

NATIONAL ASSEMBLY

QUESTION FOR WRITTEN REPLY

QUESTION NUMBER 720

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

Whether the SA Revenue Service (SARS) has conducted any lifestyle audits; if not, why not; if so, how many (a) have been conducted as at the latest specified date for which information is available, (b) have resulted in additional tax revenue collected and (c) have resulted in criminal prosecution for tax evasion?

NW847E

REPLY:

As part of the risk-based approach used by SARS to identify and investigate non-compliance with tax and customs laws, risk-profiling is applied to all tax entities (individuals and businesses) and across all tax types or tax products – Personal Income Tax (PIT), Corporate Income Tax (CIT), Value-Added-Tax (VAT) and Customs and Excise duties.

As part of the risk-profiling of individual taxpayers, SARS uses a variety of sources of information including third party data and risk rules which assist in identifying potential discrepancies between the income declared by taxpayers and the income and assets they are thought to have.

Where such a potential discrepancy is identified, a taxpayer is selected for audit. A SARS Income Tax audit of an individual comprises various activities by a SARS auditor which primarily rely on the obligation of a taxpayer to honestly declare income, assets and liabilities in a standard periodic return to SARS on the one hand and then to systematically examine and verify records or books of account, transaction records and any other relevant documents in relation to what was declared by the taxpayer on the other hand.

Where a discrepancy is then identified by the SARS auditor, this is usually followed up with further engagements between SARS and the taxpayer. Such engagements may occur in person, telephonically or in writing.

Where discrepancies have been confirmed, the SARS auditor would then typically issue an additional assessment to take into account income not previously considered, and would usually have an interest consequence and additional tax consequence. In addition, under certain circumstances, penalties may also apply.

In essence, the practice of reviewing the “lifestyle” of a taxpayer from a tax audit perspective, relates to the comparison of the taxpayer's apparent living standards and assets and liabilities obtained from third party data-sources against the values of income and assets declared in the tax return by that taxpayer. This process is one of many tools available to a SARS auditor when executing the audit process, and usually serves to highlight areas of risk that may require verification or clarification.

Another tool at the disposal of an auditor is the so-called “lifestyle questionnaire” which enables a tax auditor to pose additional questions to a taxpayer beyond what is normally required in a tax return. The questionnaire is designed to rely on the obligation of a taxpayer to honestly and truthfully declare to SARS, in order to enable SARS to determine whether all income has been declared or not.

On average, SARS selects approximately 68 000 individual taxpayers for audit each year. In a small percentage of these cases, the audit process identifies further risks warranting criminal investigation. On average, SARS conducts approximately 1 500 investigations of individual taxpayers per year as noted below:

SARS Financial Year	Number of Investigative cases (PIT)	Assessments Raised	
11 months ending 28 February 2010	1,593	R	185,242,523.00
31 March 2009	1,767	R	611,890,857.00
31 March 2008	1,427	R	287,673,777.00

In terms of an existing memorandum of understanding with the South African Police Service (SAPS), SARS conducts criminal investigations on behalf of and in support of the SAPS. 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 (which may be up to 200%) and interest.

In cases of theft, fraud or gross evasion where the taxpayer is recalcitrant and uncooperative these are handed to the National Prosecuting Authority (NPA) for prosecution purposes.

The following statistics pertain to prosecution of individual taxpayers for tax evasion:

SARS Financial Year	Number of income tax individual criminal investigations resulting in prosecutions
2007/2008	105
2008/2009	97
2009/2010 to date	32

There are currently approximately 1 480 cases which have been handed to the NPA for consideration for prosecution.