

Issue 35

FAIR PLAY

STAKEHOLDER NEWSLETTER



OFFICE OF THE
TAX OMBUD

SARS and the
Taxpayers:
30 Years into
Democracy



Beacon of Hope
after 30 Years
of Democracy



Be a
Smart
Taxpayer



Welcome

We are celebrating the 11th anniversary of the Tax Ombud (OTO). This special edition of Fair Play reports on our milestones and offers interesting insights on tax matters, as well as into tax and 30 years of democracy and changing taxpayers.

In this issue

03.
Tax Ombud's
Corner



05.
From the
CEO's Desk



07.
Taxpayer
appreciation
for the OTO



SPECIAL FOCUS:

30 Years of a democratic tax administration

09 SARS and the taxpayer:
**30 years into
democracy**
Itumeleng Nkadimeng,
Gemma Henry

15 In search of the smart taxpayer:
**The OTO's 11-year
contribution to
tax justice**
Theo Burrows

13 **OTO - Beacon
of Hope after
30 Years of
Democracy**
Puleng Mothabeng,

17 Smart taxpayers -
**Are we there
as a country?**
Nelene Naicker



MAKE TAX
MATTERS
PRIORITY #1

19.
Trust Filing
Season

23.
Out &
About



TAX OMBUD'S CORNER

On 6 November 2024, the Office of the Tax Ombud (OTO) launched its 2023/24 Annual Report in collaboration with the South African Chamber of Commerce and Industry (SACCI). This follows the tabling of the OTO 2023/24 Annual Report by the Minister of Finance in Parliament on 18 September 2024.

Some of the most notable achievements of the OTO during the 2023/24 financial year include:

- A sizeable increase in the total amount of the top 10 refunds that the OTO assisted in securing from SARS through its intervention. Refunds increased to over R179 million, compared to R103 million in the previous year.
- Complaints reviewed and validated by the OTO increased by 16.62% compared to the previous year.
- The user population accessing the OTO's services increased by 13.28% compared to 2022/23. This indicates that most taxpayers are now utilising the OTO's services directly without going through taxpayer representatives.
- Despite concerns about the non-binding nature of the OTO's recommendations, SARS has implemented about 99.7% of these recommendations in the 2023/24 financial year. However, there is a need for more timely implementation of the OTO's recommendations, and the OTO has started utilising other provisions available in the Tax Administration Act, 2011, to ensure that SARS implements the OTO recommendations in good time.

- The OTO continues to pursue systemic investigations to address widespread issues affecting taxpayers and is currently busy with the systemic investigation of the hijacking of taxpayers' eFiling profiles. It is worth mentioning that the Australian authorities (Inspector General of Taxation and Taxation Ombudsman) dealt with a similar challenge. We will consider the relevance of their inputs and also discuss their report findings to identify best practices that can protect taxpayers and prevent eFiling systems from being hijacked.

The OTO faces a challenge in terms of awareness and outreach, as it serves the entire country from only one office, which is located in Gauteng. The effectiveness of the OTO can be significantly hindered if taxpayers are not aware of its role, how to access its services or when to seek assistance.

- The OTO is addressing these challenges by steadily increasing public awareness in areas beyond Gauteng province, using social media, publishing articles, regularly appearing on national television and radio stations, hosting webinars, and holding workshops and mall exhibitions.



- The OTO's annual awareness campaign, under the theme, "Be a Smart Taxpayer", has been running for over a month since its launch on 1 October 2024. The recent mall exhibition by the OTO on this awareness campaign, which was held at Eastgate Shopping Centre from 22 to 28 October 2024, is an example of a proactive approach to increasing public awareness about the OTO services.

11 years of free, independent and impartial services to taxpayers

October of each year is a special month for the OTO, as we celebrate our 11th anniversary of providing free, independent and impartial services to taxpayers and reflect on the OTO's progress in improving the taxpayer experience in South Africa.

The OTO's 11th anniversary is an important milestone for the OTO in championing taxpayer rights and helping to promote a healthy balance between SARS's powers and duties on the one hand, and taxpayer rights and obligations on the other. Over the past 11 years, the OTO has consistently

pursued excellence in executing its mandate. This has helped instil trust in the tax administration system, which is essential for voluntary compliance, as taxpayers are more likely to fulfil their obligations when they believe the system is fair and their concerns are appropriately addressed.

The increasing appreciation from taxpayers and other stakeholders to the OTO is a powerful testament that it is fulfilling its mandate effectively and has made an enormous difference in the country's tax administration system.

Conclusion

In conclusion, we remain committed to making a difference in taxpayers' lives and improving the country's tax administration system. We understand that our success over the past 11 years can be attributed mainly to the support we receive from taxpayers and other stakeholders.

The OTO is grateful to taxpayers and its stakeholders for working together to foster an environment of transparency, fairness and accountability within the tax administration system. This appreciation extends to Team OTO for their dedication and commitment to protecting taxpayer rights and promoting tax compliance. I am confident that we will continue to reach new heights together.

