

NATIONAL ASSEMBLY
QUESTION FOR WRITTEN REPLY
QUESTION NUMBER: PQ 2162 [NW2584E]
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MR N J J VAN R KOORNHOF (COPE) TO ASK THE MINISTER OF FINANCE:

- (1) Whether the SA Revenue Service (SARS) has a record of (a) VAT fraud, (b) false and dodgy invoicing and (c) business bribing; if not, why not in each case; if so, what (i) is the accumulative effect and cost to the fiscus and (ii) are the further relevant details in each case;
- (2) What is the nature of intelligence gathering by his department with regard to (a) the specified incidences, (b) any other related incidences and (c) companies found to be flouting corporate and other laws?

NW2584E

REPLY:

- (1) (a) Yes, record is kept on formally identified VAT fraud cases. In instances where cases attract the definition of a “serious tax offence” as determined in the Tax Administration Act, they are referred to SARS’ Criminal Investigations who upon conclusion of their investigations hand the cases over to the National Prosecuting Authority for criminal prosecution. From the inception of the Tax Administration Act at the beginning of October 2012 up to 31 March 2013, 7 VAT cases with allegations of violating section 235(1)(a) of the TAAAct (Serious Tax offences), were handed over to the SARS Criminal Investigations division. From 1 April to 20 August 2013, a further 31 possible VAT fraud cases were handed over to SARS Criminal Investigations division for investigation.

The fraudulent VAT Registration of vendors where no trace of any form of trading has been identified is one of the main causes of VAT losses to SARS. These registered entities are used to claim fictitious VAT refunds. Since 2009, fraudulent VAT refunds totalling R637, 6 million were released. R393, 3 million of this amount has been secured of which R371, 3 million has already been recovered.

Investigation often results in the identification of syndicates where syndicate members issue invoices to each other to provide a document trail for VAT claims. Elaborate schemes are created involving multiple companies to obtain VAT refunds.

SARS has been successful in dismantling the activities of some of these VAT syndicates by engaging in cooperative relationships with the banks.

- (b) All suspicious transactions are, however, followed up. Details of such follow-ups are available.

The manner in which VAT fraud is committed is usually with the submission of fictitious invoices when requested to provide proof of transactions during the submission of VAT returns.

Where SARS becomes aware of such instances it applies the most punitive civil measures allowed for in law – i.e. the taxpayer is assessed and the consequence is that either the refund due is not paid out, or alternatively where paid out is recovered. In addition, maximum penalties as high as 200% and interest can be applied.

- (c) Information in this regard is not always available.

- (2)(a)&(b) The findings and learning's that come out of these processes are used to enhance the rules in the SARS risk engines in order to curb the type of risk being picked up and reduce the possible losses.

Several tools are being used to detect risk-

- In processing returns a risk engine uses a multitude of risk rules and algorithms to compare data from third parties and what had been declared by the taxpayer in order to assign a risk factor to that vendor;
- Where a vendor is selected for verification or an in-depth audit, the auditors would use the relevant mechanisms in tax law to obtain information from the taxpayer or third-parties;
- Interaction with whistle-blowers, search and seizures as well as tax inquiries as authorised by a judge;
- The SARS hotline where taxpayers may call and report suspected non-compliance, as well as a link on its website which enable people to complete what is known as a suspicious activity report;
- Foreign law enforcement, tax and customs agencies in terms of various international instruments that exist;
- Information from various state institutions, including the SAPS, NPA, AFU, SIU and Hawks;
- Participation in multiple governmental formations where information is also provided to SARS i.e. ACCT, JCPS, various sub-groupings under the JCPS etc.;

- Engagements with organised labour that provides information periodically at various levels, and
- Engagements with various organised representative bodies in business that provides SARS with information periodically.

(2) (c) Please refer to answer above.