Appendix 4

Report submitted by Dr Randall Carolissen to the Commission of Inquiry

7/31/2018

A review of the Bain recommendations; The new SARS Operating Model implemented 2016

Dr Randall Carolissen
SARS

Contents

List of figures

List of tables

EXECUTIVE SUMMARY

Revenue mobilisation is key to fiscal policy implementation, especially in developing countries where the demand for public expenditure is high. The mandate of SARS is to collect all revenue due to the fiscus. SARS collects about 90% of all Government revenue annually. Since its inception in its current form in 1997, SARS has been through various cycles of renewal on its journey from being a state bureaucracy to a fully-fledged tax administration service aligned with international best practice and which is semi-autonomous from Government. This journey, informed by a well thought through strategy, guided the evolvement of the SARS operating model.

The performance of SARS for the period 2008-2016 (post global financial crisis and prior to implementation of the Bain operating model 2016) had been characterised by the following:

- An IMF assessment in September 2014 using the Tax Administration Diagnostic Assessment Tool (TADAT) methodology that shows that SARS met international best practice in 15 of the 27 dimensions measured; while a further 11 represented a sound performance.
- The United States government certified SARS as a fully compliant and reliable tax administration for the purposes of automatic exchange of information under the Foreign Account Tax Compliance Act (FATCA).
- The IMF rated SARS credibility of revenue analysis as best practice – NEED THE SOURCE
- Average tax buoyancy ratios of 1.2 which in effect means that the revenue grew 20% faster than the economy over the period.
- Modernisation of the tax administration which, inter alia, yielded exponential improvements in:
    - Turnaround times in completing taxpayer assessments and refunds, where applicable, from months to a few seconds, except for the relatively small number of cases where risks were detected.
    - Migration of more than 90% of taxpayers onto electronic submission and payment channels.
- The Customs Modernisation Programme, which gained traction in 2011 and delivered wide ranging improvements; halving the time it takes to import, world

class automation and substantial compliance improvements relating to illicit cigarettes, clothing and textile products and narcotics.

- South Africa receiving special mention in the 2013 World Bank Doing Business Report for having improved the most in the ease of trading across borders.

SARS' heightened international profile was also recognition as a world-class administration is also evidenced by the fact that officials have been appointed to head international bodies. For example:

- The Commissioner was appointed as the head of the World Customs Organisation (WCO) from 2000 to 2006 – his term was extended three times.
- A SARS official was appointed to head the newly established WCO Directorate of Capacity Building.
- Another SARS official was appointed as the Chair of the OECD's Global Forum at a time when the G20 mandated the OECD to tackle tax transparency and automatic exchange of information for tax purposes was introduced internationally. This official's term was extended.

SARS' governance programme worked effectively and this was assured by the Auditor-General (AG) who has, since 2003/4 issued unqualified audit reports for both administered revenue and own-accounts. In fact, in 2013/14 the AG had issued SARS a clean audit report for both administered revenue and own accounts. Moreover, in 2012 Ernst & Young conducted an audit of SARS' governance and risk systems. In this review, Ernst & Young found that SARS' information and technology, alignment and coordination strategy and objectives and SARS' process improvement and efficiency were all assessed to be "advanced".

Ernst & Young: SARS Governance and Risk Audit (2012)

Notwithstanding the inaccurate portrayal of SARS being in crisis in late 2014, the four operating model options generated by Bain, by and large, confirmed the operating model first mooted in 2008. The 2008 model is a hybrid between a functional and tax type model, the latter allowing for segmentation of the taxpayer base. The Bain model, as was the case with the one proposed in 2008, combines the benefits from various models developed internationally. Both the 2008 model and the 2016 SARS operating model option proposed by Bain draw from technology to effect large economies of scale and standardization (the functional model) with taxpayer type structuring (segmentation) – this was possible because SARS had, over the years, focused its effort to understand the different types of taxpayers in terms of their behaviour, their functioning, their expectations of a tax administration and their psychology. This effort to understand taxpayers better was intended to allow SARS to improve service, enforcement and education with the intention to improve overall compliance levels which would translate into increased revenue yields..

The only major reconfiguration that differentiates the 2016 Bain model from what existed prior to 2016 was to remove the Customs and Excise division from the division referred to as Operations. This was in any case inevitable because of the New Custom Bill legislated in 2014.

The operating model ultimately adopted by SARS in 2016 was a complete departure from that proposed in each of the four options developed by Bain. In the new operating model that was implemented, the Personal taxes division was amalgamated with the Business taxes division, establishing the Business and Income Taxes division (BAIT), disestablishing the Large Business Centre (LBC). The LBC was established in 2005 and signalled the advent of the implementation of the Segmentation strategy. This new restructuring placed 80% of all revenue responsibility within BAIT, counter to the design principle, which sought to balance the organisation.

The new operating model also placed all the audit capacity in the Enforcement division, a departure from the compliance strategy of SARS, which seeks to balance Enforcement, Service and Education. This strategy encourages voluntary compliance through education and service, leaving enforcement to deal with specialised and tax evasion practices. The Compliance Strategy was compromised by both the 2016 Bain proposals and the SARS model finally adopted, by having all the audit capacity concentrated only within Enforcement. This lumping of all "audit" functions within Enforcement failed to recognise that compliance audit is more service-oriented than enforcement audit is.

Two years into the new operating model, it has become evident that SARS has regressed. For the periods 2016/17 and 2017/18:

- Revenue buoyancy ratio retreated to 1, with revenue growth from the Large Business sector contracting in real terms.

Revenue Yield - Savings + Collections - Rm

	Q1	*Q2*	*Q3*	*Q4*	*TOTAL*
2011/12	70	368	21	3 405	**3 864**
2012/13	160	485	1 367	3 507	**5 519**

2013/14	337	482	1 150	2 958	**4 927**
2014/15	234	568	288	2 472	**3 562**
2015/16	200	574	660	3 105	**4 539**
2016/17	180	830	971	4 155	**6 136**
2017/18	558	852	1 103	3 015	**5 528**

- Whilst the Bain operating model diagnostic in 2015 identified a potential Customs and Excise revenue gap of R70 billion for collection by 2017, over and above the trend of 5%, revenue growth from Customs and Excise slowed to below 1%.
- Compliance of taxpayers continued to slide, with taxes such as PAYE and VAT, collected on behalf of SARS. This can be gauged by the percentage returns not filed. PAYE returns not filed slipped from 16.1% in 2008/09 to 31.0% in 2017/18 and in the case of VAT from 20.9% to 38.8% for the same period. The number of returns not filed is increasing exponentially year-on-year - from 4.2 million in 2008/09 to 7.7 million in 2017/18, raising the aggregate number of outstanding returns, not counting the current financial year, to 57 million.
- Compliance of companies filing their returns is at the very best hovering around the 40% mark – this means that around 60% of companies are not filing their returns. (Companies need to file returns to allow SARS to perform a reconciliation of tax statements, thereby determining their finalised tax liability).
- SARS debt escalated by about 50% from R85 billion in April 2015 to about R135 billion in 2017/18.
- South Africa has regressed by 47 points on the World Bank's Ease of Trading across Borders index, back to pre-modernisation ratings. Inspection processes are the longest they have been in seven years (from 2 days in 2013 to the current 23 days,).
- In a recent management meeting, the Customs leadership described themselves as fragmented, said that resourcing for risk estimation was below inadequate and that their capacity to deal with illicit trade had been hollowed out.

- When the Customs modernisation programme was stopped in the latter part of 2014, it further delayed Customs modernisation and the implementation of the New Customs Acts Programme by more than three years.
- Major loss and displacement of skills robbed SARS of institutional knowledge much required for a sustainable and solid foundation.
- Since 2015, SARS has severely underspent on its Capital budget which is the backbone for innovation, renewal and sustainability.
- The training output from the SARS Academy declined both in quantity and quality as evidenced by increasing number of service failures and complaints.

