	Serious/systemic	<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 at the objection stage to improve the quality of decisions made and reduce the number of appeals. It is planned that the introduction of dispute coordinators will also improve the turnaround times.</p>	<p>It is recommended that SARS ensure compliance with the timeframes.</p> <p>The project plan described by SARS will be monitored to determine and evaluate the plan's effectiveness in addressing the raised systemic issue.</p>	22 months	Ongoing

Issue no	Summary	Category (Serious/ Systemic/ Emerging)	Action taken by SARS	Action taken by the OTO	Period in the OTO's inventory	Result
2.7 Non-adherence by SARS to dispute resolution turnaround times.	On many occasions, SARS does not adhere to the dispute resolution turnaround timeframes as envisaged in chapter 9 and under the rules for dispute resolution as promulgated under section 103 of the TAA.	Serious/systemic	<p>SARS indicated on 3 February 2021 that a decision was taken in September 2020 to develop a project plan to address the issues reported. The project plan entails two parts:</p> <p>Part 1 – Appeals inventory reduction plan; and</p> <p>Part 2 – Reinvention of the way SARS 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 they supported it.</p> <p>Part 2 of the project plan will take longer to implement since these matters 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> <p>SARS indicated on 4 October 2021 that it has made inventory extraction and analysis easier for the regions, ensuring better management of appeal cases. Furthermore, the dispute project also has contact sessions with each region, highlighting areas of concern and priorities listed.</p>	<p>It is recommended that SARS 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 timely.</p> <p>It is also recommended that the SARS system be aligned to record each step of the appeal process and its accompanying correspondence. This would enable accurate inventory management and make it easy to identify the bottlenecks within the process..</p> <p>The project plan described by SARS will be monitored to determine and evaluate the plan's effectiveness in addressing the raised systemic issue.</p>	22 months	Ongoing

Issue no	Summary	Category (Serious/ Systemic/ Emerging)	Action taken by SARS	Action taken by the OTO	Period in the OTO's inventory	Result
2.8 Request for condonation (objection and appeal)	<p>Our systemic investigation revealed that 86.06% of the requests for condonation of objection cases finalised by SARS over two years were allowed.</p> <p>Furthermore, SARS received 4 292 objections disputing its decision to decline the condonation request. SARS allowed 78.49% of these objections.</p> <p>Similarly, SARS allowed 76.09% of the 175 cases where taxpayers appealed the disallowance of the objection to the decision not to condone the late filing of the complaint.</p> <p>Ultimately 85.63% of all requests for condonation on objection cases received by SARS in the period were allowed.</p> <p>As in the case of requests for condonation relating to objections, the allowance rate for appeal condonations is very high. On the initial request for condonation, SARS allowed 89.9% of the matters it finalised by taking a decision. SARS received very few objections and appeals to decisions to decline condonation during the appeal step. While only 47% of those were allowed, SARS still allowed 89.5% of all condonation requests about which it made decisions during the period.</p> <p>This raises the question of what purpose the condonation process serves and whether or not that purpose justifies the time spent on it. Although these requests were quickly attended to, the concern is SARS high number of condonation cases.</p>	Serious/ systemic	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 days for lodging an objection to 80 days after the assessment or decision date will reduce the number of condonation cases received.	Taking into account that almost 90% of all requests for condonation are allowed, we believe that consideration should be given to allow taxpayers three years to object to an additional assessment as stipulated in section 104(5)(b) of the TAA.	Also, the provisions of the TAA and the DR Rules relating to condonation should be removed. Similarly, we believe that during the appeal process, the timeframe could be set at 75 days with no further option of extension.	22 months Ongoing

Issue no	Summary	Category (Serious/ Systemic/ Emerging)	Action taken by SARS	Action taken by the OTO	Period in the OTO's inventory	Result
2.9 Inventory management (appeals)	<p>The Invalid Appeal letter is the only piece of correspondence that consistently features in SARS' system for appeal cases during the entire appeal process. The OTO found very few cases involving other essential letters and documents, such as the so-called "suitability letters", that led the process into another step with prescribed timeframes. SARS acknowledged that not all manual letters were uploaded onto the system. It is important to note that all these documents are essential and that all but two of the required documents in the appeal process have prescribed periods attached. Based on the information received by SARS, it would be near impossible to track compliance with the rules in relation to any of these documents.</p>	Serious/ systemic	<p>SARS indicated on 24 March 2021 that the case-routing issues experienced were identified and escalated.</p> <p>Jurisdictional routing issues will be escalated via remedy calls to prioritise.</p> <p>SARS will aim to improve case categorisation in order to improve inventory management.</p> <p>SARS Enterprise Data Management has given training and supplied inventory workbooks to regions with difficulty sourcing their cases.</p> <p>Additional staff will be mobilised to Legal Council: Delivery Support and Dispute Resolution.</p> <p>SARS indicated on 4 October 2021 that it has made inventory extraction and analysis easier for the regions, ensuring better management of appeal cases. Furthermore, the dispute project also has contact sessions with each region, highlighting areas of concern and priorities listed.</p>	<p>It is recommended that the system be aligned to record each step of the appeal process and its accompanying correspondence. This would enable accurate inventory management and make it easy to identify the bottlenecks within the process.</p>	22 months	Ongoing

Issue no	Summary	Category (Serious/ Systemic/ Emerging)	Action taken by SARS	Action taken by the OTO	Period in the OTO's inventory	Result
2.10 The raising of non-meritorious additional assessments	71% of objections over two years were allowed or partially allowed, and 92% of appeals that went through the entire appeal process were conceded in full over the same period. One must question why these assessments were raised first and why they could not be allowed at the objection stage. This point is essential because a lot of time and effort is invested in dealing with each case. For example, a committee must sit to consider each matter, for which the members must spend valuable time preparing. There are thousands of these cases.	Serious/systemic	<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 communication with taxpayers.</p> <p>SARS indicated on 4 October 2021 that the verification and dispute processes are being reviewed and that business cases were prepared for both.</p>	<p>It is recommended that SARS take a closer look at how additional assessments are made and the efficiency of its objections committee mechanism, as too many assessments are raised without merit, clogging the system unnecessarily and causing delays.</p>	22 months	Ongoing

