



OFFICE OF THE
TAX OMBUD

Complaints Procedure

0800 662 837
complaints@taxombud.gov.za
www.taxombud.gov.za

Foreword



As a citizen or resident of a constitutional democracy, you have rights and duties when you interact with our public administration. Some of your rights are set out in chapter 10 of our Constitution which specifically governs public administration.

Chapter 10 requires our public servants and the departments in which they work to abide by democratic values and principles, including: (1) a high standard of professional ethics; (2) efficient, economic and effective use of resources; (3) the provision of impartial, fair, and equitable service; and (4) transparency and accountability.

The Office of the Tax Ombud has been established to ensure these constitutional imperatives become a reality in South Africa's tax administration. This means that the South African Revenue Service (SARS) must interact with taxpayers in accordance with these constitutional requirements.

My Office provides you with a simple and impartial channel to resolve a service, procedural or administrative dispute which you have not been able to resolve through SARS' complaints management channels. We offer you an independent and neutral platform to engage with SARS.

We know that SARS endeavours to foster a strong tax compliance culture in line with this chapter 10 imperative. Where you the taxpayer have fulfilled your tax compliance obligations, we are confident that we will be able to mediate, conciliate and/or investigate the factual situation of your dispute and, where possible, secure a resolution.

We are here to listen to you and to work with SARS for service excellence as well as procedural and administrative fairness.

Judge Bernard Ngoepe
South African Tax Ombud

An independent and impartial redress channel

The Office of the Tax Ombud was created by sections 14 and 15 of the Tax Administration Act, No. 28 of 2011 (TAAAct). The Tax Ombud is appointed by and reports directly to the Minister of Finance. The term of office is three years and can be renewed. The role is independent of SARS and its mandate executed impartially.

The Tax Ombud plays a unique taxpayer complaints resolution role and aligns with the Public Protector; both exist to ensure administrative justice by being a “check” on the exercise by government and its agencies of their authority. In the case of the Tax Ombud, its focus is SARS.

Mandate

Section 16(1) of the Tax Administration Act, Act No. 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.”

Mission

To facilitate justice in South Africa’s tax administration system by providing taxpayers with an expeditious, independent, impartial and fair redress channel.

Vision

The Tax Ombud is an effective and efficient instrument for the respect, promotion, fulfilment, and protection of taxpayer rights and responsibilities. We strengthen taxpayer confidence in tax administration and voluntary compliance with their tax obligations.

Motto

“Fairness at All Times”



Principles

- **Accountability** - administrative justice requires that taxpayers have a rational and fair reason for decisions made and actions taken by the South African Revenue Service. Our Office also has a duty to provide the same.
- **Transparency** - fairness requires that information and criteria used by SARS and our Office to inform decision making be made available to taxpayers.
- **Efficiency** - our Office has a duty to ensure a prompt resolution for complaints by following procedures that do not duplicate or contradict each other and cause additional administrative burden for taxpayers.
- **Effectiveness** - ensuring that our case management system identifies bona fide cases and adequately reviews them before referring them to SARS will increase the probability of a fair resolution for the taxpayer.
- **Honesty** - as an independent and impartial redress channel for taxpayers, we assist taxpayers who act honestly in relation to their tax obligations.
- **Confidentiality** - the Tax Ombud holds all communications with taxpayers in strict confidence unless authorised otherwise.

Frequently Asked Questions

When can I approach the Office of the Tax Ombud?

As a taxpayer you can lodge a complaint with the Tax Ombud after you have completed the following steps:

1. You have tried to resolve your service, administrative or procedural complaint directly with SARS – at the branch where your case was dealt with, or through the SARS Contact Centre and allowed reasonable time for resolution of your complaint.
2. If that did not work, you then escalated the matter to the SARS Service Monitoring Office (SSMO). See SSMO Contact details on page 11

Only after you have exhausted these two steps can you lodge a complaint with the Office of the Tax Ombud, unless you can show “compelling circumstances” exist (as set out below) why these two steps cannot be followed.

What can the Tax Ombud do?

Section 16(2) of the Tax Administration Act, No 28 of 2011, authorizes the Tax Ombud to:

- Take complaints from taxpayers about a service, procedural or administrative matter arising from the application of the provisions of a tax Act by SARS.
- Engage SARS staff to resolve complaints.
- Act independently in resolving a complaint.
- Follow informal, fair and cost-effective procedures to resolve a complaint.
- Identify and review systemic and emerging issues related to service matters or the application of the provisions of the Act or procedural or administrative provisions of a tax Act that impacts negatively on taxpayers.
- Report to the Minister of Finance his findings about the nature, SARS response and systemic resolution of complaints.
- Inform SARS of its assessment of individual complaints and systemic reviews.