The manner in which Bain conducted themselves in developing the 2016 operating model for SARS falls way short of the standard expected from an international consulting company (the detail of which is found in the Summary section of this report). Structure follows strategy, and to this end, contemplation of a new operating model has to be informed by the strategic journey of the institution and an impact analysis of the effectiveness thereof. The neglect, or under-appreciation, of the historical SARS strategic journey was arguably the most telling omission of the Bain diagnostic published in 2016. A TADAT assessment had been completed towards the end of 2014, and was therefore a current and relevant independent review conducted by an expert body. One would expect that the findings of the TADAT assessment would have informed Bain's diagnostic analysis, more so that the TADAT assessment more or less coincided in time with Bain's analysis. Had Bain focused even only on the executive summary, they would have identified SARS' strengths and weaknesses. This omission is clear in that the objections review process are not considered at all. Furthermore, as professional consultants, Bain should have distanced themselves or at least cautioned SARS against the drastic departure from their proposed operating model options. The final model adopted by SARS violated at least one important design principle - that of balancing the organisation. The concentration of power in BAIT, Governance, International Relations and Communications (GISC) and Enforcement divisions in the final model is puzzling to say the least.

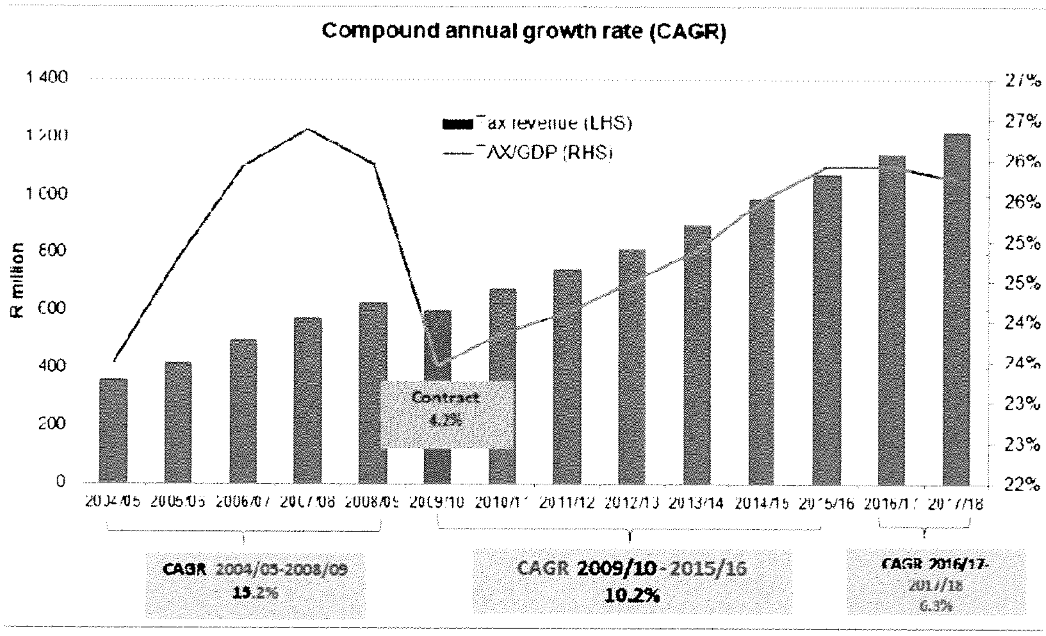
To consider a snapshot of the strategic journey when contemplating changes to an operating model would be folly and will in most circumstances result in retrogression of the institution. This sadly turned out to be the case in the design of the 2016 operating model of SARS.

1 OVERVIEW AND CONTEXT

Revenue mobilisation is key to fiscal policy implementation, especially in developing countries where the demand for public expenditure is high. Tax revenue is the major source of domestic revenue in most countries as it has proven to be more sustainable than deficit financing and money creation. The success of a strategy of any organisation must be gauged against the success it has in executing its mandate. The mandate of SARS is to collect all revenue due to the fiscus. SARS collects 90% of all South African Government revenue.

SARS had been very successful in ensuring that South Africa maintain fiscal sovereignty by registering robust (exceeding that of the economy) revenue growth post democracy. (South Africa shunned bail-outs and hence was sheltered from the dictates of international funding agencies.) The fiscal space so created not only assisted in lowering sovereign debt from over 50% in 1994 to 22% in 2008, but also provided the South African government with the latitude to assume a countercyclical stance to weather the worst effects of the global financial crisis.

Figure 1: Revenue growth post democracy had been robust exceeding that of the economy, offering South Africa the fiscal space to reduce sovereign debt.



SARS, when first established in its current form in 1997, had been through various cycles of renewal on its journey from being a state bureaucracy to a fully-fledged tax administration service, aligned with international best practice. During its evolution to become a world-class tax administration entrenched the long held paradigms of taxpayers, tax administrators and society at large had to be shifted. The strategic journey of SARS is well documented in numerous annual and diagnostic reports and Exco submissions. The strategy of SARS was widely shared and views were canvassed at national management fora and in submissions to Parliament and the Ministry of Finance.

It would therefore be prudent that any current or future leadership of SARS fully appraise themselves of events, or the strategic journey, that established the status quo when contemplating changes to the strategy and/or way of doing business.

To appreciate the evolution of the SARS operating model one has to consider the strategic journey of SARS since the early 2000s. The responses to a changing world in which advances in technology offer massive opportunities for efficiency and effectiveness gains have been embraced by most progressive tax and customs administrations throughout the world. This recognition shaped the modernisation agenda of both Tax and Customs in SARS.

The innovative application of technology intended to shift the staff profile, bulged around low value but high volume processes to high value and specialised functions; "the thinning the middle" concept (I-SARS). The I-SARS model (**Figure 2**) was intended to, through the automation of routine processes, release SARS staff for upskilling to focus on dealing with the increased intellectual load and requirement for specialised services. The increase in complexity of the tax landscape is characterised by hugely sophisticated tax arrangements, some of which transfer pricing and trade mispricing; all of which pose risks to the fiscus and the fiscal sovereignty of a country. The approach to serving large business through a dedicated large business centre was a case in point. The I-SARS model also crystallised the segmentation model as identified by the numbers in **Figure 2** and the description thereof in **Figure 3**. Benefits for staff development and opportunities for process optimisation by productionising routine and mundane tasks were obvious.

INSERT THE BULGE GRAPHIC

Figure 2: The 2008 I-SARS model sought to standardise and automate routine but labour intensive processes liberating staff to attend to specialist functions.