Ms Yanga Mputa,
Tax Ombud

FROM THE CEO'S DESK

As South Africa celebrates 30 years of democracy, our people reflect on its journey from apartheid and inequality to a society striving for equality and justice. In the past three decades, our country has made strides in building and strengthening democratic institutions, fostering economic development and promoting and protecting human rights, which include taxpayer rights.

An important element of these institutions is the Office of the Tax Ombud, which, among others, has been instrumental in ensuring fairness and transparency in the country's tax administration system. While there is no denying that tax collection is a cornerstone of a functioning democracy and the South African Revenue Service requires great powers to collect taxes due, the same could be said about having the Tax Ombud to ensure that such powers are not abused. This is to ensure that there is a balance between taxpayers' rights and obligations and SARS's powers and duties, ensuring taxpayers don't pay a cent more or less than what is due.

What we have done as an institution

Since its inception 11 years ago, the OTO has carved out a unique and crucial place in the socio-economic fabric of South Africa. It has provided taxpayers and tax practitioners with a distinct and impartial channel to seek resolution for service, procedural or administrative disputes. These are issues that they might have previously struggled to resolve through SARS's complaints management channels, underscoring the Office's vital role in the tax landscape.

Over the years, our commitment to reducing the time the Office takes to resolve taxpayers' complaints has seen significant improvement. This is due to the team's dedication to processing cases and simplifying the complaints process. We are equally committed to working hard and reducing the systemic issues that affect large numbers of taxpayers. The systemic investigations and subsequent reports issued in the past few years have had a significant impact in addressing complaints of a systemic nature, including delays in the payment of tax refunds.

We engage SARS regularly on open systemic issues and understand and appreciate its commitment to addressing systemic issues. Many of these issues require huge capital investment, such as upgrading technology systems or hiring additional staff. However, progressive improvement brings hope for the resolution of taxpayer complaints. The Minister of Finance's approval of the latest systemic investigation, that into eFiling profile hijacking, demonstrates that the tax administration system is not static. As one issue is resolved, another emerges, requiring constant attention to the evolving tax administration landscape.



This underscores the importance of having informed taxpayers and intensifying awareness. Our 'Be a Smart Taxpayer,' campaign, launched in October, aims to maximise awareness about the OTO brand and its services and to promote awareness of taxpayer rights and obligations.

The past 11 years have provided a positive baseline for the future growth of the Office of the Tax Ombud. We are grateful for our relationships with various stakeholders, including taxpayers, tax practitioners, government entities, Recognised Controlling Bodies and other relevant organisations.

We are thankful for the faith and trust that taxpayers have placed in us. These relationships are crucial for ensuring that taxpayers' rights are respected and that the tax system operates fairly.

We are committed to enhancing our services to taxpayers and inspiring better tax compliance and a fairer tax system for all.

Prof. Thabo Legwaila,
Chief Executive Officer

Taxpayer appreciation for the OTO's services

The OTO regularly receives thank you letters and calls from taxpayers expressing appreciation for assisting with their tax complaints against SARS or providing insightful information on other tax matters. Fair Play shares some of the commendations which illustrate that the OTO works and makes a difference in the lives of taxpayers.

"I am certain that I speak on behalf of countless tax practitioners (and taxpayers) where we are enormously grateful for the efficiency and **fantastic work** done by the Office of the Ombud! You are indeed an absolute **Beacon of Hope** when we feel drowned with the overwhelming SARS issues, which never seem to end!"

"Thank you very much for assisting my mother and I in sorting out this problem. We were really stuck, and SARS only got actively involved in trying to solve it once the Ombudsman was involved. Thank you once again and keep up the **good work!**"

"Thanks for keeping us updated. I think the Tax Ombudsman is excellent, fair and honest. I agree that people have to pay fair taxes, but SARS are often high-handed and quite unfair [they do only what suits them]. But at least we have the Tax Ombud for guidance, honesty and correctness."

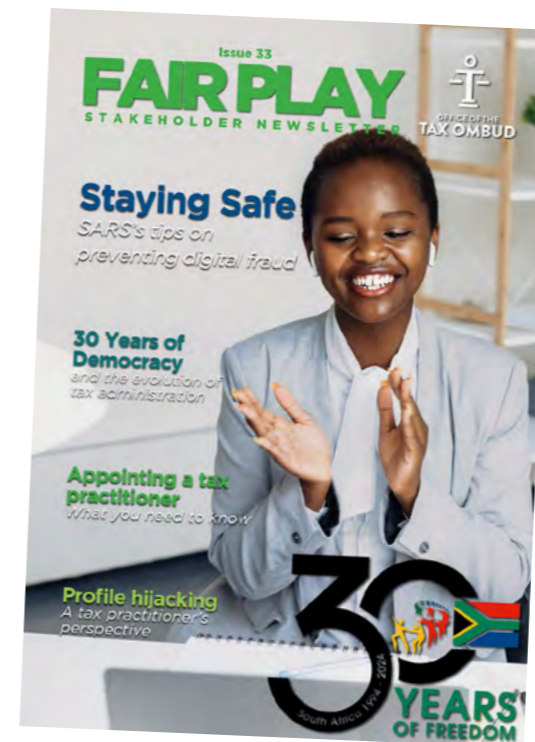
NOTE: Taxpayer names withheld for confidentiality purposes, where appropriate.

