
MINISTER OF FINANCE
DEPUTY MINISTER OF FINANCE

NATIONAL ASSEMBLY
QUESTION FOR WRITTEN REPLY
QUESTION NUMBER: 2238 [NW2542E]

Deadline: 17 September 2021

REPLY RECOMMENDED BY: EDWARD KIESWETTER

COMMISSIONER: SOUTH AFRICAN REVENUE SERVICES

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2238. Ms B M van Minnen (DA) to ask the Minister of Finance:

- (1) Whether, in view of Denel's admission to the Standing Committee on Public Accounts (SCOPA) meeting on 24 August 2021 that it was operating without a tax clearance certificate, its situation regarding its tax commitments to the SA Revenue Service (Sars) and the agreement with Sars to settle the outstanding amounts owing by 31 August 2021, Sars intends to take steps against Denel's failure as required by section 234 of the Tax Administration Act, Act 28 of 2011; if not, what is the position in this regard; if so, what are the relevant details;
- (2) whether Denel's tax clearance certificate has been extended; if not, why not; if so, what are the relevant details?

NW2542E

REPLY:

- (1) Section 256 of the Tax Administration Act, 28 of 2011 (the Act) provides for circumstances under which a Tax Compliance Status (TCS) of the taxpayer can be issued or declined. A TCS is issued where:
 - a) A taxpayer is registered for tax where required to do so;
 - b) A taxpayer has debt owed to SARS where but has made arrangements to pay in instalments or such debt has been suspended by SARS; and
 - c) All returns that needed to be submitted to SARS have been submitted or arrangements have been made with SARS to submit such a return(s) after due date.

The absence of a TCS does not preclude a taxpayer from carrying on his or her business or from continuing to operate. If a taxpayer did not comply with the required tax obligations, SARS has legal instruments at its disposal to ensure that such taxpayer is forced to comply. These instruments do not include stopping the operations of the business.

Section 234 of the Act provides that a taxpayer who willfully fails to comply with his or her tax obligations is guilty of an offence only after been convicted by a court. At this stage, there is no such conviction. Therefore SARS is precluded from divulging any information of the taxpayer because it will be in contravention of section 69 of the Act.

- (2) As indicated above, any information which has been provided to SARS, including information relating to TCS, is subject to confidentiality in terms of section 69 of the Act.

SIGNATURE PAGE

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Recommended / Not recommended

**NAME: EDWARD KIESWETTER
COMMISSIONER: SOUTH AFRICAN REVENUE SERVICES
DATE: 16 SEPTEMBER 2021**

Recommended / Not recommended

**DR. DAVID MASONDO
DEPUTY MINISTER OF FINANCE
DATE:**

Approved / Not approved

**ENOCH GODONGWANA
MINISTER OF FINANCE
DATE:**