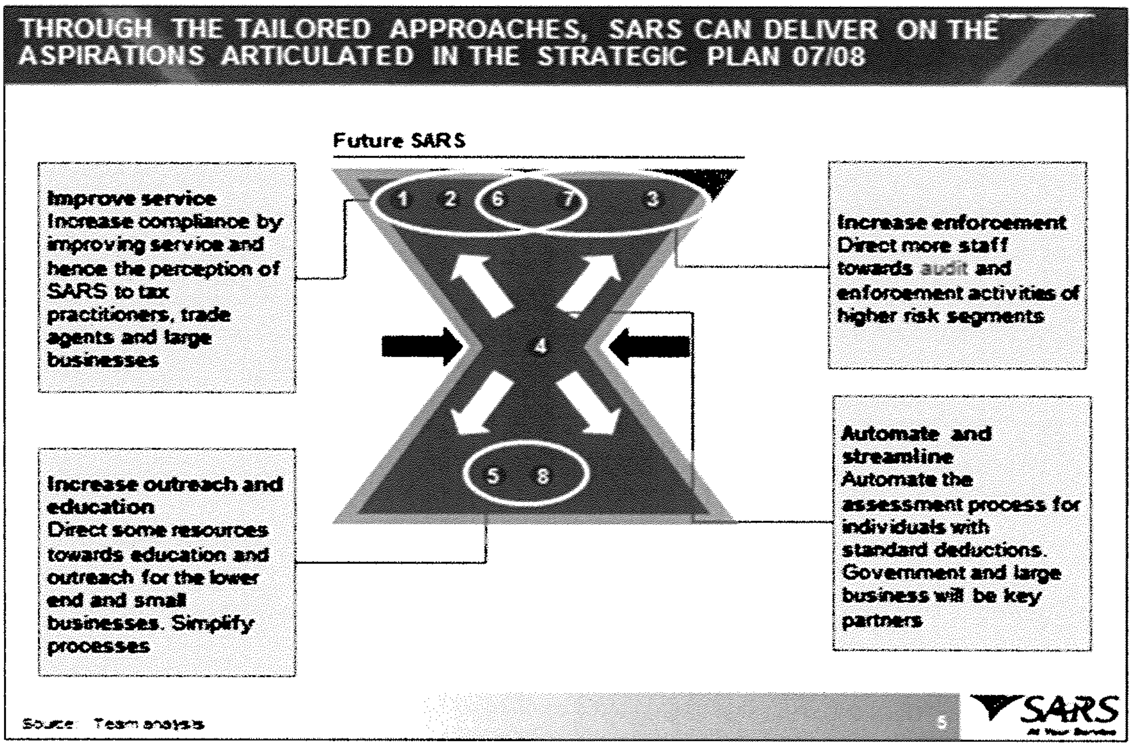
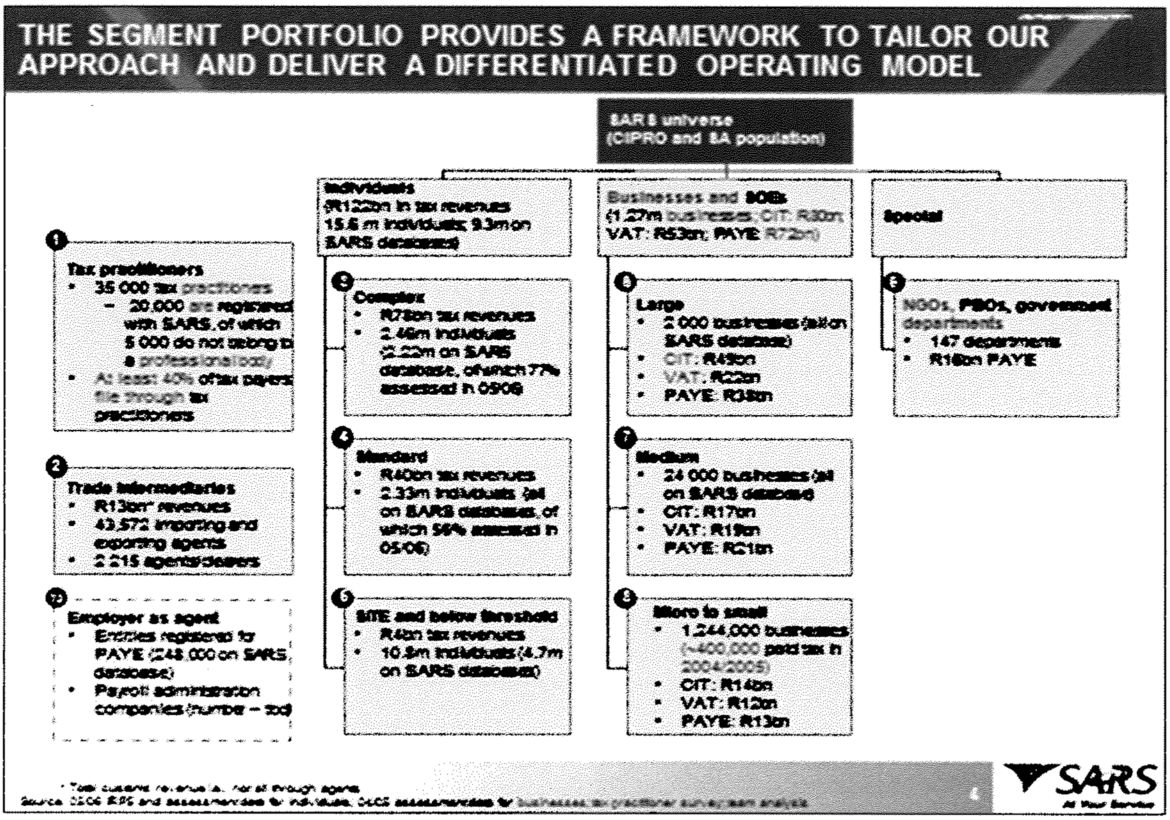


Figure 3: The 2008 I-SARS model further identified the specialized segments on which the operating model would be premised on.



The review of the new operating model in the 2015-2016 period coincided with a period of extreme upheaval within SARS. Since late 2014 media reports of "rogue" units and nefarious spying on SARS personnel created an atmosphere of paranoia and distrust within the institution. As more sensationalist media articles were released, collegiality gave way to aloofness, distrust and disengagement[1]. Relationships with taxpayers became strained and overall taxpayer compliance kept slipping further as public confidence in the institution waned. This alert was first sounded by SARS when responding to media interviews post the February 2017 Budget presentation in Parliament and subsequently reiterated several times in the media.

> *"Speaking at the 2017 Tax Indaba in Sandton, Johannesburg, Randall Carolissen, head of research at Sars expressed concern about the level of non-compliance of taxpayers. Over the last five years the number of non-submission of returns for Pay-As-You-Earn (employee tax) has increased by 77% and for Value Added Tax (VAT) by 32%. He said when economic growth lags, it is usual to find a dip in compliance. The valley has however never been as deep as we have seen in the last five years. (Extracted from article written by Amanda Visser, 12 September 2017". (Moneyweb)*

Notwithstanding Bain's inaccurate portrayal of SARS being in crisis in late 2014, the four operating model options it generated by and large confirmed the operating model first mooted in 2008. The 2008 model is a hybrid between a functional and tax type model, the latter allowing for segmentation of the taxpayer base. The Bain model, as was the case with the one proposed in 2008, combines the benefits from various models developed internationally. Both the 2008 and 2016 SARS operating model options proposed by Bain draw from technology to effect large economies of scale and standardization (the functional model) with taxpayer type structuring (segmentation) to deal with the increasing specialization of taxpayers. The only major reconfiguration that differentiates the 2016 Bain model from what existed prior to 2016 was to

[1] SARS Connexion surveys of 2016 and 2017 shows that the percentage of respondents positively engaged dropped from 61% to 53%.

remove the Customs and Excise division from the division referred to as Operations. This was in any event contemplated by the New Custom Bill legislated in 2014.

By most accounts the operating model options ultimately adopted by SARS in 2016 is agnostic of the many strategic imperatives such as the segmentation of the taxpayer base, the thinning the middle (I-SARS) and the overall modernisation program that had been developed and implemented with great success over the past decade.

The closure of the Large Business Centre (LBC) had been especially puzzling given the increasing complexity of tax structuring, integration of trade and cross jurisdiction operations of large multinational companies. This was a retrogressive step and a reversal of the intended segmentation or I-SARS model implementation, fragmenting interfaces with large business across many divisions within SARS.

In 2006, SARS Customs, like the tax administration side of SARS, had processes that were in the main paper-based and labour intensive. The Customs Modernisation Programme started in 2009 to respond to the World Customs Organisation's (WCO) Phase 1 Diagnostic recommendations and the Customs Blueprint. Modernisation gained traction in 2011 and impacted various areas of Customs and trade favourably. The new Customs Management System enabled Customs to respond to traders within seconds from the two hours baseline prior to modernisation. In 2013, South Africa reduced the time; cost and documents required for international trade by 9 days and improved its world ranking on the World Bank Ease of Trading across Borders index by 29 points. In 2015 SARS Customs advanced a further 48 points from the pre-modernisation rank in 2010.