"On behalf of the SAIPA eThekweni District Committee Members, we wish to place on record our sincere gratitude and appreciation for your **valuable presentation to our members** yesterday.

Feedback from delegates was extremely positive and encouraging. Your interest, time and effort in educating our members are a win-win for SAIPA. We hope you enjoyed the evening with us and look forward to further interactions with you in the future."



SAIPA™
YOUR WEALTH



"This edition (issue of Fair Play) is exceptionally powerful and well done. Against the backdrop of the 30-year celebration of our freedom, the current issues around cybercrime that have infiltrated our taxation system, which is putting our freedom at risk, are starkly highlighted. The contributions all touch on a similar theme and emphasise different and important aspects. **Exceptionally well done!**"



"I would like to send this mail as an appreciation message to Stanley Maringa and Nico Mokgoko, who were assigned to my case. Thank you for your rapid response and dedication to my case, which was resolved at SARS way before the 15-day period! My tax refund was paid this morning around 01:00 am. I am extremely happy about the progress made here

(PS to Management: Please give them a bonus for their efforts)."



TAX INSIGHT offers a platform for various voices in the tax sphere to share insights, comments, or tips on tax-related matters. The content below was contributed by external stakeholders who are not affiliated with the OTO. The insights, analysis and opinions do not necessarily reflect the views of the Office.



SARS and the taxpayer: 30 years into democracy



Itumeleng Nkadimeng,
Partner (Director), Corporate Tax,
KPMG, Tax and Legal



Gemma Henry,
Associate Director, Corporate Tax,
KPMG, Tax and Legal

The year 2024 marks 30 years of democracy and freedom for South Africa – 30 years marked by key milestones, which include the establishment of the South African Revenue Services (SARS) as the national tax collection agency and its legislative mandate as set out in the South African Revenue Service Act 34 of 1997 (SARS Act). It is therefore appropriate that when one considers the evolution and growth of the Republic under a democratic dispensation, one equally considers SARS’s crucial role in administering the South African tax system and customs services. The ambit of SARS’s administrative services has over the years continued to evolve, and in ensuring that such services are continuously reflective of the principles enshrined in the Constitution of the Republic, the Office of the Tax Ombud was established in 2013 to further enhance the tax administration system as it extends to service delivery, procedural fairness in relation to taxpayer matters and administrative concerns.

In administering the tax system and customs services, SARS engages with various types of taxpayers in an ever-changing and complex economic

landscape, whilst being required under the umbrella of the Constitution, read together with the SARS Act, to provide a fair and equitable service. While over the years there may have been some debate relating to the “friendliness” and extent of the relationship between SARS and taxpayers, it is abundantly clear that in fostering a sustainable tax ecosystem, SARS relies on taxpayers adopting responsible tax practices. Stated differently, SARS in executing its “*pursuit of a strategic intent to develop a tax system based on voluntary compliance, and where appropriate, enforce [this intent] responsibly and decisively...*”¹, relies on the premise that taxpayers are paying their fair share of taxes.

The determination by taxpayers of their liability and compliance obligations, including where and when such liabilities are to be paid / obligations fulfilled, are complex issues that require sustained and careful consideration. **This gives rise to the question as to how taxpayers can navigate their tax affairs in a proactive manner to obtain certainty in relation to the fulfilment of their obligations and ultimately the positions adopted.**

KPMG International’s 2023 Global Tax Function Benchmarking Survey established that organisations listed **tax reform** i.e. complex changes in legislative and policy design and implementation (including changes in tax rates), as well as changes to finance / tax systems, as being amongst the top three disruptors that had the greatest impact on organisations within the period of the survey. It follows, in the context of the aforementioned disruptors, that organisations, in proactively navigating their tax affairs and managing tax risks down to an acceptable level, should monitor the effectiveness and efficiency of their tax risk management framework, internal tax controls and the tax governance processes, as part of responsible tax practices.

However, the adoption of responsible tax practices by taxpayers goes beyond risk management. It includes “... [discovering] more effective ways to fulfill baseline compliance obligations, increase accuracy, and provide more stringent adherence to increasing regulations...”.

¹ [South Africa Revenue Service Charter 2023](#)



As such, taxpayers are encouraged to:

- monitor tax filing deadlines and calendars to ensure returns are filed and payments are made timeously;
- formulate technical merits in support of positions adopted in relation to complex and material transaction significantly impacting the tax obligations of the entity (including an assessment of whether the position adopted is more likely than not to withstand scrutiny from the revenue authority in light of the legislative requirements, case law and the organisation's risk management policy);

- utilise data analytical tools/methods to obtain data-based insights and better visibility of the organisation's tax footprint, in a clear and concise manner that allows for easy identification of tax risks and opportunities across the business and perform in-depth analysis to arrive at more actionable results and better identify risks, root causes and investigate anomalies for material misstatement caused by incorrect tax treatment (control deficiencies).