Issue no	Summary	Category (Serious/ Systemic/ Emerging)	Action taken by SARS	Action taken by the OTO	Period in the OTO's inventory	Result
2.11 Delayed submission of information by taxpayers	From SARS' 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, specifically when asked about their challenges and views on reasons for delays in finalising objections and appeals. This issue may tie in with the high allowance of objections and concessions on appeal.	Serious/ systemic	SARS indicated on 24 March 2021 that section 95 of the TAA was amended on 20 January 2021. The effect of the amendments is that a taxpayer will not be able to file an objection if, after being requested twice, the taxpayer fails to submit the information required.	Both Legal and Investigative Audit refer to instances where the matter should be audited from scratch due to new information being provided only after the disputes were lodged. If new information (for example, new financial statements) is provided, it may be argued that the initial declaration by the taxpayer has changed, which will affect the additional assessment. The question arises whether the dispute resolution procedure is the correct channel to conduct an audit of information that was not considered before or should instead be treated as a request for correction of the original declaration. The view of this Office is that it should be the latter.	22 months	Ongoing



Issue no	Summary	Category (Serious/ Systemic/ Emerging)	Action taken by SARS	Action taken by the OTO	Period in the OTO's inventory	Result
3 Inability on the part of SARS to confirm correspondence was sent (manual and eFiler view of correspondence).	<p>Where taxpayers allege that they did not receive correspondence from SARS, SARS simply responds by providing them with a copy of the letter but fails to prove that the correspondence was indeed sent to them on the specified date. It should be noted that the concern raised does not apply to correspondence that was electronically issued.</p> <p>In the recent high court judgments of SIP Project Managers (Pty) Ltd v The Commissioner for the South African Revenue Service and WPD Fleetmaster CC v The Commissioner for the South African Revenue Service, the importance of the delivery of the letter of demand to the taxpayer, via an electronic platform or to the last known address of the taxpayer, was highlighted.</p> <p>Furthermore, a notice generated by the eFiling system does not satisfy the delivery requirement unless such notice is uploaded on the taxpayer's profile. Finally, and very importantly for this Office, we cannot rely on the eFiler view in Service Manager to determine whether or not a taxpayer received correspondence.</p> <p>Therefore, the systemic issue is expanded to include manual correspondence and correspondence that should be reflected on a taxpayer's eFiler view. This will include, for example, the final letter of demand, the outcome of an objection/appeal, a notice of assessment, etc.</p>	Serious	<p>SARS indicated that it would ensure that letters sent outside the Service Manager system are sent via email and attached to a created case. SARS is of the view that this will enable it to be in a position to prove that correspondence was indeed sent.</p>	<p>The OTO recommended that SARS keep records of all correspondence sent to taxpayers and that the recipient received the correspondence.</p> <p>SARS' 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. For example, what audit trail is kept to ensure that documentation is indeed posted?</p> <p>The OTO will continue to monitor the systemic issue.</p> <p>SARS responds on 31 October 2019:</p> <p>"In reference to our telephonic engagement in respect of the matter relating to postal correspondence being sent:</p> <ul style="list-style-type: none"> a) We recognise the issue detailed by the OTO. b) A proper record system that can withstand legal scrutiny is being considered. c) In the interim, we are installing a manual record system demonstrating delivery to the post office with the correct postal address. <p>This discussion has begun with SARS' Innovation Hub team, and we will advise of the outcome.</p> <p>We are also looking at ensuring that the primary communication channel is electronic (email, lithotech, etc.) and the postal [service] is limited to [circumstances] when electronic channels are unavailable."</p>	22 months	Ongoing

Issue no	Summary	Category (Serious/ Systemic/ Emerging)	Action taken by SARS	Action taken by the OTO	Period in the OTO's inventory	Result
4 Tax Compliance System (TCS)	<p>Various factors could lead to the taxpayer being non-compliant. These include:</p> <ul style="list-style-type: none"> (i) Outstanding debts even when it is R1 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. <p>However, certain challenges 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"> 1. There was an outstanding liability of R1; 2. Taxpayers were still within time to submit a specific return and make payment, but the system had already reflected this as outstanding; 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; 4. Payment arrangements were in place, including approved suspension of any debt in question; 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. 	Systemic	<p>SARS indicated that various updates were made and implemented in September 2017 to the Standard Operating Procedures and Tax Compliance System, addressing most identified issues. There is also a function available for taxpayers to request an "override", and SARS will investigate and confirm the approval in exceptional cases. Furthermore, SARS indicated that taxpayer education is a key factor in resolving this matter as the SARS system is built for most taxpayers and not based on exceptions.</p>	<p>The OTO will continue to monitor the systemic issue for any possible system issues.</p>	50 months	Ongoing

Issue no	Summary	Category (Serious/ Systemic/ Emerging)	Action taken by SARS	Action taken by the OTO	Period in the OTO's inventory	Result
5 Assessments were raised prematurely.	The notification of verification and the request for additional information allow the taxpayer 21 days to submit the relevant information. In some instances, SARS issues additional assessments without affording the taxpayer 21 days.	Systemic	SARS introduced various enhancements for the 2018 Filing Season to address shortcomings and improve service and communication. Internally, the existing processes and various Standard Operating Procedures were updated to ensure alignment and SARS adherence to legislative requirements. Previously escalated issues were addressed, and SARS is unaware of new issues.	This issue will be monitored further with cases that might follow from the past Filing Season.	47 months	Ongoing
6 Failure to respond to the request for a deferred payment arrangement within the prescribed turnaround time (21 days)	We have noticed increased complaints about SARS' failure to respond to such requests. This negatively affects taxpayers attempting to become compliant with SARS, and its lack of response results in delays in collecting revenue for the fiscus.	Systemic	In its letter dated 24 April 2020, SARS acknowledges this systemic issue and indicates that it is continuing to investigate and implement remedial action to address it effectively. SARS indicated on 24 March 2021 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. SARS indicated on 4 October 2021 that corrective actions were implemented to address previously referred cases; however, it did not provide details of the corrective actions.	Even though SARS included the specific turnaround times in the Service Charter, this does not address the underlying root cause of SARS' non-adherence. The OTO will monitor the issue and highlight any root causes impacting SARS' failure to attend to deferred payment arrangement cases.	43 months	Ongoing