2 PERFORMANCE REVIEW OF SARS

2.1 Overview

Throughout its many years of existence, SARS subjected itself to international benchmarking and scrutiny by assessment agencies. The Public Expenditure and Financial Accountability (PEFA[2]) report released in September 2008 gave SARS the highest possible rating in all of the categories assessed, with the exception of debt collections. (See **Table** 1).

Table 1: PEFA 2008 Assessment of SARS: Distribution of Performance Scores

No.	Predictability and control in budget execution	Score	Justification
PI-13	Transparency of taxpayers obligations and liabilities	A	
(i)	Clarity and comprehensiveness of tax liabilities	A	For all major taxes the obligations are well specified in the Acts and in regulations. The SARS issues specific public information that ranges from general guidance to detailed sector, entity and tax specific documents. Waiving of tax, penalties and interest is subject to policy notes and rules detailed in manuals and any waiving has to be reported to the Auditor-General, the Minister of Finance and the National Assembly.
(ii)	Taxpayer access to information on tax liabilities and administrative procedures	A	For all major taxes SARS provides education and support to taxpayers and has made it a priority to provide information that is as accessible and clear as possible. The website contains a set of useful regulations, documentations, guides and tools. A help desk and call centres during the filing period are also in place to respond to public demand for information. SARS also makes use of all available mass communication means such as print media, radio and television, text messaging and mobile offices. All new legislations and regulations are subject to a wide consultative process.
(iii)	Existence and functioning of a tax appeals mechanism	A	For all major taxes SARS applies an administrative appeal mechanism referred to as the Alternative Dispute Resolution process. Clear policies and rules have been developed. A guide on the appeal system has been published by SARS and data available demonstrates that the system is operational and that appeals receive due attention.

An IMF Tax Administration Diagnostic Assessment Tool (TADAT) review carried out by the IMF in 2014 showed that in most categories assessed SARS could be considered world-class, adhering to international best practice. Of the 27 indicators assessed, SARS was found to adhere to good international

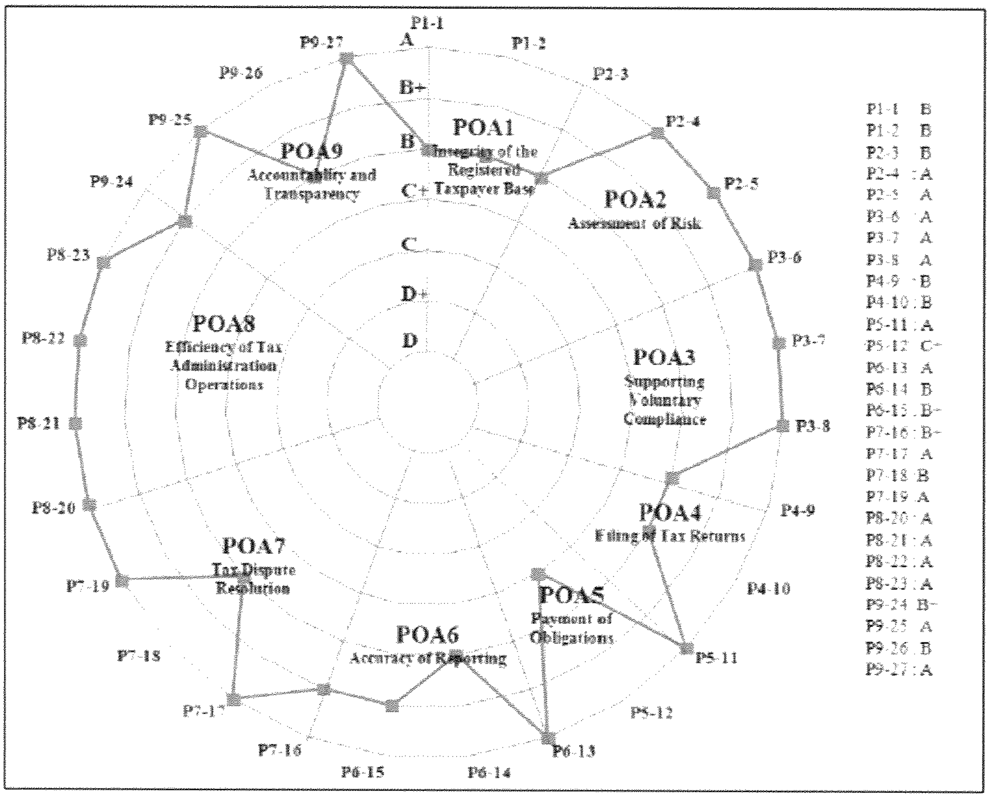
[2] PEFA began in 2001 as a means to harmonize country level assessment of public financial management (PFM) across the organizations that established the program. Those organizations were the European Commission, International Monetary Fund, World Bank, and the governments of France, Norway, Switzerland, and the United Kingdom. They remain the custodians of the program and have supported PEFA through four phases of implementation.

PEFA was established as a means to reduce the duplication and costs of multiple assessments and to facilitate dialogue between government and others about how to improve the effectiveness of fiscal policies. PEFA was also aimed at improving the results of development cooperation as part of the global aid effectiveness agenda. It provided support for the Strengthening Approach established in 2005 through the Paris Declaration, then further developed in the Accra Agenda for Action in 2008, and the Busan Partnership for Effective Development Cooperation in 2011.

https://pefa.org/content/history

practices on 15 of them, whilst most of the remainder indicated sound performance. (See **Figure 4**).

Figure 4: TADAT 2014 Assessment of SARS South Africa: Distribution of Performance Scores



- ‘A’ denotes strong performance (i.e. performance comparable to good international practice)
- ‘B’ represents sound performance (i.e. healthy level of performance but a rung below international good practice
- ‘C’ means minimum requirement are met
- ‘D’ denotes inadequate performance (i.e. minimum performance standards are not met).

The full TADAT report is attached in **Addendum A**.

2.2 Revenue Performance

Revenue growth is a function of the economic growth, policy changes such as rate increases or tax expenditure, compliance of taxpayers and operational efficiencies. The responsiveness of tax revenue to the economic cycle may be analysed by applying the statistical concepts of tax elasticity and buoyancy.

"Tax elasticity is defined as the ratio of a percentage change in adjusted tax revenue to a percentage change in income i.e. nominal GDP". Tax buoyancy refers to "changes in actual tax revenues due to the changes in income as well as due to the changes in discretionary measures such as tax rates and tax bases". If there are no changes in the tax rates and the tax base during the reference period, the buoyancy will be the same as the elasticity. This distinction between tax elasticity and buoyancy is very useful in analysing and evaluating whether future revenues collections will be sufficient to meet resource needs without changing the rates or bases of the existing tax.

The measurements of tax elasticity and buoyancy are also important statistical instruments when assessing reforms in tax structure as well as determining the overall effectiveness of a revenue administration. In addition to this, the study of tax elasticity and buoyancy is effective when used for revenue forecasting, especially weighing the performance of the different taxes against their underlying economic drivers[3].

From the year 2004 to 2008, just prior to the onset of the global financial crisis SARS revenue grew robustly at a Compound Average Growth Rate (CAGR) of about 15.2%. In the 2009/10 financial year SARS revenue contracted by 4.1%, mainly in response to the collapse of global economies. The resilience of SARS was illustrated by the relatively quick recovery in revenue growth in the ensuing years. SARS, unlike most other countries, suffered only a single year of contraction, and the degree of contraction was further relatively benign at 4.1%. (Revenue in the USA contracted by about 16.6%, in the first year, followed by a very slow recovery.)

Post the financial crisis revenue growth recovered robustly albeit at a lower CAGR. From 2010 to 2016 the CAGR registered 10.2% with an average buoyancy ratio of 1.2. The tax-to GDP extraction rate recovered over this period from the low 24% during the financial crisis to pre-crisis levels of 26%.

