



OFFICE OF THE  
**TAX OMB**  
*Ensuring fairness*

# Understanding the Tax Ombud Mandate

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# THE MANDATE OF THE TAX OMBUD S16 OF TAA

*“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.”*

# WHAT CAN THE TAX OMBUD DO? (Cont.)

The Tax Administration Act authorises the Tax Ombud to:

- ❖ Review a complaint and, if necessary, resolve it through mediation or conciliation
- ❖ Act independently in resolving a complaint
- ❖ Follow informal, fair and cost-effective procedures to resolve a complaint
- ❖ Provide information to a taxpayer about the mandate of the OTO and the procedures to pursue a complaint

# WHAT CAN THE TAX OMBUD DO? (Cont.)

- ❖ Facilitate access by taxpayers to complaint resolution mechanisms within SARS to address complaints
- ❖ Identify and review systemic and emerging issues that impact negatively on taxpayers.

18 2(a) – (b) The Tax Ombud may— determine how a review is to be conducted; and determine whether a review should be terminated before completion

18(4) The Tax Ombud may only review complaints if the requester has exhausted the available complaints resolution mechanisms in SARS, unless there are compelling circumstances for not doing so

# LIMITATIONS ON AUTHORITY

The OTO may not review:

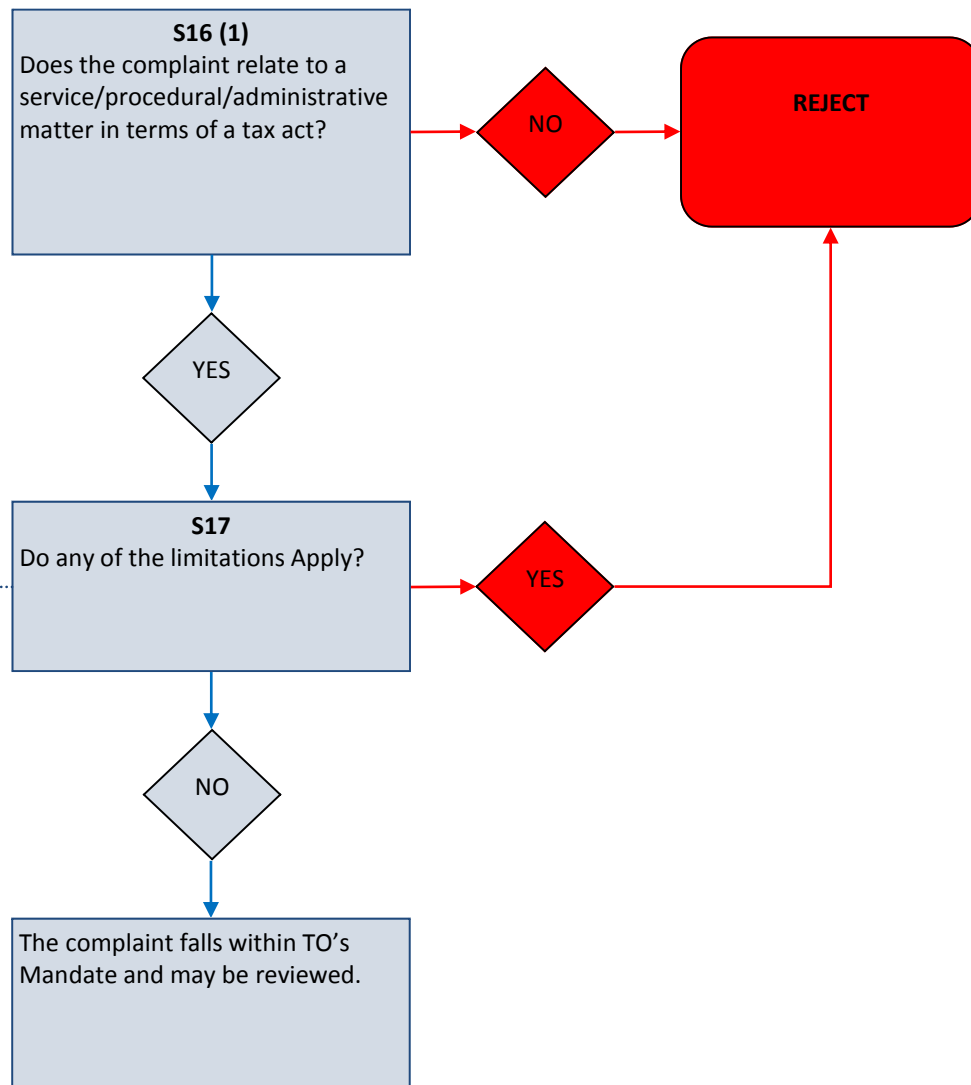
- ❖ legislation or tax policy;
- ❖ SARS policy or practice generally prevailing, other than to the extent that it relates to a service matter or a procedural or administrative matter arising from the application of the provisions of a tax Act by SARS;
- ❖ a matter subject to objection and appeal under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