In response to the practical modernisation requirements of finance and tax systems, urgent response is now required to the question regarding the need for a business case for change and investment

in managing taxes (a need for change and investment in enhancement of the tax control environment to align with their broader business framework) so that tax is managed as a strategic and key process in managing the business operations of organisations.

We can agree that navigating one's tax compliance affairs and ensuring obligations are fulfilled in a manner which responsibly and fairly contributes to the fiscus has its own set of challenges; however taxpayers are encouraged to obtain assurance over the extent and ability of their processes to manage their tax obligations and level of compliance with tax laws.

The Tax Ombud is celebrating a milestone 11-year anniversary since its establishment, having assisted many a taxpayer in resolving service, procedural or administrative complaints by adopting an approach which positively contributes "... to a culture of respect for the tax system and for taxpayers' rights..." by having regard to the balance of taxpayer rights versus SARS's duties in fulfilling its obligations. Taxpayers are therefore encouraged to make use of the services of the Tax Ombud to resolve qualifying matters.

OTO - Beacon of Hope after 30 Years of Democracy

Puleng Mothabeng,
Associate - Tax & Exchange Control, Cliffe Dekker Hofmeyr Inc



Celebrating the unwavering efforts of the Office of the Tax Ombud amidst the shifting economic landscape and its impact on taxpayers

As South Africa marks over 30 years of democracy, the nation's economic landscape continues to evolve, presenting both challenges and opportunities for its citizens. As such, the economic outlook for South Africa remains a topic of significant interest, particularly for taxpayers who are interested in understanding the impact the country's fiscal policies and economic performance will have on them and the amount of taxes they may be required to pay to the South African Revenue Service (SARS) as a result thereof.

Current economic landscape

Taxpayers in South Africa are undoubtedly affected by the country's economic performance. A robust economy inevitably leads to higher employment rates, increased income levels and greater tax revenues. Conversely, economic downturns can result in job losses, reduced income and lower tax collections.

It is no secret that South Africa's economy has faced numerous challenges in recent years. The economic landscape has

been constrained for several years as a result of, amongst other things, slow, unpredictable growth, unpredictable energy supply, failing infrastructure and lack of confidence in the market, ever-increasing unemployment rates, and persistent inequality. The COVID-19 pandemic exacerbated these issues, forcing the economy to regress and almost obliterating South Africa's progress since the advent of democracy.

Notwithstanding the current challenges that the South African economy faces, the economy is showing some improvements, albeit slowly. In terms of the gross domestic product (GDP) statistical release for the second quarter, dated 3 September 2024, South Africa's GDP increased by 0,4% in the second quarter, following a 0,0% growth in the first quarter. Although load shedding has not completely stopped, it has substantially decreased over the last couple of months allowing for some stability among corporate South Africa. From a tax policy perspective, the National Treasury also appears to be making an effort to introduce tax policies and incentives to ease the burden on taxpayers and stimulate the economy toward growth.

This is a more than welcome approach as the government's fiscal policies, including tax reforms, play a crucial role in shaping the economic environment for taxpayers. Positive tax reforms have the capability of broadening the tax base, improving tax compliance, and enhancing the efficiency of tax administration.

Celebrating 11 years of the Office of the Tax Ombud

As the Office of the Tax Ombud (OTO) celebrates its 11-year anniversary, it is

an opportune moment to reflect on its achievements and the positive impact it has had on the tax administration system. Over the past 11 years, the OTO has made significant strides in addressing taxpayer grievances, ensuring that their rights are protected and fostering a culture of accountability within SARS. The OTO's efforts have contributed to building trust between taxpayers and the tax authorities, ultimately enhancing the overall effectiveness of the tax system.

The OTO's commitment to upholding taxpayer rights, resolving disputes efficiently and advocating for systemic improvements has earned it recognition and respect within the tax community. In this context, the OTO stands out as a beacon of hope for taxpayers. Established to provide an independent and impartial platform for facilitating the resolution of tax-related disputes in an expeditious and fair manner, the OTO has played a pivotal role in promoting fairness and transparency in the tax administration system, thereby enhancing tax compliance and indirectly ensuring the economy is geared towards stable growth.

Conclusion

The economic outlook for South Africa presents both challenges and opportunities for taxpayers. Amidst this dynamic landscape, the OTO serves as a vital institution, championing the rights of taxpayers and fostering trust in the tax administration system. As we celebrate the OTO's 11-year anniversary, we acknowledge its invaluable contributions and look forward to its continued role in shaping a fair and equitable tax system for all South Africans.