[3] Annexure C 2017 MTPBS Budget Review, National Treasury website http://www.treasury.gov.za/documents/mtbps/2017/default.aspxwww

The 2016/17 and 2017/18 fiscal years saw a departure from this trend. The CAGR slowed to 6.3%, with tax buoyancies retreating to the long-term average of around 1%. In response, government introduced a number of policy reforms, chief amongst which were hikes in PIT and VAT rates, (See Chapter 4 of National Treasury 2017 and 2015 Budget Review). Without these policy interventions of increasing in tax rates, fiscal consolidation would only have been achieved above 60% of the Debt-to-GDP ratio as opposed to the more sustainable 56% now envisaged.

Drilling down per sector and segment shows that the performance of the large business sector was flat in nominal terms and in fact retreating in real terms. The revenue growth therefore came from the non-LBC segment, which had to grow faster to provide for this increasing slack. Another sector that saw a revenue deterioration was the tobacco industry. In 2016 a major tobacco processing factory moved their operations from South Africa, leaving a gap in excise duty. If domestic consumption is assumed to have stayed the same one would have expected a concomitant increase in import VAT from this industry. This did not realise to the full extent and the fiscus was left with a gap of about R4 billion. (It has to be said that the assumption is that consumption patterns did not change over this period.)

Whilst the 2015 Bain operating model diagnostic identified a potential Customs and Excise revenue gap of R70 billion for collection by 2017, over and above the trend of 5%, revenue growth from Customs and Excise slowed to below 1%.

2.3 SARS Debt and Credit Books

Debt and Credit book ratios are important indicators of the health of an organization. Within tax administrations, they would generally reflect the efficiency with which taxpayer accounts are processed and disputes are settled. The value and volumes of both books escalated dramatically post 2016.

In 2016 SARS saw a dramatic slippage in debt accumulation with debt rising from about R85 billion in April 2015 to R135 billion in 2017. Similarly, the credit book, comprising monies due to taxpayers, is on an upward trajectory, moving from about R40 billion in April 2013 to R55 billion at the end of 2016. Notable was the spike to over R70 billion in mid-April 2015.

Figure 5: Evolvement of the current SARS Debt Book

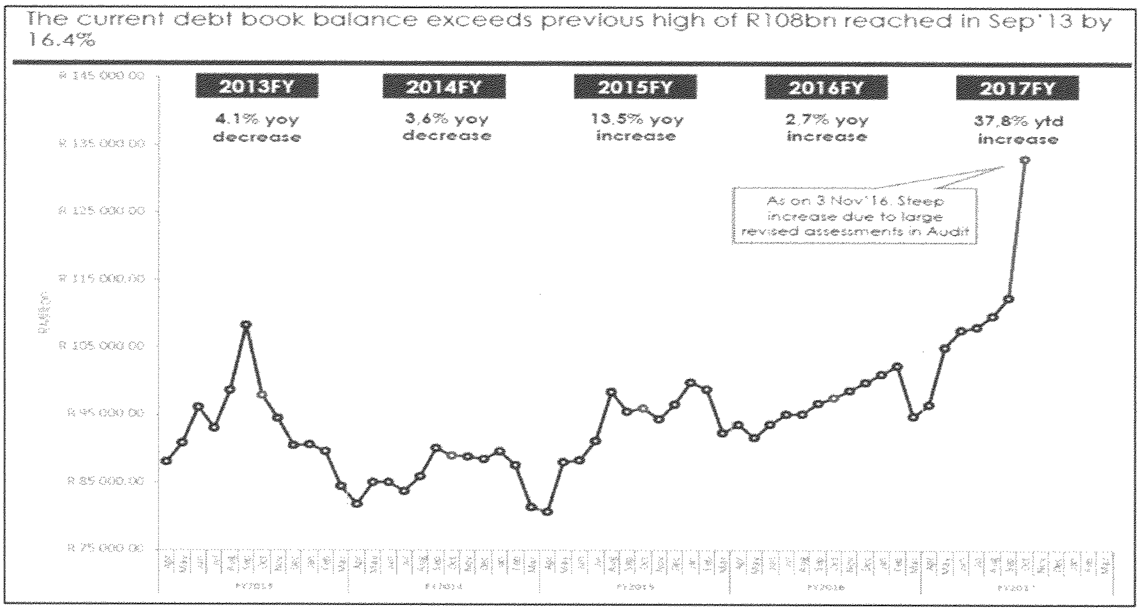
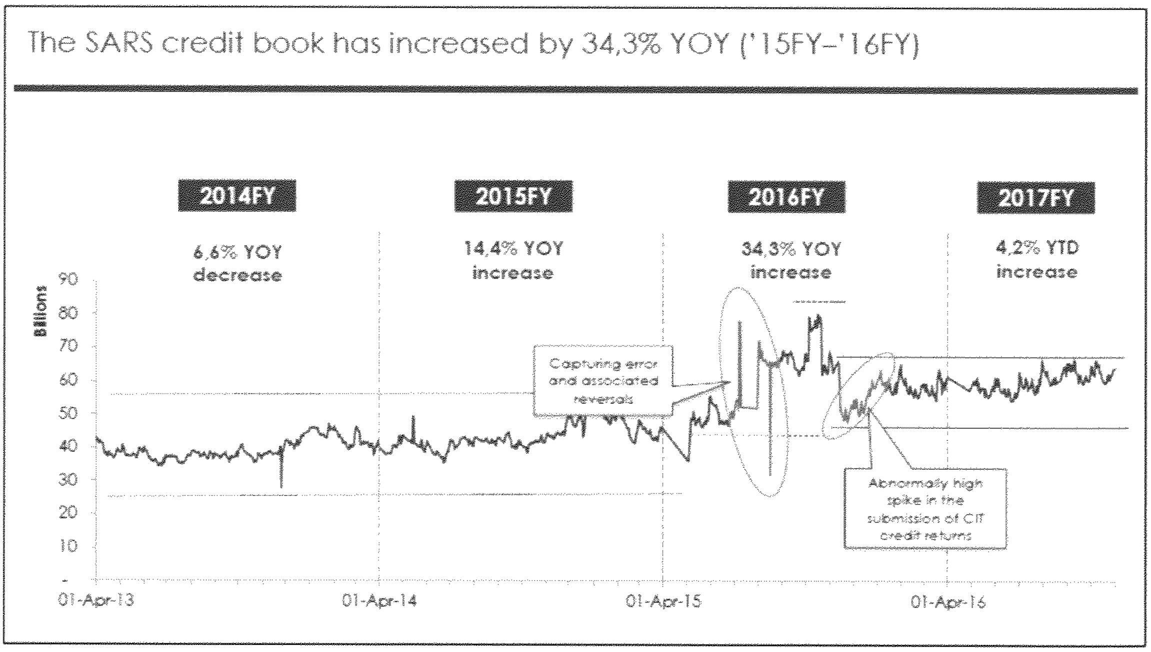


Figure 6: Current Credit Book



3 CRITIQUE OF THE BAIN DIAGNOSTICS

3.1 Tax Gap

The review of the SARS operating model in 2016 was triggered in part by the estimated tax gap, which in turn was based on several studies commissioned by SARS over the past two decades. The estimated tax gap of between 15% and 23% of revenue collected, used by Bain to rationalise the need for a new operating model, was determined from macro-economic perspectives and hence can at best be a ballpark estimation of the tax gap. Most developing countries have their tax gap estimations at about 35% of all revenue collected.

It is generally accepted that the "bottoms-up" methodology is the preferred route to obtain granular, tax type and sector perspectives which could then be applied to obtain more accurate tax gap statistics. This approach is then used to identify real and actionable initiatives. Sweden, for instance, in one particular year tackled the informal economy with great success using the bottoms up approach. The USA applied the random audit methodology to establish a baseline and strategy to address non-compliance within the small and medium sector. Coupled with the investment in data analytics, credit card transactions were tracked, to bring this sector into the tax net.