Issue no	Summary	Category (Serious/ Systemic/ Emerging)	Action taken by SARS	Action taken by the OTO	Period in the OTO's inventory	Result
7 Failure to respond to the request for a compromise within the prescribed turnaround time (30 days)	We have noticed increased complaints about SARS' failure to respond to such requests. This negatively affects taxpayers attempting to become compliant, as well as SARS, as its lack of response delays collecting revenue for the fiscus.	Systemic	<p>In its letter dated 24 April 2020, SARS acknowledges this systemic issue and indicates that it is continuing to investigate and implement remedial action to address it effectively.</p> <p>SARS indicated on 4 October 2021 that corrective actions were implemented to address previously referred cases; however, it did not provide details of the corrective actions.</p>	<p>Even though SARS included the specific turnaround times in the Service Charter, this does not address the underlying root cause for SARS' non-adherence.</p> <p>The OTO will monitor the issue and highlight any root causes impacting SARS' failure to attend to deferred payment arrangement cases.</p>	47 months	Ongoing
8 Failure to respond to the request for a suspension of payment within the prescribed turnaround time (21 days)	We have noticed increased complaints about SARS' failure to respond to such requests. This negatively affects taxpayers attempting to become compliant, as well as SARS, whose lack of response causes delays in collecting revenue for the fiscus.	Systemic	<p>In its letter dated 24 April 2020, SARS acknowledges this systemic issue and indicates that it is continuing to investigate and implement remedial action to address it effectively.</p> <p>SARS indicated on 24 March 2021 that a clean-up of cases is in progress and that SARS will continue to monitor the situation.</p> <p>SARS indicated on 4 October 2021 that corrective actions were implemented to address previously referred cases; however, it did not provide details of the corrective actions.</p>	<p>Even though SARS included the specific turnaround times in the Service Charter, this does not address the underlying root cause of SARS's non-adherence.</p> <p>The OTO will monitor the issue and highlight any root causes impacting SARS' failure to attend to deferred payment arrangement cases.</p>	43 months	Ongoing
9 SARS delays coding the taxpayer's profile as deceased estate and updating the executors' contact details within 21 working days.	SARS does not code the profile as a deceased estate and does not update the executors' contact details within 21 working days.	Systemic	Response awaited	Formal recommendations were sent to SARS on 24 February 2022.	One month	Ongoing

3. Report of the Auditor-General to Parliament on the Office of the Tax Ombud

Report on the audit of the annual performance report

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 in the general notice, for the following selected objectives presented in the annual performance report for the year ended 31 March 2022:

Objectives	Pages
Strategic Objective 1: Review and address complaints by taxpayers against SARS	58
Strategic Objective 2: Contribute to improvement of the tax administration system and build confidence in the system	59

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 these objectives:

- Strategic Objective 1: Review and address complaints by taxpayers against SARS
- Strategic Objective 2: Contribute to improvement of the tax administration system and build confidence in the system

Other matters

6. I draw attention to the matters below.

Achievement of planned targets

7. Refer to the annual performance report on pages 58 to 63 for information on the achievement of planned targets for the year and management's explanations provided for the under/over achievement of targets.

Other information

8. The Tax Ombud is responsible for the other information. In terms of section 19(2) of the Tax Administration Act 18 of 2011 (TAA), the other information comprises the information included in the annual report, which includes a summary of at least ten of the most serious issues encountered by taxpayers and identified systematic and emerging issues, including the description of the nature of the issues, inventory



of the issues described and recommendations for such administrative action as may be appropriate to resolve problems encountered by taxpayers. The other information does not include the auditor's report and those selected objectives presented in the annual performance report that have been specifically reported in this auditor's report

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

10. 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 material misstatement in this other information, I am required to report the fact.

11. I did not receive the other information prior to the date of this auditor's report. When I do receive and read this information, if I conclude that there is a material misstatement therein, I am required to communicate the matter to those charged with governance and request that the other information be corrected. If the other information is not corrected, I may have to retract this auditor's report and re-issue an amended report as appropriate. However, if it is corrected this will not be necessary

Internal control deficiencies

12. I considered internal controls relevant to my audit of the performance information, however, my objective was not to express any form of assurance on it. I did not identify any significant deficiencies in internal control.

Auditor General

Pretoria

31 July 2022



AUDITOR-GENERAL
SOUTH AFRICA

Auditing to build public confidence

4. Institutional performance information

Programme	Programme Purpose	Output (Objectives)	Performance indicators contributions
Accountability	Ensure a balanced and fair application of the tax administration process and contribute to a culture of tax compliance.	Review and address complaints by taxpayers against SARS.	Percentage of complaints acknowledged within two business days of receipt.
			Percentage of complaints reviewed within eight business days of date captured.
			Percentage of close-out reports actioned within four business days of date received.
		Contribute to improving the tax administration system and building 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.
Efficacy	Provide a consistently high-quality service that is taxpayer-centric and provided at a minimal cost.	Create an agile organisation that can scale efficiently to meet taxpayer demands.	Percentage of customers satisfied with the OTO's complaints resolution process.
			Percentage of digital communications framework activities implemented.
			Percentage of community outreach activity framework implemented.
			Net promoter score for taxpayers' brand recognition survey.
		Promote stakeholder engagement and collaboration.	Percentage of stakeholder engagement framework activities implemented.

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

Indicator	Tabled actual performance 2019/20	Audited Actual Performance 2020/21	Planned annual target 2021/22	Actual achievement 2021/22	Deviation from planned target to actual achievement 2020/21	Reasons for deviation
Percentage of complaints acknowledged within two business days of receipt.	94%	86%	98%	Not achieved 85% (3 381/3 965)	-13%	Capacity challenges - the contacts received by the Office increased by 43% from the previous year, and yet the staff complement remains four agents.
Percentage of complaints reviewed within eight days from date captured.	94%	89%	95%	Not achieved 93% (3 661/ 3 950)	-2%	Capacity challenges - complaints validated increased by 38% from the previous year. The complaints resolution unit had nine operational specialists instead of 11 due to one operational specialist being seconded to the Acting Contact Centre Manager role and one resignation.
Percentage of close-out reports actioned within four business days of date received.	83%	87%	85%	Achieved 95% (1 485/1 561)	10%	OTO and SARS agreed on a new, more efficient process, including an email notification that alerts the OTO of the finalised close-out reports available for review.

Strategy to overcome areas for underperformance

Underperforming indicator	Strategy to overcome underperformance
Percentage of complaints acknowledged within two business days of receipt.	The OTO will conduct a capacity study to determine the resources required for the Contact Centre unit.
Percentage of complaints reviewed within eight days of date captured.	The OTO will conduct a capacity study to determine the resources required by the Complaints Resolution Unit.

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

Indicator	Tabled actual performance 2019/20	Audited Actual Performance 2020/21	Planned annual target 2021/22	Actual achievement 2021/22	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%	Not achieved 80%	-20%	The Office implemented a new systemic investigations process that impacted governance levels of approvals.
Time taken to complete systemic reports approved/requested by the Minister.	Target not planned	20 months after approval	12 months from date of approval	No request from Minister	No request was sent to/received from the Minister for approval, or an investigation was conducted during the reporting period.	There was no request from the Minister or made to the Minister by the OTO.
Percentage reduction of existing systemic issues implemented by SARS.	Target not planned	20%	10%	Not achieved 0%	-10%	SARS delayed implementing the recommendations on OTO systemic issues; the Office and SARS have agreed to have more consistent and formalised feedback sessions on the systemic issues. SARS' remedial plans for open systemic issues will only be rolled out from June 2022. If its plans are successfully implemented we expect a steady finalisation rate in the open systemic issues.