# THE REVIEW PROCESS

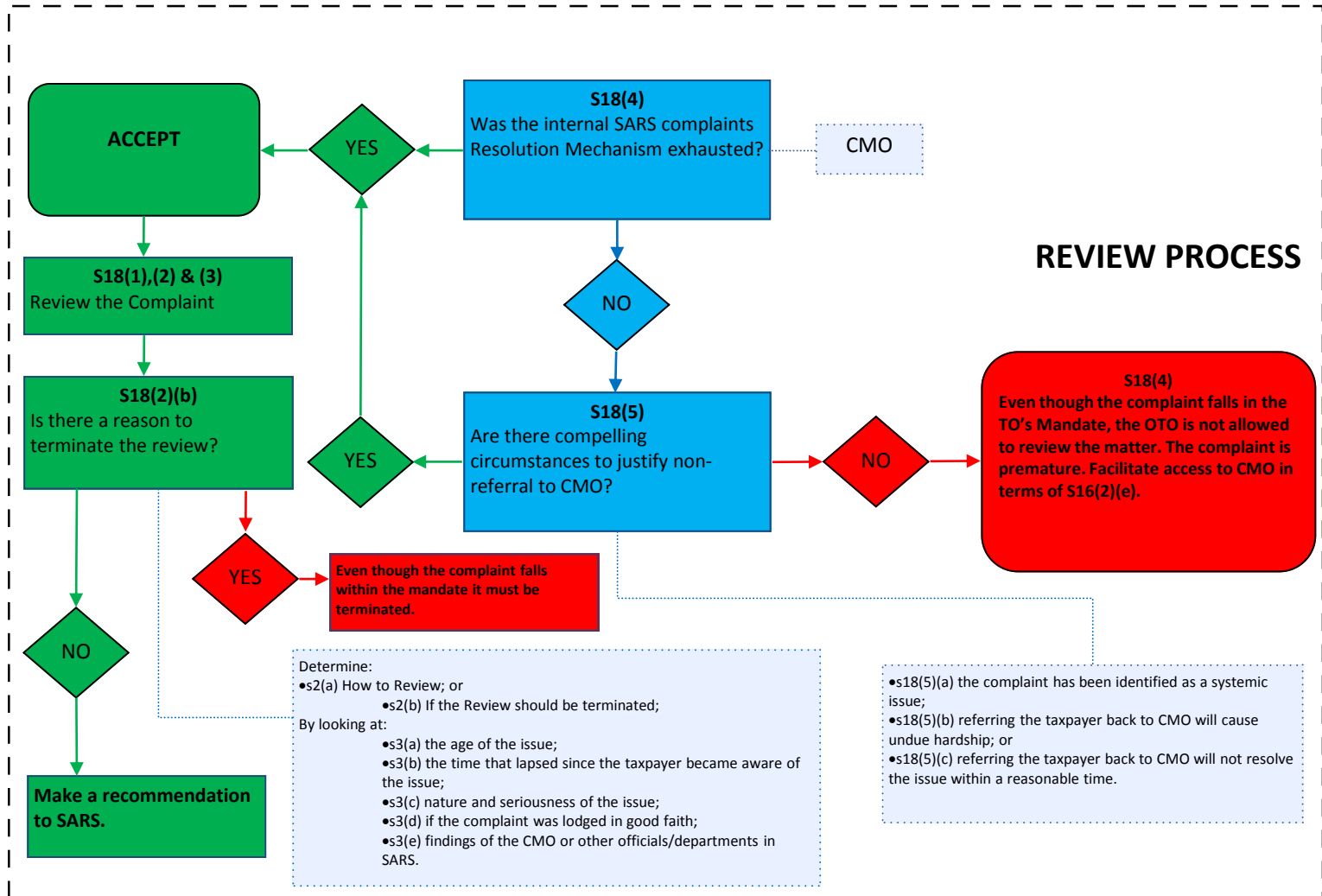
## MANDATE PROCESS

The complaint relates to:

- s17(a) legislation or tax policy;
- s17(b) SARS practice generally prevailing and which does not relate to a service/procedural/ administrative matter in terms of a tax act
- s17(c) objection or appeal not relating to administrative issues;
- S17(d) Decision of, proceeding in or matter before the tax court.



# THE REVIEW PROCESS



# COMPLAINTS RECEIVED YTD 2015/16

<b>Complaints not falling within OTO mandate - rejected</b>	<b>938</b>	<b>44%</b>
<b>Terminated complaints</b>	234	11%
<b>Complaints falling within OTO mandate - accepted</b>	961	45%
<b>Total complaints received</b>	<b>2 133</b>	<b>100%</b>



# CATEGORY OF CASES REVIEWED ON: (ACCEPTED AND REJECTED)

Assessments	40%
Dispute resolution	17%
Refunds	15%
Accounts Maintenance	10%
Others	18%

# IN FAVOUR OF TAXPAYERS

- 2013/14 80%
- 2014/15 84%
- 2015/16 87%

# UPDATE ON DRAFT BILL

- ❖ Established in terms of the Tax Administration Act (Act 28 of 2011). Minister appoints Tax Ombud S14 for term of 3 years. So far proposals made to increase the term to 5 years based on comparative studies (local & international).
- ❖ Appointment of staff – S15(1). Currently – In terms of the SARS Act and seconded to the TO at the (TO's request) in consultation with the Commissioner. Proposed changes – removing the requirement of consultation with the Commissioner.
- ❖ Funding – S15(4). Expenses connected with the function of the TO – paid out of the funds of SARS. Proposal – to have treasury determine the budget – which will be ring-fenced

# CONTACT DETAILS

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