SARS is yet to invest in the bottoms up methodology to ensure that the requisite granularity and improved accuracy be realised. The only way to address the large informal economy is to follow the Swedish approach. Hence, the estimated tax gap, without the identification of sector and segment specific analysis remains a ballpark figure. The tax gap narrowing approach followed by SARS is to close those tax gaps where clear evidence exists of tax evasion. By way of example, the Voluntary Disclosure Program realised about R3 billion in 2017/18 from previously unaccounted offshore wealth of South Africans. The investment that SARS made in participating in the development of international cooperation agreements provided the intelligence to force this hidden offshore wealth out into the open. Similarly, the development of the Prominent Business Individuals program netted more than a billion rand in the prior year.

3.2 Segmentation

As early as 2006 the recognition of the advantages of segmenting taxpayers and prescribing the appropriate tax treatment became evident. Research work in identifying the various segments, which include High Network Individuals (HNWI) and the informal sector, commenced in 2006 and the results fed into optimisation of the segmentation strategy and operations throughout this period. Segmentation as a strategic objective was an integral inclusion in the design of the 2008 operating model.

3.3 Debt Equalisation

Bain correctly identified high debt levels as a major problem for SARS. It is worth noting that since the publication of the Bain diagnostic debt increased by roughly 50% to R135 billion.

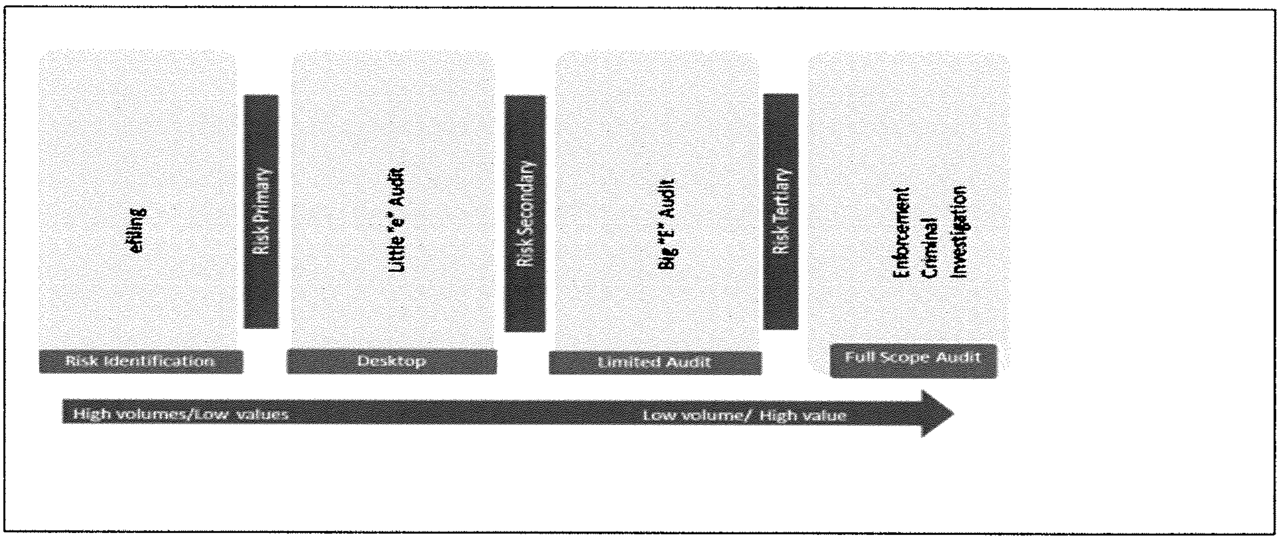
Although purported by Bain as a new initiative, debt equalisation was identified as early as 2006 as an important mechanism to manage taxpayer debt more effectively. Systems were subsequently developed to ensure linkages between the different tax databases to facilitate automated debt equalisation.

> *"As SARS's VAT, PAYE and Income Tax systems function independently from each other there is no automated process between the systems to screen refunds. This process requires a manual intervention and enables SARS to ensure that refunds are only made after debt on all the core systems has been set off. In total (covering all tax products) 12% more cases were debt equalised in 2006/07 in comparison with 2005/06. Of these, the number of income tax cases where debt was equalised rose most significantly, by 76% in the year under review. Approximately 9% more VAT cases were also subjected to debt equalisation than during the previous year. The 2006/07 debt equalisation performance clearly depicts the intent of the organisation in its pursuit of ensuring compliance. The figure below gives a breakdown of cases in which debt was equalised across the various tax types".*
> (South African Revenue Service Annual Report 2006/07)

3.4 Risk Engine

To gauge the effectiveness of the risk engine one has to understand the audit value chain (see **Figure 7**). The Bain diagnostic points out that of the 1.1million PIT cases that are selected for compliance checks only 2% are sent for full audit and they identified that as a huge inefficiency. The point of the matter is that Bain did not recognise that most cases, because of their low risk, are sufficiently processed through desktop audits and compliance checks. It is therefore expected that a relatively a small number of high value cases will remain for full audit and specialised attention.

Figure 7: The SARS Audit Value Chain



This erroneous diagnostic probably explains the large concentration of auditors in Enforcement, thereby denuding the service section of the ability to service the full Audit value chain.

What is puzzling is that at the same time as denuding service and purportedly strengthening enforcement, the model adopted actually dismantles the specialised enforcement units that had focused on conducting complex and contentious audits.

3.5 Customs and Excise

Customs and Excise lends itself to a command and control environment and hence the business model by its very nature cannot be the same as that of tax administration. Hence, the recommendation that Custom be elevated in its importance in the organisation made sense. It should be pointed that the implementation of the new Customs Bill was already mooted in 2014.

A serious lack of understanding characterised the Bain finding on trade mispricing. To automatically assume that trade asymmetries are attributable to mispricing shows a complete misunderstanding of the dynamics of international trade.

3.6 Service Channels

The Bain diagnostic merely describes a further optimisation of what had been and still is a highly successful service channel model. At the time of the Bain diagnostic SARS had already reduced turnaround times from the point of filing to tax refunds from months to a few minutes. More than 90% of transactions were shifted from laborious paper administration to electronic channels with the attendant benefits of improved data collections and liberation of staff from mundane to value adding activities. It is true that large volumes of electronic filing are carried out at the branches which results in extraordinary long queues during peak times. This in my opinion is a result of people having to catch up with technology and, as more people become comfortable with e-filing, greater connectivity is achieved and bandwidth costs are reduced, this demand for electronic-filing at branches should reduce.

3.7 Operating Model

The diagnostic correctly pointed out the imbalance in the organisational design, with 70% of all employees reporting into a single division referred to as Operations. This imbalance was further compounded by having Customs and Excise incorporated into Operations. However, the snapshot at the time of the diagnostic did not take into account the anticipated reforms of the Customs division and the need to get the standardised and routine functions incorporated into the SARS "factory" to also move Customs towards the I-SARS model. The concentration of operations at that particular stage was always going to be temporary. The New Customs Bill passed in 2014 defined an operating model integrated with that of the broader SARS and, ultimately, with the modernisation program of Customs. It was envisaged that the processes that lend themselves to it would be standardized and automated and be managed in the production facilities of SARS, similarly freeing up staff to deal with increasing complexity at high-end specialized functions.

A critique of the LBC was that there was too much focus on service which appears to be based on the high level of suspended debt. This analysis is a non-sequitur. The level of suspended debt suggests high levels of disputed assessments which is not an indication of pandering to the whims of taxpayers under the guise of service. In fact, the opposite is true. A high level of disputed debt suggests a robust administration that demonstrates a balance between service and enforcement.

4 BAIN RECOMMENDATIONS FOR NEW OPERATING MODEL

In benchmarking against international best practice, Bain contrasted the advantages and disadvantages of the model structures based on process (functional), taxpayer types and tax types and indicated its preference for a hybrid model, encapsulating the benefits from each approach. The OECD has indicated also that the functional approach with the increased standardization across tax types is the primary dimensions in most hybrid organizations. The functional dimension enables a "factory approach", which releases economies of scale. This was pretty much a confirmation of the strategic journey that SARS had been following and which informed its modernization approach over the preceding decade.