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

Indicator	Tabled actual performance 2019/20	Audited Actual Performance 2020/21	Planned annual target 2021/22	Actual achievement 2021/22	Deviation from planned target to actual achievement 2020/21	Reasons for deviation
Develop a taxpayer tax compendium of rights and obligations.	Target not planned	Achieved Research on the tax compendium was conducted, and the CEO considered the report.	Approval by Tax Ombud	Achieved. Approval by the Tax Ombud – The Tax Ombud approved the Compendium of Taxpayer Rights, Entitlements and Obligations in March 2022.	n/a	The Tax Ombud approved the Compendium of Taxpayer Rights, Entitlements and Obligations in March 2022.

Strategy to overcome areas for underperformance

Underperforming indicator	Strategy to overcome underperformance
Percentage of systemic issues identified and investigated within three months.	The OTO has developed a new policy and Standard Operating Procedure for Systemic Investigation. The implementation thereof will provide consistent processes, structures and governance.
Percentage reduction of existing systemic issues implemented by SARS.	The OTO proposed that SARS should have more consistent formalised meetings to monitor the implementation of recommendations made by the OTO on systemic issues.

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

Indicator	Tabled actual performance 2019/20	Audited Actual Performance 2020/21	Planned annual target 2021/22	Actual achievement 2021/22	Deviation from planned target to actual achievement 2020/21	Reasons for deviation
Percentage of customers satisfied with the OTO's complaints resolution process.	66%	61%	67%	Not achieved 57%	-10%	Inadequate survey response received. The OTO sent the survey with 3 836 complaints finalised, and the Office only received 258 responses.
Percentage of digital communications framework activities implemented.	Target not planned	15%	40%	Achieved 40%	0%	Not applicable
Percentage of community outreach activity framework implemented.	Target not planned	20%	40%	Achieved 64%	24%	The over-achievement was a combination of continuous efforts by the OTO to promote awareness about the organisation and its services and stakeholder appetite for engagements, including media.
Net promoter score for taxpayers' brand recognition survey	Target not planned	Target not planned	+1	Not achieved 0%	-1%	Challenges with the procurement process – Procurement has sent the request to the market, and the quotations received were above the Request for Quotations (RFQ) threshold of R1 million, exceeding the budgeted amount.

Strategy to overcome areas for underperformance

Underperforming indicator	Strategy to overcome underperformance
Percentage of customers satisfied with the OTO's complaints resolution process.	The indicator will be moved to the operational plan. The Office will collaborate with SARS in educating taxpayers about the SARS complaints management process as many of the taxpayers whose complaints were rejected and responded to the customer survey showed a lack of understanding of the SARS complaints management process. In addition, the Office will automate the complaint-lodging and feedback processes as some taxpayers complained about having to scan and email complaint forms.
Net promoter score for taxpayers' brand recognition survey.	The procurement process will resume in the year 2022/23.

4. Strategic objective: Promote stakeholder engagements and collaborations

Indicator	Tabled actual performance 2019/20	Audited Actual Performance 2020/21	Planned annual target 2021/22	Actual achievement 2021/22	Deviation from planned target to actual achievement 2020/21	Reasons for deviation
Percentage of stakeholder engagement framework activities implemented.	Percentage of stakeholder engagement framework activities implemented.	20%	40%	Achieved 41%	1%	The over-achievement was due to continuous efforts by the OTO to educate stakeholders about the organisation, its services and other tax-related matters.

5. Strategic objective: Optimise governance structures, risk management and business processes

Indicator	Tabled actual performance 2019/20	Audited Actual Performance 2020/21	Planned annual target 2021/22	Actual achievement 2021/22	Deviation from planned target to actual achievement 2020/21	Reasons for deviation
Performance audit outcome achieved.	Target not planned	Target not planned	Approved governance framework	Not achieved. The governance framework has been developed and is currently under review.	The governance framework has not yet been approved.	Due to delays in the governance structure consultation process, the framework was not approved by the end of the financial year 2021/22.

Strategy to overcome areas for underperformance

Underperforming indicator	Strategy to overcome underperformance
Performance audit outcome achieved.	The OTO will finalise the review and approval of the governance framework in the 2022/23 financial year.

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

Indicator	Tabled actual performance 2019/20	Audited Actual Performance 2020/21	Planned annual target 2021/22	Actual achievement 2021/22	Deviation from planned target to actual achievement 2020/21	Reasons for deviation
Tax Administration Amendment proposals were sent to National Treasury for consideration.	Target not planned	0	One proposal/decision	Achieved - one proposal/decision was submitted to the National Treasury in December 2021	None	Not applicable
Number of SLAs and MoUs with stakeholders.	Target not planned	0 MoUs reviewed	Two MoUs	Not achieved No MoUs	Two MoUs	The review of the MoUs was not completed due to delays in receiving input from the relevant stakeholders to finalise them. The MoUs will be concluded by the first quarter of 2022/23.
	Target not planned	0	Two SLAs approved	Not achieved No approved SLAs	Two SLAs approved	The review of the SLAs was not completed due to delays in receiving input from the relevant stakeholders to finalise them.

Strategy to overcome areas for underperformance

Underperforming indicator	Strategy to overcome underperformance
Number of SLAs and MoUs with stakeholders.	The OTO will request SARS to reintroduce periodic meetings between the Tax Ombud and the Commissioner of SARS to ensure that documents that govern the relationship between the two entities, and any non-compliance thereof, receive the attention required and are updated to remain relevant and efficient.

Reporting on the institutional response to the Covid-19 pandemic

The Office Enablement and Support Services unit is the custodian of the occupational health and safety function, which was responsible for implementing all health and safety protocols and workplace adjustments aligned to the Covid-19 pandemic stipulated by the Disaster Management Act during the reporting period. The focus for the period under review was to ensure a safe and healthy work environment amid a global pandemic. The key initiatives implemented as part of the OTO's response plan to Covid-19 included the following: the development, implementation, and management of the Covid-19 Response Workplace Plan.

- Implementation of new working arrangements such as remote working to support business continuity.
- Implementation and adjustment of onsite workspaces to adhere to all Covid-19 workplace protocols.
- Provision of personal protective equipment (PPEs) to all employees.
- Regular communication to employees on Covid-19.
- Management and reporting of Covid-19 cases during the reporting period.

- All walk-in visits were suspended.
- All communication, outreach and stakeholder relations activities and presentations were done virtually.

The Covid-19 pandemic has proved that, as an organisation, the OTO can adapt accordingly and still deliver on our mandate.



“I would like to thank you for your assistance in getting my case resolved. I deeply appreciate your support. Once again, **thank you very much.**”

*Taxpayer feedback. Taxpayers' details remain confidential.