Section 18(2) authorizes the Tax Ombud to determine, independently of SARS, how a review will be conducted and whether a review should be terminated before completion.

Section 18(4) of the Act states that the Tax Ombud may only review a request if the requester has exhausted the available complaints resolution mechanism in SARS, unless there are compelling circumstances for not doing so.

What are the compelling circumstances?

Section 18(5) of the Act sets out the following factors the Tax Ombud shall consider when determining if a circumstance may be “compelling”:

- If the request raises systemic issues.
- Exhausting the complaints resolution mechanisms will cause undue hardship to the requester.
- Exhausting the complaints resolution mechanisms is unlikely to produce a result within a period of time that the Tax Ombud considers reasonable.

Section 18(6) of the Act requires that the Tax Ombud inform the requester of the results of the review or any action taken in response to the request, but at the time and in the manner chosen by the Tax Ombud.

What does the Tax Ombud look at when reviewing a complaint?

Review of complaint - when determining how a review is to be conducted and whether a review should be terminated before completion, the TO will consider such factors as:

- The age of the request or issue
- The amount of time that has elapsed since the requester became aware of the issue.
- The nature and seriousness of the issue.
- The question of whether the request was made in good faith.
- The findings of other redress mechanisms with respect to the request.

Time limits - section 259(2) of TAAct sets a one year retrospective time limit for complaints:

“The first Tax Ombud appointed under this Act may not review a matter that arose more than one year before the day on which the Tax Ombud is appointed, unless the Minister requests the Tax Ombud to do so.”

Cut-off date

Since the TO was appointed September 30, 2013, with effect October 1, 2013, this means matters that arose before October 1, 2012 may not be considered by the TO unless requested by the Minister.

Are there any limits to what the Tax Ombud can deal with?

Yes there are clear limits on what type of complaints the Tax Ombud can take on. Section 17 of TAAct set out these limitations. The Tax Ombud may not review –

- Legislation or tax policy.
- SARS policy or practice generally prevailing, other than to the extent that it relates to a service matter or a procedural or administrative matter arising from the application of the provisions of a tax Act by SARS.
- A matter subject to objection and appeal under a tax Act, except for an administrative matter relating to such objection and appeal.
- A decision of, proceeding in or matter before the tax court.

Section 20(2) of TAAct makes it clear that any recommendations made by the Tax Ombud are not binding on taxpayers or SARS. This means that if a complainant is not satisfied with the Tax Ombud's outcome of their complaint, the taxpayer reserves their right to pursue other redress channels.



What steps will the Tax Ombud follow to resolve a complaint?

We will do everything possible to find a solution to your problem. However, if there is not enough evidence to support your complaint the matter may be closed.

Our complaint resolution efforts will include:

- Reviewing your complaint to determine how it will be managed; prepare a preliminary assessment of your complaint.
- Sending your complaint and supporting documentation to SARS.
- Evaluating the SARS' response and, where we deem appropriate, conducting further investigations of your complaint.
- Turnaround time – We endeavour to resolve complaints within 15 business days of receipt of your complaint. We will contact you if your complaint cannot be resolved within this time period.
- A close out report, summarizing the outcome for your complaint, to be sent to you and SARS.
- Throughout the entire process, we will maintain a neutral position and look at all sides of the problem, recommending corrective action where appropriate and necessary.
- Since we cannot make binding decisions, we may make recommendations for corrective action. Such recommendations may include -
 - A formal apology for a service related matter
 - Correction of procedural and/or administrative errors
 - A provision of written reasons.

What resolution can I expect?

We will do everything possible to find a solution to your problem. If there is not enough evidence to support your complaint, however, the matter may be closed. Our complaint resolution efforts will include:

- Reviewing your complaint to determine how it will be managed; prepare a preliminary assessment of your complaint.
- Sending your complaint and supporting documentation to SARS.
- Evaluating the SARS' response and, where we deem appropriate, conducting further investigations of your complaint.
- Turnaround time - the Office of the Tax Ombud (OTO) endeavours to resolve complaints within 15 business days of submission to SARS. The OTO will contact you if your complaint cannot be resolved within this time period.
- A close out report, summarizing the outcome for your complaint, to be sent to you and SARS.
- Throughout the entire process, we will maintain a neutral position and look at all sides of the problem, recommending corrective action where appropriate and necessary.
- Since we cannot make binding decisions, we may make recommendations for corrective action. Such recommendations may include -
 1. Formal apology for a service related matter
 2. Correction of procedural and/or administrative errors
 3. Provision of written reasons

How do I handle my tax affairs while my complaint is being dealt with?