The four options presented by Bain, with some variation, is a further confirmation of the SARS segmentation operating model proposed as early as 2008. The functional theme, or the factory environment, introduced by the SARS modernisation program in mid-2000s, which allowed for standardised automated processing, is clearly present and grouped with the service channels, which would serve the entire enterprise. A key corollary of adopting the hybrid model with its standardized functional component is, in addition to technological innovations, the need for a workforce that can function in a production environment, adhering to quality management principles and who are au fait with process reengineering.

To this end, the SARS Academy would have been key to the success of the hybrid model. Prior to 2015 the SARS Academy re-established the Organisational Management Development Programme (OMDP) management principles and training up to supervisor level. Also, induction programmes for new employees were designed to assume smooth and efficient on boarding. Post the implementation of the new operating model, OMDP was outsourced, losing much of the benefit had the internal institutional expertise been deployed.

It was the intention to locate the academy within the newly established Tax, Customs and Excise Institute (TCEI) to ensure that innovation finds practice. The intent was that the Academy would, *inter alia*, also have delivered on content for the new world of complex tax structuring such as transfer pricing, trade mispricing and treaty abuse, and data scientists for the manipulation of big data; challenges similarly faced by all tax administrations. The integration of the Academy (SIOL as it became known) never happened and the design team reconfigured SIOL within the Learning and Development unit, part of the Human Capital division.

5 THE 2016 SARS OPERATING MODEL

The final operating model adopted by SARS in 2016 was a complete departure from that proposed for each of the four options developed by Bain, counter to the design principle, which sought to balance the organisation. As far as recollection goes, the findings were not shared with SARS executives and/or other work streams.

By combining Business and Individual Taxes (BAIT), important elements of the segmentation model were eliminated. The Large Business Centre was fragmented and its value chain dispersed into different business units. In the new model about 80% of all revenue generation was concentrated in the BAIT division. Combining Governance, International Relations, Strategy and Communications, which Bain had proposed as separate units under a Group Executive, into a single division created another centre of power and again represented a departure from an important design principle and the options generated by the Bain report.

In addition, contrary to the principle of combining like-with-like and leveraging off institutional economies of scale, the new operating model created no fewer than four strategic units located in GISC, Customs, BAIT and Enforcement. As these four strategic units are fragmented and do not connect with each other, it constrains the alignment of strategy.

The new operating model also placed all the audit capacity in Enforcement, a departure from the compliance strategy of SARS, which seeks to balance Enforcement, Service and Education. Should the SARS compliance model be overlaid over any operating model most auditors should be in the service environment with a small but highly specialised corps of auditors in the enforcement or full audit division.

The new operating model does not adequately address the excise function which ought to have been prioritised. The excise capacity was a pre-existing concern and the failure to prioritise it capability and capacity has exacerbated the challenge which can potentially skew competition in the economy.

Well-functioning and mandate critical units like the Revenue Analysis and Compliance units were repositioned and/or broken up and activities they were responsible for fell through the cracks. A benchmark study by the author of this report **(see attachment)** on Research, Analysis and Statistics was by all accounts ignored. A proliferation of strategy subunits created duplication with the GISC division and operational units.

6 The operating model as it was implemented did not optimally connect the individual business components that were needed to effectively collect revenue. As a result of this, SARS had to further adjust the operating model to introduce a regionalised revenue-management function. If this coordination was not introduced then it would have been extremely difficult to actually collect revenue. SUMMARY AND CONCLUSION

Revenue mobilisation is crucial to fiscal policy implementation and SARS' success in mobilising revenue in the period from 2008 to 2016 is evinced by the growth of revenue during these years at 20% faster than the economy. Independent international assessments during this time also confirmed that most dimensions of SARS, including Customs, met international standards. International benchmarks (PEFA and TADAT) scored SARS as a world-class organisation and one of the organisations at the forefront of harnessing technology to drive innovation in tax administration. In contrast, the Bain diagnostic portrayed SARS inaccurately as in crisis in 2014, requiring large-scale restructuring.

Two years into the new operating model it is evident that SARS has regressed. Revenue buoyancy has retreated from levels held previously at 1.2 to 1.0, showing the combined effect of slipping taxpayer compliance and internal efficiencies. Revenue growth from the Large Business sector and Customs and Excise has slowed dramatically. Taxpayer compliance, particularly in taxes such as PAYE and VAT collected on behalf of SARS, has regressed. SARS' debt has grown by about 50%. South Africa's international rating on Customs efficiency has regressed to pre-modernisation ratings and goods inspection processes are the longest they have been in seven years. A major loss and displacement of skills has robbed SARS of institutional knowledge and staff morale is at an all-time low.

In summary, the manner in which Bain conducted themselves in developing the 2016 operating model for SARS falls way short of the standard expected from an international consulting company.

1. One would expect that Bain would have first assessed the impact of the strategic journey that SARS had been traversing since inception in 1997 prior to the proffering of a new operating model in 2016. Structure follows strategy and a clear strategic shift must inform the rationale for restructuring.
2. Another peculiarity relates to the timing of the release of the operating model. The recommendations for the 2016 SARS operating model were presented to the Commissioner on 31 March 2015, whilst the tax and Customs streams working groups were only constituted on 27 June 2015.

(see **Addendum C**: Message to staff from the Commissioner, 2 April 2015). The considerations and rationale for a new operating model could therefore not have been based on the analysis and conclusions drawn.

3. Notwithstanding the fact that analytical work commenced after the presentation of the operating model to the Commissioner, the large tax gap identified as the rationale for the restructuring, was derived from macro-economic assumptions. More accurate tax gap analysis can be obtained from micro-economic analysis, an endeavour that SARS is still to invest in.
4. In the research for this report, it became clear that the views of many of the divisional heads were not canvassed. Cases in point being the Modernisation leadership and the head of Customs, both categories of executives key in executing the SARS strategy through the modernisation program. This is inexplicably strange as objectivity in arriving at a diagnostic is imperative.
5. The finding on HNWI and debt were not new as purported but had been on the SARS agenda from as early as 2008. All the information pertaining to the analytics came from SARS and were repackaged in consultant style. To pronounce otherwise is cynical.
6. The 2015 diagnostic identified a CIT revenue gap of R26 billion as due only to trade mispricing; this is erroneous and displays a poor understanding of trade asymmetry inherent in the global trade. SARS is aware of the trade asymmetry phenomenon and understands it being ascribable to difference in reporting systems and depiction of country of origin. In 2014 SARS identified, and had its findings validated by the UN, trade legacy systems that require modernisation.
7. The new operating model also placed all the audit capacity in Enforcement, a departure from the compliance strategy of SARS, which seeks to balance Enforcement, Service and Education.
8. As professional consultants, Bain should have distanced or at least cautioned against the drastic departure from their proposed operating model options. The final model adopted by SARS violated at least one important design principle that of balancing the organisation. The concentration of power in BAIT, GISC and Enforcement in the final model is puzzling to say the least.

It is clear that the limited approach by Bain resulted in the retrogression of the SARS institution. Realignment with the intended strategic journey is an imperative.

It is anticipated that a position may be taken that a decline in performance cannot be attributed solely to an operating model and that there is no direct causative effect between this operating model and the decline in revenue ....

If this is so, then:

- why change an operating model at all
- Bain ought to have alerted SARS to the risk in implementation and proposed very concrete solutions to mitigate that risk and govern the implementation process.