Part C: Governance



Governance

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 Office of the Tax Ombud is led by the Tax Ombud Judge Bernard Makgabo Ngeope. The Tax Ombud is assisted by the Chief Executive Officer, Professor Thabo Legwaila. The OTO had three governance committees during the 2021/22 financial year, namely the:

- Governing Body,
- Senior Management Committee, and
- Independent Audit and Risk Committee (SARS sub-committee).

2. PORTFOLIO COMMITTEES

The Office of the Tax Ombud was not scheduled to attend portfolio committee meetings during the 2021/22 financial year. Therefore, no meetings were attended.

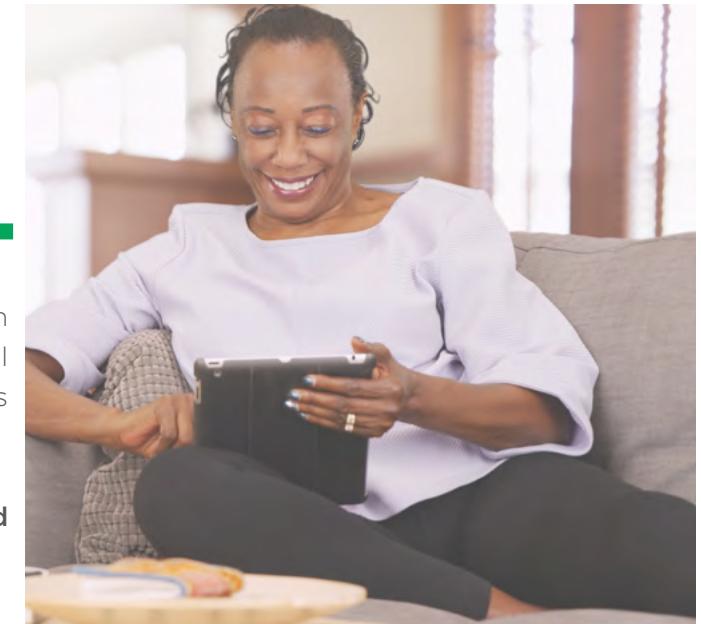
3. ACCOUNTING AUTHORITY

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

The role and responsibilities of the Tax Ombud include:

- absolute responsibility for organisational performance in line with the OTO's mandate;
- ensuring complete and effective control over the organisation;
- ensuring compliance with applicable laws, regulations and government policy;
- ensuring the preparation of reports and financial statements;
- formulating, monitoring and reviewing the corporate strategy, major plans of action, budget and plans;
- ensuring an adequate and effective risk management framework; and
- developing a clear definition of materiality.

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.



"I am writing to say thank you for your assistance over the past few months with several complaints I had against SARS for which you ruled in my favour. I received notification this morning that SARS has paid the final refund due to me. **So, at last, my tax affairs are all up to date.**"

*Taxpayer feedback. Taxpayers' details remain confidential.

GOVERNING BODY MEETING

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

The GB held four quarterly meetings during the 2021/22 financial year. It approved and submitted to the relevant stakeholders all the statutory documents required by the governance prescripts.

Table 7: Governing Body meetings

Member	Position	No of committee meetings attended
Judge Bernard Ngoepe	Tax Ombud	4
Prof. Thabo Legwaila	Chief Executive Officer	4
Gert van Heerden	Senior Manager: Legal Services and Systemic Investigations	3
Talitha Muade	Senior Manager: Operations	4
Pearl Seopela	Senior Manager: Communications and Stakeholder Relations	3
Mmamelao Malakalaka	Senior Manager: Office Enablement and Support Services	4

SENIOR MANAGEMENT COMMITTEE (SMC)

As stipulated in the terms of reference of this committee, the CEO chairs the Office of the Tax Ombud SMC. The Committee exists to support the Tax Ombud in executing the mandate of the Office.

The Committee held 12 monthly SMC meetings and one planning session meeting to finalise the Annual Performance Plan. The monthly meetings were replaced with weekly meetings during lockdown level 5 for two months (April and May 2020).

The committee held 12 monthly SMC meetings as required by the SMC terms of reference to discuss the operational progress of the Office. The SMC held a strategic planning session on 19 and 20 October 2021. The purpose of the session was to discuss and develop the OTO Annual Performance Plan for the 2022/23 financial year.

The Committee recommended that all the statutory documents required in terms of the governance prescripts be submitted to the Tax Ombud for approval.

Table 8: Senior Management Committee meetings held in 2021/22

Member	Position	No of committee meetings attended
Prof. Thabo Legwaila	Chief Executive Officer	12
Gert van Heerden	Senior Manager: Legal Services and Systemic Investigations	11
Talitha Muade	Senior Manager: Operations	10
Pearl Seopela	Senior Manager: Communications and Stakeholder Relations	11
Mmamelao Malakalaka	Senior Manager: Office Enablement and Support Services	12

4. RISK MANAGEMENT

The OTO considers risk management as an essential tool of governance, which helps ensure the continued sustainability of the OTO and the achievement of its strategic objectives. The Office reviewed its strategic and operational risks during 2021/22 to identify areas of focus that can hinder the achievement of the performance objectives.

The Office reviewed and updated the strategic and operational risks during the 2021/22 financial year.

5. INTERNAL CONTROL

The OTO has internal control measures in place to strengthen governance and ensure that the quality of its work is of the desired standard. The following processes were put in place in this financial year:

- Complaints Resolution Policy, which provides a legal framework within which all relevant functions of the OTO must operate when evaluating and reviewing complaints.
- Systemic Investigation Policy, which provides the legal framework within which all relevant roles within the OTO must stay when identifying and reviewing systemic and emerging issues.
- Systemic Investigation Procedures, which provide the procedure to be followed by the OTO when investigating a systemic issue. The systemic investigation process includes identifying and reviewing systemic issues and maintaining the emerging and systemic issue register.

- The Office revised the procedures on appeals against the outcome of the complaints finalised by the OTO. This procedure applies when a complainant is not in agreement with the decision taken by the Office of the Tax Ombud concerning the outcome of a complaint, or an Operational Specialist: Complaints Resolution is not in agreement with the decision taken by the Complaint Review Committee (CRC).

6. HEALTH AND SAFETY

In response to the nationwide lockdown imposed under the Disaster Management Act in South Africa, the OTO's Procurement team acted swiftly to secure and provide the OTO employees with essential personal protective equipment (PPE). All procurement processes were followed and precautionary measures were taken throughout the year, in accordance with the applicable lockdown alert levels, including work-from-home arrangements.