In search of the smart taxpayer: Reflecting on the OTO's 11-year contribution to tax justice

The promise made to South Africans in 1994 was for a constitutional democracy that is genuinely inclusive and equitable, where social justice is not just an aspiration, but a tangible reality. As SAPTU reflects on the 30 years since the dawn of democracy, we must ask ourselves: Are we there yet?

The answer inevitably depends on several critical factors, such as economic inequality, access to opportunities, education equity, well-being, social justice and self-determination through representation. This is judged through the lens of our lived experience within our social, economic and community environments.

SATPU members who are independent tax practitioners (ITPs) assess SARS's fulfilment of the 1994 commitment based on the fairness and quality of tax administration and service experienced by them and their clients, the taxpayers. We also expect that 30 years post-democracy, the tax ecosystem should have produced a 'smart taxpayer'.

A smart taxpayer understands tax regulations as they apply to them, fulfils their tax obligations, and maintains well-organised tax records. They proactively plan and optimise their tax affairs within a strong ethical framework. When necessary, they seek the assistance of tax professionals and actively engage with them while being aware of their rights.

In 2013, SARS professionalised tax practitioners and the Office of the Tax Ombud was also established. These two events have gone a long way in the



Theo Burrows,
Independent Tax Practitioner
and Secretary General of the
SA Tax Practitioners United
(SATPU).

30-year post-1994 journey to contribute to developing smart taxpayers. Taxpayers now have additional resources upon whom they can rely on as they navigate the complexities of the SARS relationship. SATPU's members are spread throughout the country from the largest cities to the smallest towns; often they are the only easily accessible resource to taxpayers who need to engage SARS. Our members, as tax professionals, remain abreast of the changing tax landscape through continued professional development and compliance with regulations that are administered by Recognised Controlling Bodies (RCBs).

The OTO has become a cornerstone in the pursuit of tax justice in South Africa. They have been relentless in ensuring that the tax system is fair, upholding taxpayer rights and fostering a culture of compliance and trust.

Over the past 11 years, SARS has shown a concerning lack of responsiveness to the concerns of taxpayers and SATPU members, appearing deaf and indifferent

to their pleas. This issue has become even more troubling as SARS's modernisation efforts have gained momentum. SARS increasingly relies on the use of digital platforms, dependence on telephone contact and administrative processes that effectively block and discourage in-person taxpayer access to SARS. As the smart taxpayer still eludes the tax ecosystem, ITPs have had to increasingly engage a modernised system that is not user-friendly, unresponsive and contributing to complaints about increasing inefficiency resulting in wasted costs for SATPU members and taxpayers.

“[Ms Mputa's] appointment marks a significant milestone in the OTO's history and South Africa's democratic journey.”

The OTO has provided the desperately needed independent channel for resolving service, procedural or administrative complaints. Their independence maintains impartiality and ensures that taxpayers receive fair treatment without the need for lengthy and costly court processes. The OTO's role in the tax ecosystem contributes to fostering trust between SARS and taxpayers and should not be understated. SARS commands significant administrative power and has a proven history of weaponising it. Therefore, as SARS becomes increasingly disengaged from the taxpayer and adversarial, the accessible, transparent and impartial resolution process the OTO brings to the tax ecosystem contributes to improved voluntary compliance as trust in the tax system is maintained.

Identifying and addressing systemic issues within SARS through comprehensive investigations pinpoints recurring

problems that lead to more efficient and fair tax administration, procedures and service. SATPU actively engages the OTO in raising several administrative, procedural or service-related issues that our members experience. The most recent issue was the tax practitioner and taxpayer profile hijacking that culminated in approval from the Minister of Finance for the OTO to undertake a systemic investigation.

The OTO promotes awareness of taxpayers' rights. SATPU's collaboration with the OTO through roadshows, especially to the smaller more remote areas of the country, and the quarterly conversations with the OTO hosted by The Tax Faculty, plays a crucial role in educating both taxpayers and our members about taxpayer rights within the fast-evolving and modernised tax landscape. This relentless drive to empower makes a much-needed contribution to ensuring that the elusive smart taxpayer becomes a reality.

The OTO continues to evolve under the leadership of Ms Yanga Mputa, the first female Tax Ombud. Her appointment marks a significant milestone in the OTO's history and South Africa's democratic journey. Ms Mputa is unequivocally committed to upholding taxpayer rights and fostering a culture of compliance, trust and inclusion, all of which resonates with SATPU. It is worth noting the OTO's increased visibility and active involvement in community engagements by senior management. Additionally, the public is given access to the contact numbers and email addresses of OTO officials.

It is indeed with a joyous heart that SATPU, who champions sustainable livelihoods for our members, congratulates the OTO with the celebration of 11 years of contributing to tax justice in South Africa. The past 11 years laid the foundation and under the dynamic leadership of Ms Yanga Mputa, SATPU remains confident that the OTO will be at the forefront of growing the number of smart taxpayers.

INSIGHT ON THE EVOLVING TAX ENVIRONMENT

Smart taxpayers – are we there as a country?

