

**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**QUESTION NUMBER 2161 [NW2583E]**

**DATE OF PUBLICATION: 16 AUGUST 2013**

**2161. Mr N J J van R Koornhof (Cope) to ask the Minister of Finance:**

- (1) Why could the National Treasury not detect the crimes of (a) VAT fraud, (b) false representation of goods and services, (c) Black Economic Empowerment (BEE) fronting and (d) bribes allegedly committed by Andy Bertuli and Jeff Wiggill of First Strut over a period of 20 years;
- (2) what link has he found that these alleged crimes have on the operations of Medupi and Kusile Power Stations?

NW2583E

**REPLY:**

1. National Treasury does not administer the tax legislation but the South African Revenue Service (SARS) does and all matters related to its application are within SARS purview.
  - a. The allegation of VAT fraud that the Honourable Mr Koornhof is referring to appears to have been as a result of reportage in certain newspaper about the mentioned taxpayers.

SARS has not laid a complaint of VAT fraud against the taxpayers with the National Prosecuting Authority. Our enquiries into their affairs have not revealed any evidence that would lead to an investigation of VAT fraud at this stage. In the event that SARS receives such evidence, SARS will inquire into the matter. SARS would welcome information in this regard.

However, SARS established that the activities of the taxpayers concerned are now subject of an inquiry, based on the relevant legislation by the Financial Services Board.

SARS shares Mr Koornhof's concern about the type of schemes that is reported to have been carried out by First Strut. These arrangements simulate collective investment schemes; offer high returns to the initial depositors and collapse when large amounts are withdrawn simultaneously

for any reason. Usually, this is when the deposits dry up and cannot sustain the pay-outs. It is often the case that these schemes, like all forms of white-collar crime, also involve a degree of tax evasion or fraud.

However, it needs be noted that the success of these schemes depends on several factors including the credulity of the potential depositors; endorsement from financial institutions; lack of due diligence by the depositing institutions and individuals. Since they trade privately with deliberate obfuscation of their true nature, they are usual come to notice only when they become large in scale and or when they collapse. Typically, it is only when the schemes collapse that defrauded investors report any wrongdoing to the authorities in an effort to recoup losses.

Dealing with these schemes, necessarily, involves a wide range of state institutions. SARS is but one of them. Others may include the South African Police Service (SAPS); the National Prosecuting Authority (NPA); the Financial Intelligence Centre (FIC); the South African Reserve Bank (SARB) and the Financial Services Board (FSB).

- b. The allegation of “false representation of goods and services” may be understood under different contexts.

It may be related to the aforementioned VAT fraud. SARS has not laid a compliant of VAT fraud against the taxpayers with the National Prosecuting Authority. Our enquiries into their affairs have not revealed any evidence that would lead to an investigation of VAT fraud at this stage. In the event that SARS receives such evidence, SARS will inquire into the matter. SARS would welcome information in this regard.

Or, it may relate to a department’s procurement of goods which would be a violation of the Public Finance Management Act. In that case, SARS would not be in a position to reply since SARS did not procure any goods and services from the above-mentioned entities.

- c. SARS is in no position to reply to matters relating to “*Black Economic Empowerment (BEE) fronting*” because they are not within our legal remit and SARS did not procure any goods and services from the above-mentioned entities.
- d. SARS is in no position to reply to matters relating to “*bribes allegedly committed by Andy Bertuli and Jeff Wiggill of First Strut over a period of 20 years*” because they do not concern any SARS official.

2. SARS is not in a position to reply to matters relating to “*what link has he found that these alleged crimes have on the operations of Medupi and Kusile Power Stations*” because they are not within our legal remit.