In the last quarter of the financial year, the OTO approved the adoption of a hybrid working system that allows employees to return to the Office on a rotational basis. The Office developed a schedule to guide employees on when they are expected to work on site and when they may work from home. The Office has put measures in place to monitor compliance with the Covid-19 protocols.

7. CODE OF CONDUCT

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

Audit Committee Responsibility

The Tax Ombud and the SARS Commissioner agreed on 2 June 2021 to share the services of the Audit and Risk Committee. In terms of the agreement, the SARS Audit and Risk Committee serves as an independent sub-committee to the OTO. SARS officials would excuse themselves from the OTO Audit and Risk sub-committee when it deals with the matters of the Tax Ombud.

The OTO sub-committee held three meetings during the 2021/22 financial year. The OTO senior management and the Audit and Risk sub-committee identified an anomaly in the application of the proposed terms of reference, which may affect the establishment and independence of the Office. The arrangement in terms of the initial agreement to act as an independent Audit and Risk sub-committee to the OTO was halted. The Tax Ombud will appoint a new independent governance committee to oversee the effectiveness of internal controls regarding the performance information against predetermined objectives.

Part D:

HUMAN RESOURCES MANAGEMENT



Human resources management

INTRODUCTION

Overview

Our human resources function provides HR services through the SARS HR Business Partnering model. The HR function supports the goals and strategies of the Office, ensuring that HR planning and practices are consistent across the institution. Our people are essential to successfully deliver on our mandate and execute our strategic objectives. To achieve this, we need to recruit and retain a skilled workforce and adequately reward our people for their contribution. Our values are aimed at driving a culture of performance and accountability. Our desired organisational culture is supported by effective employee engagement, our employee value proposition and accountability.

The human resources function derives its mandate from strategic objective three, creating an agile organisation that is able to scale efficiently to meet taxpayer demands. This objective concerns the critical responsibility of providing a sustainable supply of human capital to meet internal capacity demands with relevant skills and capabilities so that the OTO can carry out its mandate. A conducive workplace, cohesive organisational culture,

embedded value system and engaged workforce are prerequisites for achieving organisational effectiveness, improved productivity, enhanced performance and pursuance of excellence. The new operating model introduced in 2021/22 provides the roadmap for future organisational growth aligned to the organisational and human capital strategy. It will ensure that the OTO has a healthy and productive workforce to support its core business. As of 31 March 2022, the Office headcount totalled 40 employees, which is made up of 85% African and 15% white, while the gender distribution was 52.5% females and 47.5% males.

Employee wellness

As the Covid-19 pandemic has evolved, so have the measures Government has taken to address it. Reduction in face-to-face contact was an important action to mitigate the impact of Covid-19. In this new environment, the OTO adapted and made contingency plans to respond to new measures as they arose.

The Office implemented work-from-home arrangements, which saw OTO employees fulfilling the essential responsibilities of their jobs while remaining at home, using information and communications technology (ICT).

There were multiple benefits associated with the work-from-home arrangements, including reduced commuting times; greater autonomy and flexibility in the organisation of work; a better work-life balance; increased motivation and reduced employee turnover; and in some areas, enhanced productivity and efficiency.

Human Resources Strategy

The Office has approved a Human Resource (People Management) Strategy which identifies the programmes and projects that will build a workforce capable of delivering on the Office's vision, mission and objectives as set out in the Strategic Plan 2020 – 2025. A key aspect for the Office in developing this strategy is promoting an approach to people management issues. The importance of the strategy is to enforce the culture of the Office as a crucial element of people management.

The HR strategy will be implemented in phases. Phase one pertains to organisational design and concentrates on aligning organisational strategy, mandate, the operating model, workforce planning and processes. Phase two pertains to the integrated talent management process. The Office has the following phase one documentation in place:

- Organisational mandate
- Strategic Plan 2020 – 2025
- Operating model

In terms of the organisational design, the following are yet to be completed to conclude Phase one:

- Workforce planning
- Practice and process
- Transactions.

HUMAN RESOURCES OVERSIGHT STATISTICS

The personnel expenditure remains the main cost driver and represented 87% of the total expenditure for the 2021/22 financial year.

Table: 9: Personnel cost by programme/activity/objective

Programme/ activity/ objective	Total expenditure for the entity (R'000)	Personnel expenditure (R'000)	Personnel expenditure as a % of total exp.	No of employees	Average personnel cost per employee (R'000)
Office of the Tax Ombud	44,425	38,775	87%	40	969

Table: 10: Training costs

Programme/ activity/objective	Personnel expenditure (R'000)	Training expenditure (R'000)	Training expenditure as a % of personnel cost	No of employees trained	Average training cost per employee (R'000)
Office of the Tax Ombud	R38 775.00	R147.00	0.38%	28	R5.250

The majority of training interventions were either distance learning or web-based. In this regard, 236 training interventions were recorded for the year under review. This is all internal training done through the SARS Institute of Learning; hence, it has no direct cost.

Table: 11: Employment and vacancies by programme

Programme	2020/21 Number of employees	2021/22 approved posts	2021/22 no of employees	2021/22 vacancies	% of vacancies
CEO's Office	3	3	3	0	0%
Office Enablement	12	8	8	0	0%
Operations	15	27	18	9	33.33%
Communications and Stakeholder Relations	5	7	5	2	28.57%
Legal Services and Systemic Investigations	6	6	6	0	0%
Total	41	51	40	11	21.57%

The changes in the headcount between Office Enablement and Operations are attributed to the new operating model implemented in April 2021. The number of vacancies for 2021/22 stood at 11, comprising six unfunded positions, three graduate trainees, one Manager: Customer Service and an Operational Specialist: Complaints Resolution (following a resignation).

Table: 12: Employment and vacancies by levels

Levels	2020/21 No of employees	2021/22 approved posts	2021/22 No of employees	2021/22 vacancies	% of vacancies
Top Management	2	2	2	0	0%
Senior Management	4	4	4	0	0%
Professionally qualified	26	33	25	8	24.24%
Skilled	8	11	8	3	27.27%
Semi-skilled	1	1	1	0	0%
Unskilled	0	0	0	0	0%
Total	41	51	40	11	21.57%

Table: 13: Employment changes

Salary band	Employment at the beginning of the period	Appointments	Terminations	Employment at the end of the period
Top Management	2	0	0	2
Senior Management	4	0	0	4
Professional qualified	26	0	1	25
Skilled	8	0	0	8
Semi-skilled	1	0	0	1
Unskilled	0	0	0	0
Total	41	0	1	40

During the year under review, we had only one resignation: an Operational Specialist: Complaints Resolution.

