



OFFICE OF THE
TAX OMBUD
Ensuring fairness

Office of the Tax Ombud
**STAKEHOLDER
ENGAGEMENT
PRESENTATION**



MANDATE OF THE TAX OMBUD

Section 16

Review and address any complaint by a taxpayer regarding a service, procedural or administrative matter arising from the application of the provisions of a tax Act.

Section 16(1)(b)

Review at the request of the Minister or at the initiative of the Tax Ombud with the Minister's approval on any systemic/emerging issue relating to service matters or the applications of this Act or procedural/administrative provisions of a tax Act.



REVIEW OF COMPLAINT

When?

- After exhausting SARS internal process
- Unless if have compelling circumstances



LIMITATIONS ON AUTHORITY

The Tax Ombud may not review:

- ✗ Legislation or Tax policy
- ✗ SARS policy
- ✗ A matter subject to objection and appeal
- ✗ A decision of, or proceeding in or matter before the court

RESOLUTIONS AND RECOMMENDATIONS

Section 20(2)

Recommendations by the Tax Ombud are not binding on taxpayers or SARS.

But if not accepted by SARS / taxpayer, reasons for such decision must be provided to the Tax Ombud within **30 days** of notification of the recommendations. Such information may be included in the Ombud's report to the Minister or SARS Commissioner.

INTERNAL PROCESS

STEP 1: MANDATE *Section 16(1)*

01

Is the complaint against SARS?

02

Does the complaint relate to the application of a tax act?

03

Does the complaint relate to a service, administrative or procedural issue?

If the answer to any of these questions is **No**, the matter is not within the mandate. The complaint is **REJECTED**.

If the answer to all of these questions is **Yes**, the complaint is within mandate, and proceeds to **STEP 2**.

INTERNAL PROCESS

STEP 2: Exhausted / Compelling *Section 18(4) and (5)*

Compelling Issues:

- **s18(5)(a)** the complaint has been identified as a systemic issue;
- **s18(5)(b)** referring the taxpayer back to CMO will cause undue hardship; or
- **s18(5)(c)** referring the taxpayer back to CMO will not resolve the issue within a reasonable time.

01

Did the taxpayer lodge a complaint with the CMO and has the TAT elapsed?



02

Are there compelling circumstances to **not** refer the taxpayer to SARS to exhaust?



Matter in mandate and taxpayer exhausted / compelling:
PROCEED TO STEP 3



Matter in mandate but may not review:
REJECTED

INTERNAL PROCESS

STEP 3: Limitations

Section 17

In mandate, exhausted /
compelling and no
limitations apply:
PROCEED TO STEP 4

01

Is the taxpayer asking us to review legislation or tax policy?



02

Is the taxpayer asking us to review SARS's practice generally prevailing?



03

Is the taxpayer asking us to review a matter subject to objection or appeal?



04

Is the taxpayer asking us to review a matter before tax court?



Matter in mandate, exhausted / compelling reasons *but* limitations apply: **REJECT**

INTERNAL PROCESS

STEP 4: Review

Section 18(1) – (3)

Determine the facts of the complaint by considering the taxpayer's and SARS's actions.

Does the taxpayer have a valid complaint against SARS?



Determine the best way to facilitate resolution and refer the matter to SARS with a **RECOMMENDATION**



If mandate, exhausted / compelling, and no limitations apply, but there is a reason to **TERMINATE**



KINDS OF COMPLAINTS

Delays in payment of refunds: stoppers placed

Incorrect allocation of payments

Recalled refunds

Non adherence by SARS to dispute resolution regulations (timelines, incorrect invalidating of objections)

SARS failure to respond to taxpayers' requests (SOP, compromise, waiver of penalties and interest)

Profile hijacking

Revision of assessments without reasons provided to taxpayers

SARS not making decision with documents submitted

Refunds paid into incorrect bank accounts

Delay in issuing tax clearance certificate

OTO SERVICES



**Services
are free**



Accessible



**Deal with one
person**



**Have
access to
SARS
systems**

If not happy with our outcome you can appeal the decision within 30 business days with reasons or report directly to tmuade@taxombud.gov.za



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QUESTIONS?
THANK YOU.

Contact details:

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