

NATIONAL ASSEMBLY

QUESTION FOR WRITTEN REPLY

QUESTION NUMBER 1527

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Dr D T George (DA) to ask the Minister of Finance:

Whether the South African Revenue Service pursued any cases with regard to prosecution of persons and companies for tax evasion; if not, why not; if so, (a) how many cases, (b) what is the tax amount in each case, (c) how many resulted in conviction and (d) what is the total amount of outstanding tax recovered?

NW1783E

REPLY:

SARS has a range of punitive measures available to address tax evasion which are not limited to the pursuance of criminal prosecution only. Such measures include the seizure and forfeiture of goods or the equivalent value thereof, liquidations and sequestrations, additional taxes of up to 200%, penalties and punitive interest.

On average, SARS selects approximately 68 000 taxpayers for audit each year based on risk factors including verification of taxpayer declarations against information provided to SARS by third parties. During this process, the findings of audits identify risks warranting criminal investigation.

In terms of an existing memorandum of understanding with the South African Police Force (SAPF), SARS conducts criminal investigations on behalf of and in support of the SAPF. On average, SARS concludes approximately 500 criminal investigations per year. These cases are done in alignment with the capacity of the NPA to prosecute offenders. On this basis, there are currently 382 criminal investigations in progress.

In terms of another existing memorandum of understanding with the NPA which has a dedicated capacity to prosecute tax and customs related offences, SARS hands over completed criminal investigations for consideration of prosecution. There are currently 1584 cases awaiting consideration by the NPA.

In the majority of these cases, the outcome of the criminal investigation is that the taxpayer rectifies all non-compliance and pays all outstanding taxes, penalties (of up to 200%) and interest.

Other types of offences pursued by SARS include those related to the failure to submit tax returns or refusal to provide information on request to SARS. These cases also have the alternative option of an admission of guilt, provided by the NPA, which results in the disclosure of the required information to SARS and a payment of a fine ranging between R 300.00 to R 600.00 to the Department of Justice. On average, SARS conducts approximately 75 000 enquiries of taxpayers in this category per year. In most cases, when confronted by the possibility of criminal prosecutions, the majority of recalcitrant taxpayers immediately comply.

The following statistics relate to completed investigations that have resulted in criminal prosecutions and exclude cases currently ongoing within the justice system.

SARS Financial Year	Number of criminal investigations concerning serious offences resulting in prosecutions (trial only)	Number of criminal investigations concerning failure to submit returns or information on request resulting in prosecutions (trial or admission of guilt)	Actual amounts recovered by SARS as result of criminal prosecutions (excluding fines imposed by court payable to Department of Justice)
2007/2008	597	6789	R64, 000, 000.00
2008/2009	571	7555	R 6,730,000.00
2009/2010	299	8373	R48,000,000.00 (An additional amount of R 35,000,000.00 was also recovered by criminal investigators relating to outstanding PAYE)