Table: 14: 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%
Total	1	100%

[Table:15: Labour Relations: Misconduct and disciplinary action](#)

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

Equity target and employment equity status

One of the critical initiatives through which meaningful transformation can be realised is employment equity. We continue to make progress in ensuring equitable representation of the workforce at all occupational levels to reflect the country's demographics truly. The disability target of 2% for the year was not met. Our ongoing financial challenges hinder the achievement of transformation targets. Our gender ratio remains relatively stable, at 53% male and 47% female employees at all occupational levels. Wherever possible, vacancies that arise due to natural attrition are targeted at people with disabilities and women.

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, units focused on inclusivity and diversity, particularly of previously disadvantaged employees. With the impact of the pandemic, there have been limited recruitment activities during the year under review.

[Table:16: Employment equity by gender - Males](#)

Levels	MALE							
	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
Professionally qualified	11	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
Total	15	16	0	0	0	0	4	4

[Table:17: Employment equity by gender - Females](#)

Levels	FEMALE							
	African		Coloured		Indian		White	
	Current	Target	Current	Target	Current	Target	Current	Target
Top Management	0	0	0	0	0	0	0	0
Senior Management	3	3	0	0	0	0	0	0
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
Total	19	19	0	0	0	0	2	2

The OTO does not have employees with disclosed disabilities.

Part E: Financial Information



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 2021 to 31 March 2022. The information 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 in the previous financial years and between the 2020/21 and 2021/22 financial years.

The National Treasury approved a total budget of R44,9 million for the 2021/22 financial year. National Treasury further approved an amount of R4,4 million relating to the 2020/21 retained surplus in section 53(3) of the Public Finance Management Act of 1999. The budget increased to R49,3 million. The employee cost remains one of the main cost drivers and represents 87% of the total expenditure. The OTO headcount for the 2021/22 financial year was 40, and there was one resignation.

Table 18 indicates expenditure per cost element, total expenditure and the variance for the year. The revised budget for the 2021/22 financial year, including the retained surplus is R49,3 million. The total expenditure for the year is R44,4 million, resulting in a variance of R4,9 million. The main

contributors to the favourable variance were delays in implementation of other phases of the digital communications framework, savings on vacant positions and delays in procurement of the service provider to conduct the taxpayer perception survey. The procurement of goods and services was suspended due to the Constitutional Court judgment on the 2017 Regulations of the Preferential Procurement Policy Framework Act 5 of 2000, which impacted the delivery of essential goods and services. The run rate at the end of the financial year was 90%.



Table 18: Expenditure per cost element

Cost element	2021/22				2020/21			
	YTD actual (R'000)	Budget (R'000)	Variance (R'000)	% Variance	YTD actual (R'000)	Budget (R'000)	Variance (R'000)	% Variance
Personnel expenditures	38,775	39,676	901	2%	37,291	37,439	148	0%
Information & communication technology	1,797	3,902	2,105	54%	181	368	188	51%
Corporate real estate	-	7	7	100%	54	92	38	41%
Other cost: related to revenue collection	2,834	3,019	185	6%	3,276	3,758	482	13%
Other cost: statutory related	397	397	-	0%	-	-	-	-
Other variable support cost	622	1,762	1,140	65%	530	1,427	898	63%
Capital expenditure	0	562	562	100%	1,442	4,151	2,709	65%
Total operating and capital expenditure	44,425	49,325	4,900	10%	42,774	47,235	4,463	9%

2. Commentary per cost element

1. Personnel expenditures

There is an increase of 4% in personnel expenditure compared to the 2020/21 financial year, which is attributable to the annual salary increases. The variance of R901 000 is a result of vacant positions. There was one resignation during the period under review.

2. Information and communication technology

The variance of R21 million is a result of delays in the implementation of other phases of the digital communications framework. The other

phases will be finalised during the 2022/23 financial year.

3. Other variable support costs

There is an underspending of R11 million due to underspending on bursaries and delays in the procurement of the service provider to conduct the taxpayer perception survey.

4. Capital expenditure

There is an underspending of R562 000.00 and the favourable variance is a result of delayed procurement of laptops. Procurement was suspended due to the Constitutional Court

judgement on the 2017 Regulations of the Preferential Procurement Policy Framework Act 5 of 2000, which impacted procurement at the OTO.

Table 19 shows the actuals and budget for the 2020/21 and 2021/22 financial years and the budgets for those years. 90% of the budget was spent during the 2021/22 financial year, and 87% was spent on employee costs.

Table 19: Percentage utilisation of the allocated budget

Financial year	Actuals (R'000)	Budget (R'000)	Utilisation of the allocated budget
2020/21	42,774	47,235	91%
2021/22	44,425	49,325	90%

Chart 9 depicts the actual expenditure and budgets for the previous financial years since the establishment of the OTO. The trends show an increase in actuals and budget because of the increase in demand for service.