Nelene Naicker,
Managing Director at Artemis Group



In a rapidly changing tax environment, understanding the rights and obligations of taxpayers is crucial for fostering compliance and enhancing engagement. But the question remains: Are we there yet in promoting a truly SMART taxpayer?

A SMART taxpayer is not only aware of their rights and obligations but also engages proactively with the tax system. This means being informed about tax laws, filing accurately and on time, and taking advantage of available resources and support.

Rights and obligations

On 1 February 2022, the then Tax Ombud, Judge Bernard Ngoepe, released a draft of South Africa's first Compendium of Taxpayer Rights, Entitlements and Obligations. This essential document outlines the fundamental rights and obligations of taxpayers regarding their tax affairs and engagements with the South African Revenue Service (SARS) and the Office of the Tax Ombud (OTO).

The compendium specifies key rights, including:

- access to information about their tax affairs;
- a fair, unbiased and just tax system;
- confidentiality of personal and financial information; and
- the right to representation in dispute assessments or decisions.

Additionally, taxpayers are entitled to:

- complain without fear of victimisation;
- make requests, proposals or applications to SARS;
- finality in tax assessments, ensuring that they are not subjected to indefinite scrutiny;
- receive quality and timely service from SARS; and
- pay no more than the correct amount of tax due.

While these rights empower taxpayers, they come with specific obligations. For instance, to dispute an assessment, a taxpayer must submit an objection within 80 business days of receiving the assessment or SARS's decision. This highlights the necessity for taxpayers to remain vigilant in managing their tax affairs. Furthermore, it is crucial for them to keep their personal information updated with SARS, including changes in income or address, to minimise potential disputes and ensure they maximise their entitlements.

Beyond this, taxpayers also have an ethical responsibility to ensure the accuracy of their tax returns. Misrepresenting income,

inflating deductions or failing to report all earnings not only undermines the integrity of the tax system but can also lead to severe consequences, including penalties, interest or even criminal charges. It is essential for taxpayers to approach their tax obligations with honesty and integrity, recognising that transparency benefits everyone in the long run. By committing to ethical practices, taxpayers contribute to a fairer tax system and help build trust between themselves, SARS and the wider community.

Embracing Technology

Since the introduction of eFiling in 2007, nearly 100% of tax returns are now submitted electronically. Innovations like SARS auto-assessments and the use of third-party data have transformed the tax landscape, simplifying the process for many. These advancements enable automatic assessments based on information from banks, employers and other institutions, reducing the burden on taxpayers and enhancing compliance.

However, while these developments make tax filing more straightforward, they also introduce new challenges. Many taxpayers may not fully understand how auto-assessments work or what data is used to evaluate their tax obligations, leading to potential disputes with SARS.

The importance of education

In my practice, I have witnessed the critical role that educational initiatives and workshops play in bridging the knowledge gap in tax compliance. Organisations and SARS have made commendable efforts to host seminars and provide valuable resources, including the informative YouTube channel, [SARS TV](#), and various free workshops. However, attendance often falls short, especially among small business owners and self-employed individuals who stand to benefit the most.

To truly empower these taxpayers, enhancing outreach and engagement strategies is essential.

Support systems: The role of the Tax Ombud

The position of the Tax Ombud was established to balance SARS's powers with taxpayer obligations, remedies and rights. This role is crucial in ensuring that taxpayers are treated fairly and have a clear understanding of their rights. The Ombud's office has published a comprehensive compilation of taxpayers' rights, entitlements and obligations, serving as a vital guide for individuals navigating the tax system. This resource not only clarifies taxpayer rights but also provides support and recourse, reinforcing their confidence in engaging with SARS.

The importance of using registered tax practitioners

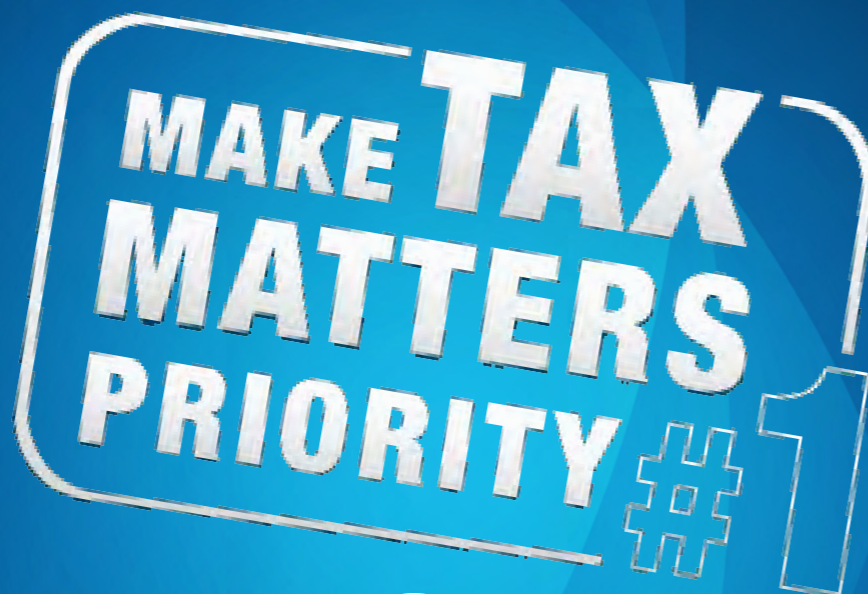
As taxpayers navigate the complexities of the tax system, many seek assistance from tax practitioners. However, it is vital for taxpayers to ensure that these practitioners are licensed and qualified to avoid costly errors and misguidance. While it is essential to trust the expertise of tax professionals, taxpayers should take the extra step to verify their credentials. [SARS provides an online tool](#) where taxpayers can confirm the status of their tax practitioners. This proactive approach not only protects taxpayers from potential pitfalls but also fosters a culture of accountability and professionalism within the tax practitioner community.

