

Finance minister appoints Tax Ombud

Retired Gauteng Judge President Bernard Ngoepe has been appointed as South Africa's first Tax Ombud. The Tax Ombud will operate in concurrence with other mechanisms which the tax payer has at their disposal, and will provide a cost effective means to handle administrative challenges that fall within the Ombud's jurisdiction.



Source: [The New Age](#)

"The Tax Administration Act establishes the office of Tax Ombud, and in terms of this Act the Minister of Finance has to appoint the Tax Ombud before 1 October 2013," comments Stiaan Klue, chief executive of the SA Institute of Tax Practitioners (SAIT). "The Tax Ombud will seek to balance SARS' powers to collect tax as required under its empowering provisions of the South African Revenue Services Act, and tax payer's rights," says Klue. This is a positive move for taxpayers.

Far-reaching powers

"The Tax Administration Act introduced a number of far reaching powers for the South African Revenue Services," comments Sharon Smulders, head of Tax Technical Policy and Research of SAIT. However, Smulders points out that taxpayer and practitioners should be aware that 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.

"The establishment of a dedicated Tax Ombud gives the taxpayer the power of a final authoritative review on specific operational complaints they may have against SARS, without necessarily having to resort to litigation which can be prohibitively expensive in both time and cost. The office is a low cost mechanism which is mandated to address and investigate any service, procedural or administrative grievances which have failed to be resolved to the satisfaction of the taxpayer through other available means," says Smulders.

Tax payers are protected

It is important to note that the Tax Ombud is not the only balancing factor to SARS's powers under the Tax Administration Act. "In addition to overarching remedies such as the right to request SARS to internally review a decision and the internal complaints resolution mechanisms, the Act specifically affords taxpayers protection and remedies in dealing with their grievances," says Smulders.

Unlike other ombuds offices which generally operate between non-governmental persons and industries, the office of the Tax Ombud will operate between a state owned organ, namely SARS, and the taxpaying public. "Any concerns over the new Ombuds' level of independence and lack of declaratory powers are unfounded if the office functions effectively," adds Klue. "Every year the Ombud has to report any major service delivery failures directly to Parliament, which will act as an important incentive for SARS to address these complaints timeously and effectively."

"The first year in office, will most likely focus on and do a review of the existing SARS systems," comments Klue. "Minister Pravin Gordhan has chosen an excellent candidate in Bernard Ngoepe. Given his vast experience in the both law and during the Truth and Reconciliation Committee, he is very familiar with the complexities of South African tax legislation and provides an objective overview on SARS' procedures and policies," remarks Klue.

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