Chart 9: Actuals versus budget trends

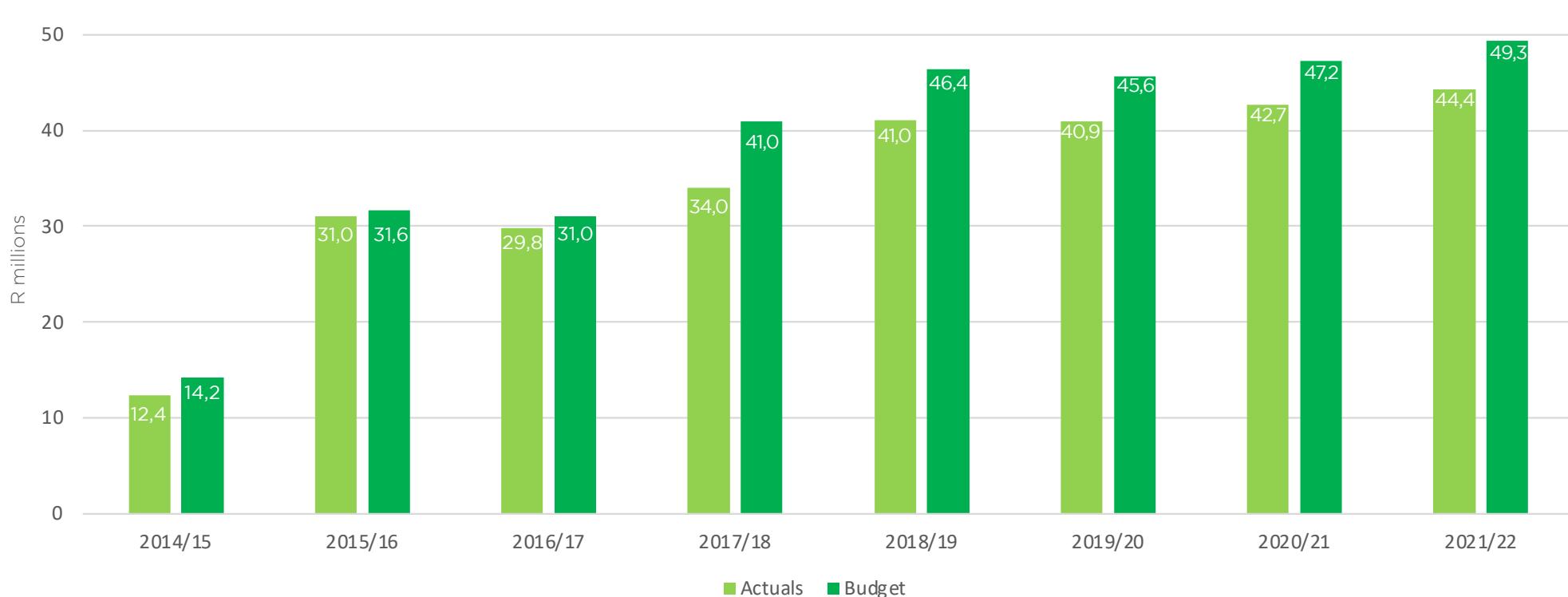


Chart 10 compares the actual expenditure to budgeted expenditure. It shows that the main cost driver is personnel expenditure.

[Chart 10: 2021/22 actual to budget comparison](#)

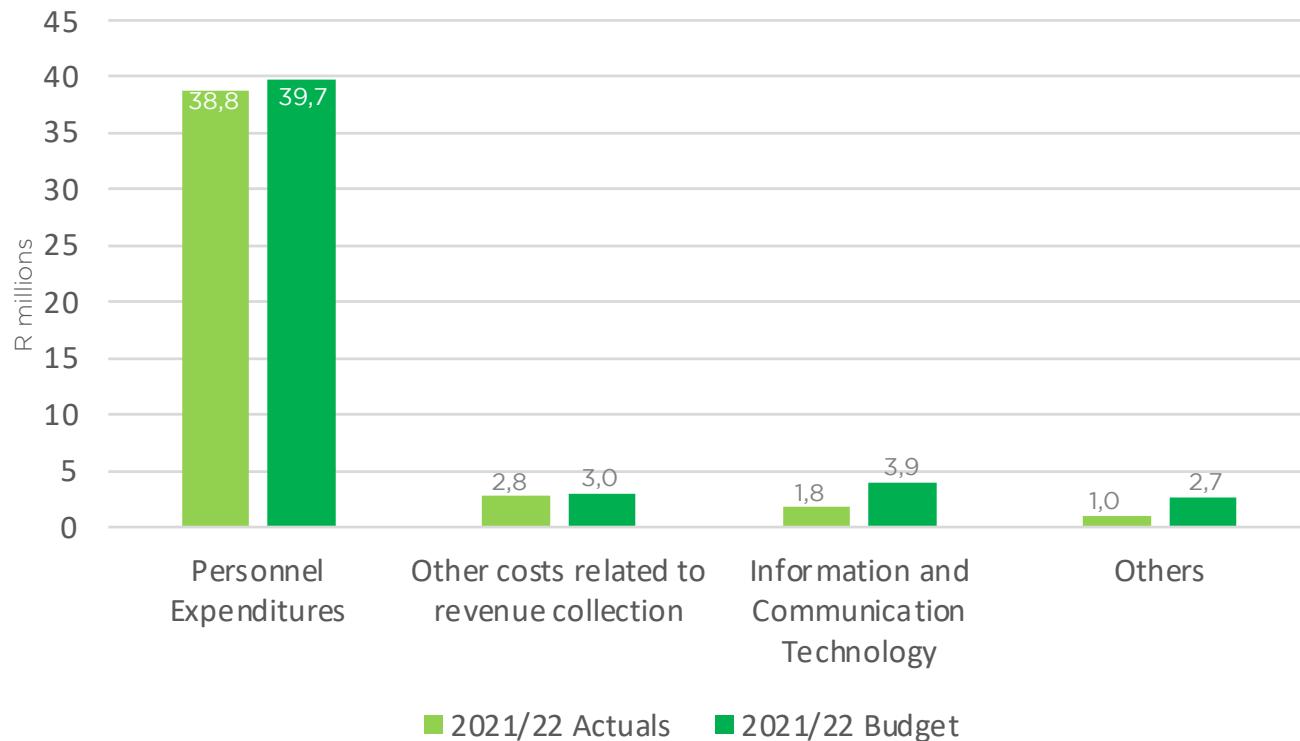


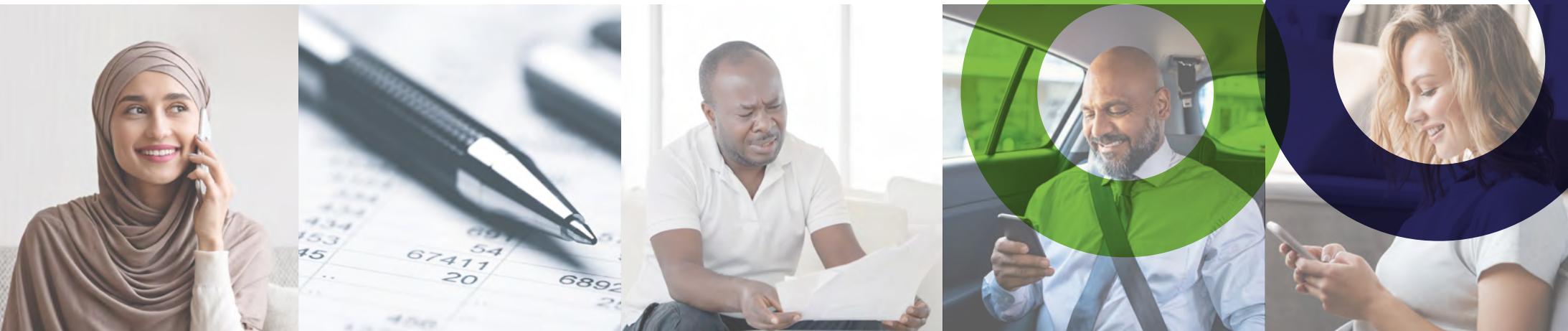
Table 20 indicates costs incurred by SARS on behalf of the OTO and includes building rent, security services, protection services staff and hospitality staff.

[Table 20: Costs incurred by SARS on behalf of OTO](#)

Costs incurred by SARS on behalf of the OTO in the 2021/22 financial year	
Description	Amount (R)
Building rent	2 096 169
Operating cost	404 408
Water and electricity	456 963
Rates and taxes	330 835
Security service	828 257
Hospitality staff	399 874
VIP protection staff	904 096
Total	5 420 602

Acronyms

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





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