Moving forward

Looking ahead, it is clear that while we are not quite there yet in promoting the SMART taxpayer, we are moving in the right direction. Ongoing educational efforts, more accessible workshops and a continued focus on transparency can empower all taxpayers to better understand their rights and obligations.

By embracing these initiatives, we can foster a culture of proactive engagement, ensuring every taxpayer feels informed and confident in their tax affairs.

Congratulations to the Ombud's office on its 11th anniversary; may its efforts continue to strengthen taxpayer engagement and empower all South Africans in their interactions with the tax system.



TRUST FILING SEASON

SARS focusing on the accountability of trustees, and tax and legal practitioners.

Filing season for Trusts runs between 16 September 2024 and 20 January 2025. This article outlines the tax obligations of Trusts.

Filing season for Trusts

As per [Government Gazette 50741 Notice Number 4918](#), published on 31 May 2024, Trust taxpayers have a dedicated filing period of four months commencing on 16 September 2024 until 20 January 2025. This filing period will apply to both provisional and non-provisional Trust taxpayers. Trustees, tax and legal practitioners should, however, not delay in attending to the Trust's annual Income Tax Return (ITR12T), which is an extensive document with tax information requirements to increase the transparency and tax compliance of Trusts.

Trust filing season 2024 will prioritise the registration of Trusts for income tax, on-time filing, accurate and thorough declarations in the tax returns of Trusts

and beneficiaries, and on-time payment of tax owing per the Trust's tax assessment. SARS has also modernised several processes that were previously manual to make it easy for taxpayers to comply with their tax obligations.

Legal liability of the trustees

The Trust Property Control Act No 57 of 1988 (TPCA) mandates trustees to act with care, diligence and skill in managing trust affairs. The "joint action rule" requires co-trustees to act collectively. While trustees may delegate tasks, they retain ultimate responsibility. The TPCA voids any trust deed provisions attempting to exempt trustees from liability. Trustees are legally liable for meeting a Trust's tax obligations even where legal and/or tax practitioners are appointed.

Under the Income Tax Act No 58 of 1962 (ITA), a Trust's trustee is a "representative taxpayer." The Tax Administration Act No 28 of 2011 (TAA) defines "taxpayer" to include "representative taxpayer," which refers to the ITA definition, creating a consistent legal framework for trustee tax responsibility. The TAA holds representative taxpayers, including trustees, liable for Trust tax debts in both official and personal capacities (sections 154 and 155 of the TAA).

SARS will hold all the trustees of a Trust jointly and severally liable for the tax non-compliance of trusts. This may include attachment of a trustee's personal assets.

Tax practitioners (including legal practitioners who are registered tax practitioners)

Under sections 234 and 241 of the Tax Administration Act No 28 of 2011 (TAA), SARS has specific mechanisms to hold tax practitioners accountable. By leveraging these sections, SARS aims to maintain the integrity of the tax system and ensure that practitioners adhere to professional standards.

Tax obligations of a Trust

Tax registration of a Trust

Legal and tax practitioners must ensure that all Trusts on their records are registered with SARS for income tax and any other taxes that it may be liable for. This must be done after registration with the [Master of the High Court](#). Tax registration of the Trust may be done digitally via the [SARS online query system](#) found on the SARS website or at a SARS branch after making an eBooking appointment, also


via the SARS website. The SARS website provides a list of [Trust tax registration supporting documents](#).

Tax filing and accurate declarations

A trust is both a legal arrangement and a taxpayer. It is obligated to file an annual income tax return even if it is inactive. Taxpayers must register for eFiling to file the trust income tax return. A simplified tax return is available on eFiling for passive trusts. The ITR12T tax return is enhanced with a beneficial ownership declaration page to record all beneficial owners and those who may gain financially from the proceeds of the trust taxpayer.

A Trust with 10 or fewer beneficiaries may have the ITR12T tax return captured at a SARS branch provided a prior branch appointment [eBooking has been made via the SARS website](#) and the return has been printed, with required fields completed, ahead of the appointment. SARS branches will no longer print the ITR12T income tax return. Any Trust that distributed amounts to more than 10 beneficiaries during the year of assessment must register and submit the ITR12T via eFiling.

