

NATIONAL ASSEMBLY
QUESTION FOR WRITTEN REPLY
QUESTION NUMBER: 260 (NW141E)
DUE TO PARLIAMENT: 09 MARCH 2012

Mr G B D Mc Intosh (Cope) to ask the Minister of Finance:

Whether the National Treasury has taken any steps to (a) recover more than R50 billion owed to the SA Revenue Service by 9 300 very rich people countrywide and (b) register almost 7 000 of these people with a gross income of more than R7 million as taxpayers; if not, why not, in each case; if so, what are the relevant details of the (i) deadlines set to recover these moneys and (ii) penalties that have been put in place to deal with these tax evaders in particular? NW141E

REPLY:

(A) The amount of R50 billion reported in the media as being owed by High Net Worth Individuals (HNWI) was an estimate of gross income rather than tax and was based on statistical extrapolation of third party data. An accurate estimate of the potential tax liability of this group is not possible as each case is unique. For example, in some instances income may be held in trusts, companies or other structures while in other cases the income may have been derived from dividends or capital growth rather than remuneration and therefore qualify for a lower rate of taxation.

That being said, the South African Revenue Service is taking steps to improve compliance among HNWI including:

- SARS has established a dedicated unit to handle the tax affairs of the HNWI segment and, as announced in the 2012 Budget Review, improvements in compliance with the tax laws will be a focus area for SARS this year.
- SARS is using its own data and data from third parties to identify failure to register as a taxpayer, undeclared income and a variety of other forms of non-compliance.
- SARS has also commenced audits and investigations on a number of HNWI's and their associated entities such as trusts and companies. Given the complexity of tax affairs of many HNWI's, audits and investigations in this

segment usually require a substantial and extended commitment of resources. One such case involving over R200 million in tax and over R400 million in additional tax has involved litigation in multiple jurisdictions and has stretched for over a decade.

- HNWIs are often internationally mobile, with assets and activities in other jurisdictions, which demand a greater level of international cooperation. South Africa currently has 70 double taxation agreements and 5 tax information exchange agreements in force that provide for the exchange of information with other jurisdictions.
- SARS has also commenced joint audits with jurisdictions like Botswana, the United Kingdom and the United States of America with respect to HNWIs.
- The legislative framework has been modified to limit arbitrage opportunities and close loopholes. As examples, the higher CGT and dividend tax rates have helped narrow the arbitrage gaps between normal income and capital gains and between the income derived in an individual's hands and through a corporate entity.

(B) As noted earlier, the information reported on by the media was based on a statistical extrapolation which indicated that there could be up to 9300 individuals in South Africa who meet the SARS criteria for registration as a HNWI. This appears at odds with SARS's current registration of 2300 HNWI. SARS is conducting follow up research and risk assessment to identify actual cases of non-compliance including failure to register as a taxpayer along with other forms of non-compliance.

Where non-compliance is established, action is taken including registration of the individual, the imposition of any tax outstanding, additional tax (understatement penalties) of up to 200% and interest on outstanding amounts. Administrative penalties for failing to submit income tax returns may also be imposed. Collection efforts to recover the taxes payable, within the timeframes set by law, have begun on cases that have been finalised. Where appropriate, individuals could also face criminal charges.