Where tax is due and while the Tax Ombud or the Public Protector is dealing with your complaint, you should continue to pay the tax amounts that you accept are due. If you stop or delay your payments you will be charged interest and penalties.

What if I am not satisfied with the outcome?

If a taxpayer is not satisfied with the outcome of the process undertaken by the Tax Ombud, the taxpayer may lodge a complaint with the Public Protector.

NOTE: Nothing stops a taxpayer from lodging a complaint with the Public Protector from the outset. However, it is anticipated that most matters would be resolved at SARS or the Tax Ombud before following the more protracted process at the Public Protector where the necessary tax administration expertise may be less accessible.

What if SARS does not accept a Tax Ombud recommendation?

Where SARS does not accept a Tax Ombud recommendation, this action will be included in the Tax Ombud's Annual Report to the Minister. The Minister must table this report in the National Assembly.

Protection of confidential taxpayer information

The office of the Tax Ombud is legally obliged to protect confidential taxpayer information. All staff are required to sign an Oath of Secrecy.

When the Tax Ombud accepts a complaint, it will attempt to resolve it at the level at which the complaint can most efficiently and effectively be resolved. In so doing, the Tax Ombud will communicate with SARS officials identified by SARS who must provide requested information. Section 21(2) of TAACT states that SARS must allow the Tax Ombud access to information in the possession of SARS that relates to the Tax Ombud's powers and duties. The Tax Ombud may request information classified as "taxpayer information" and "SARS confidential information".

In its communications with SARS, the Tax Ombud or any person acting on the Tax Ombud's behalf may not disclose information of any kind that is obtained by or on behalf of the Tax Ombud, or prepared from information obtained by or on behalf of the Tax Ombud, to SARS, except to the extent required for the purpose of the performance of the Tax Ombud's functions and duties.

OTO contact details

Physical address:

iParioli Building
Block A3, Ground Floor
1166 Park Street (Between Jan Shoba (formerly Duncan Street) and
Grosvenor Street)
Hatfield
Pretoria

Tel: 0800 662 837 or (27) 12 431-9105

Fax: (27) 12 452-5013

Email address: complaints@taxombud.gov.za



SSMO (SARS Service Monitoring Office) contact details

Tel: 0860 12 12 16

Fax: 012 670 6906

Postal address: PO Box 1166, Hatfield, Pretoria, 0028

Physical address:

333 Grosvenor Road,
Hatfield Gardens, Block A 1st floor

E-mail address: ssmo@sars.gov.za

Physical Address

Unit No.	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Complex (if applicable)	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Street No.	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Street / Farm Name	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Suburb / District	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
City / Town	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>		<input type="text"/>	<input type="text"/>	<input type="text"/>	Postal Code <input type="text"/>
Country Code	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Postal Address

Mark here with an "X" if same as above or complete your Postal Address

Postal Agency or Other Sub-unit (if applicable) (e.g., Postal Suite ID)

PO Box	<input type="checkbox"/>	Private Bag	<input type="checkbox"/>	Other PO Social Service (agency)	<input type="text"/>	Member	<input type="text"/>
Post Office	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Postal Code	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Country Code <input type="text"/>

Complaint Details

Tax Type	Personal Income Tax	<input type="checkbox"/>	Corporate Income Tax	<input type="checkbox"/>	WAT	<input type="checkbox"/>	Excise	<input type="checkbox"/>	PAYE/SDL/UP	<input type="checkbox"/>	Trait	<input type="checkbox"/>	Customs / Excise	<input type="checkbox"/>	Other	<input type="checkbox"/>
If Other, provide details	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Tax No.	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Tax No.	<input type="text"/>	<input type="text"/>	<input type="text"/>
Nature of Complaint	Conduct / Abuse	<input type="checkbox"/>	Service	<input type="checkbox"/>	Administrative	<input type="checkbox"/>	Procedural	<input type="checkbox"/>	Other	<input type="checkbox"/>						
If Other, provide details	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Have you exhausted the SARS internal complaints process?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	ESD Reference Number	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

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If you have not exhausted the SARS internal complaints process, please indicate why the OTO should handle your complaint. (i.e. explain your compelling circumstances?)

In chronological order, please briefly summarize your complaint (please attach supporting documentation)

Outcome / Resolution Desired

Tax Representative Declaration

I declare that

- To the best of my knowledge the information provided by this taxpayer is true in material respects.

Date (DDMMYYYY)

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Signature

Declaration

I declare that

- The information furnished in the Campaign form is true and correct in every respect.

Date (DDMMYYYY)

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Signature

Note: The office of the Tax Ombud (OTO) endeavours to resolve complaints within 15 business days of receipt of your complaint. The OTO will contact you if your complaint cannot be resolved within this time period.