The representative filing the ITR12T tax return must ensure all the Trust's details are correct by verifying and updating these details on the Registration, Amendments and Verification Form (RAV01) on eFiling. More information may be viewed on the [SARS Trust webpage](#). ▶



Helpful resources
More information may be found on the SARS website at [Trusts](#). A [webinar on Trusts tax compliance](#) and video tutorials to assist Trust taxpayers with tax compliance processes may be found at <https://www.youtube.com/@sarstax>. New guides are available at [Step by Step Guide to complete your Trust return via eFiling](#) and the [Comprehensive Guide to the Income Tax return for Trusts](#).



Declaration of distribution of assets and income due 30 September 2024
 The IT3(t) is a new third-party data return that needs to be submitted by the representative taxpayers of Trusts. For the 2024 year of assessment, the first returns are due for submission by 30 September 2024. The purpose of the IT3(t) is for the representative taxpayers of a Trust to provide details of amounts vested in beneficiaries for a specific year of assessment. Where an amount is attributable to a donor (e.g. Section 7 of the ITA) this amount should also be reflected. From the 2025 year of assessment, the IT3(t) will be used to populate the returns of beneficiaries with amounts vested to those beneficiaries by the Trust.

Relevant records and material

The supporting documents required to file the return include all certificates and documents relating to income and deductions, statement of assets and liabilities, financial statements and/or administration accounts, proof of payment of any tax credits, details of persons or beneficiaries to whom income, capital and/or assets are distributed, and a list of all beneficial owners that may exercise effective control over the Trust.

Payment

The notice of assessment issued to the Trust taxpayer outlines the due date and grace period for making payment after an assessment has been issued. Late payments will attract penalties and interest. Payment arrangements can be made with SARS via e-filing or the SARS MobiApp.

Dispute resolution process

An automated process for Trust taxpayers was introduced on eFiling this year to electronically submit documentation to lodge a dispute. This applies to a Request for Reasons, Request for Remission (RFR), objections and appeal notices. A request for suspension of payment currently remains a manual process. Trusts that submitted any of these types of requests prior to 20 April 2024 should continue and conclude their dispute through the manual process. ■

Office of the Tax Ombud
Annual Report 2023/24 Highlights



17 014
 contacts



4 618
 complaints recieved



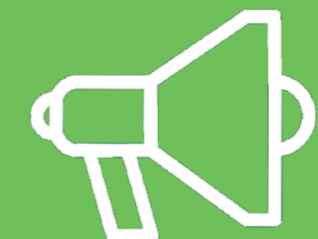
99.77%
 of the OTO's
 recommendations
 implemented by SARS



13 700
 website users



R179 184 944.78
 Value of top 10 refunds
 paid to taxpayers



R11 038 175
 Public Relations value

Out and About



The Office of the Tax Ombud continues engaging stakeholders to raise awareness about its services and cultivate mutually beneficial partnerships. Below are thought leadership discussions, engagements and outreach with stakeholders held in recent weeks.

Thought Leadership

Above: The Tax Ombud, Ms Yanga Mputa, addressing delegates at the 2024 Annual Deloitte Africa Tax Conference, themed *Navigating the current and future tax terrain: An African and Middle East perspective*. Ms Mputa addressed delegates on the topic 'Tax Disputes Resolution'.

Right: OTO CEO Prof. Thabo Legwaila was a guest speaker at the Gender-Inclusive Tax Roundtable in Sandton co-hosted by The International Women's Forum South Africa (IWFSa) and the WDB Investment Holdings (WDBIH).



Stakeholder Engagement

Right: Tax Ombud Ms Yanga Mputa and her team at a meet-and-greet session with Deloitte leadership, which included its Global Tax & Legal leader Willem Blom.

Below: The Office of the Tax Ombud hosted international guests attending the 12th International face-to-face GAA Tax Directors Workgroup engagement themed “Navigating new leadership,” hosted by the South African Institute of Chartered Accountants (SAICA) to garner insights from local and international stakeholders.



Mall activation: Be a Smart Taxpayer

The OTO held a week-long activation at the Eastgate Shopping Centre (next to Game store) from 22 to 28 October 2024 in Johannesburg. The mall activation formed part of the "Be A Smart Taxpayer" campaign.





Above: Tax Ombud, Ms Yanga Mputa, at a Compliance and Oversight Conference hosted by the Public Protector South Africa and Department of Public Service and Administration.



Left: Fundiswa Ngqeleni, Specialist: Legal Services, presented the Compilation of Taxpayer's Rights, Entitlements and Obligations at the SAIPA Tax and Accounting Derby held at the University of the Western Cape in Cape Town.

Right: Acting Senior Manager: Legal Services and Systemic Investigations, Frik Pretorius shares OTO promotional material with PetroSA's Human Capital Manager, Omphile Mohapanele.



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 Office of the Tax Ombud

Notice

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

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