If the terms of reference did not include this, then Bain ought to have exercised professional scepticism and their experience and should have at the least, insisted that SARS include it in their terms of reference

Appendix 5

Letter submitted by Mr Ivan Pillay to

the Minister of Finance

11 June 2014

MINISTRY OF FINANCE

JS

2014

FILE No: M 3/5/2

MINISTRY OF FINANCE

2244-14

Office of the Commissioner

Office
Pretoria

Enquiries
Yolisa Pikie

Telephone
(012) 422 5017

Facsimile
(012) 422 5189

Room
Block A2

Date
11 June 2014

Mr M Jonas
Deputy Minister of Finance

SARS
South African Revenue Service

Pretoria Head Office
299 Bronkhorst Street,
Nieuw Muckleneuk, 0181
Private Bag X923, Pretoria, 0001
SARS online: www.sars.gov.za
Telephone (012) 422 4000

Dear Deputy Minister

PROPOSED CHANGES TO THE SARS OPERATING MODEL

As promised, please find the attached notes to our various discussions on certain organisational issues at SARS.

Regards,

IVAN PILLAY
ACTING COMMISSIONER: SOUTH AFRICAN REVENUE SERVICE
DATE: 2014/06/11

NOTED/NO~~TED WITH COMMENTS~~

M JONAS
DEPUTY MINISTER OF FINANCE
DATE: 12-9-2014

cc MINISTER.

1. Purpose

With reference to the memo proposing changes to the SARS operating model of 4 April 2014, this memo apprises the Minister of imminent changes to and realignment of certain functions that fall below the EXCO level.

2. Background

a. Activities from July 2013

With the abrupt departure of the previous Commissioner, the most urgent tasks revolved around settling management and staff at SARS; avoiding disruption to normal operations; achieving our business goals; close the 2013/14 financial year and start the new MTEF planning cycle; and manage significant risks to SARS reputation.

b. Achievements

For the sake of brevity, the following are the highlights of SARS business achievements since July 2013:

- Succesfully installed a new customs border management system. Thrity-six systems were replaced with a single unified system; (to be verified)
- Concluded King case after 12 years of litigation;
- Received an unqualified audit report from the Auditor General and submitted the Annual Report to Parliament;
- Tabled Customs Bills in Parliament;
- Ran a successful 2013 Tax Season;
- The collaboration with the DHA, CIPC and the Master's Office, as trusted custodians of state data reached fruition;
- Successfully implemented the Employment Tax Incentive
- Exceeded 2013/14 revenue target;
- Ratified one-stop border post with Mozambique;
- Opened new branches in Soweto and Boksburg and;
- Earnest efforts have gone into laying the basis for a cultural change within SARS.

c. New MTEF cycle and business planning

Since february of 2014 SARS has begun a process of reorienting its strategy and business planninng. The strategy will be anchored in the application of the compliance model. Business planning will derive from a comprehensive understanding of the SARS as a whole enterprise rather than relying on the KPIs. The salient features of the new planning are:

- Integrated business planning and budgeting process
- Regular reviews of business and projects
- All projects to be governed by the Programme Management Office through a single governance system

- All projects to be budgeted for separately without cross-funding between projects

3. Functional Reorganisation

SARS will have to reconfigure its organisational structure and to place personnel where they're more likely to fulfil the current direction of SARS.

Since the previous note, portfolios of EXCO members shall be:

- Commissioner
- Tax and/or Customs operations (Barry Hore, *discussions started but not concluded yet*)
- Enforcement (GR)
- Legal and policy (KL)
- Information Communication and Technology (Tau Mashigo)
- Modernisation (Marius Papenfus - *invitee*)
- Business planning, reviews, governance and programme management (IP)
- Human resources; (EK)
- Finance; (*Advertised*)
- LBC (Sunita Manik)
- Strategy, internal risk (*in future to include warehouse management*), business improvement and compliance analysis (PR)
- GE: Internal Audit (Brian Kgomo - *invitee*)

There are certain functions as set out below on which there is agreement within EXCO that they should be relocated to more appropriate portfolios by July 1, 2014 at the earliest.

a. Audit division to relocate to the Enforcement Division

The audit division had previously been under the enforcement division together with debt management and criminal investigation. It was moved to general operations in 2009. The verification and inspections activities that used to be conducted under the audit division have since been reorganised under the Compliance Assurance business unit.

The audit division is now responsible for complex audit programmes that are more akin to the enforcement activities. The changes brought about by the promulgation of Tax Administration Act also mean that the law places a greater governance obligation on SARS over these activities.

With these considerations in mind, EXCO, the Acting Commissioner, the Chief Officer for Tax and Customs Enforcement Investigations (TCEI) and the head of the audit division have discussed the potential re-alignment since July 2013. To avoid disturbance to the normal operations in the latter half of the fiscal year and during the operations review, the date for the move has been set for 1 July 2014. This will increase the staff complement of the enforcement division from 805 to 1411.

b. Corporate legal service to relocate to the Finance division

The functions housed under the coroporated legal division relate not to legal policy on tax and customs but to the corporate interest of SARS.

These are matters related to contracts that SARS enters into for office accomodation, procurement and other such matters. While these can be interpreted legally, the main concerns relate to the efficient functioning of SARS rather than the efficient administration of tax and customs laws.

With this consideration in mind, EXCO has decided that this business unit is best located under the Chief Officer for Finance. All consultations with the affected parties have taken place. It is expected that the move will be completed soon after 1 July 2014. The staff complement for the finance division will thus grow from 453 to 479.

c. Establish a new academy model

SARS has to recruit, train and develop people whose skill and competency is in the application of tax and customs laws. This has become especially urgent in light of the progress SARS has made in automating its administrative systems.

Regrettably, the management of the SARS Academy has previously not received the sustained and focussed attention that enables it to provide for the on-going business needs and future requirements.

With these considerations in mind, I have appointed Randall Carollissen who is currently the head of our revenue analysis unit to reform the Academy within the next 6 months. Randall is well-qualified to take charge of this project. He has a PhD in physics from an international institution, previously headed the Damelin College and is the current chairman of the Wits University Council. Even though he has no interest in becoming a full time head of the Academy, he is enthusiastic about this additional challenge.

In the meantime, SARS has advertised the position for the head of the Academy which was recently vacated. A shortlist is being compiled.

d. Strengthen capability to interpret and analyse customs law and policy in the Law and Policy Division

With the changes to the SARS operating model in 2009 customs policy expertise was distributed between the law and policy division, the business unit responsible for international relations and the customs operations.

The interpretation of the Customs and related regulations is currently within the business units that have to apply the law. This situation in customs also diverges from a similar arrangement in tax policy where all the related functions are located under the control of the chief officer for law and policy.

Therefore, Law and Policy Division (LAPD) will now incorporate the legal interpretation that is conducted under the Customs operations division. This will reduce the staff complement at the LAPD from 391 to 365.

e. **Governance of case selection**

SARS has established an important principle that the officials that are responsible for executing cases have no authority and play no part in the selection of any case. This separation of functions and authority reduces the possibility of officials abusing their power or acting with ulterior motives. There is a single governance system for all case selection wherever the activity is conducted in SARS. The governance system is a responsibility of the "strategy, internal risk, business improvement and compliance analysis" division.

f. **Criminal investigations**

The Tax Administration Act of 2011 granted SARS more powers to criminally investigate potential tax offences. These powers are more intrusive than previously (e.g. search and seizure without a warrant). Secondly, SARS has always sought to ensure that tax and customs cases do not needlessly clog up the criminal justice system. Therefore, we believe that we must take great care to ensure that the cases that are referred to the NPA and the law enforcement pass a reasonable measure of due diligence. Thirdly, taxpayers that are contemplating or commit or carrying out serious tax offences are more likely to succeed with the collusion of SARS staff members. This has led, in some situations, to tax offences being investigated in the same course as internal corruption.

With these considerations in mind, SARS has:

i. instituted an ad-hoc independent committee to review cases before they are referred to law enforcement agencies and the National Prosecuting Authority;

ii. reviewed all related policies and procedures with the aim of improving governance over criminal investigations; and

iii. refined and aligned the mandates of the Tax and Customs Enforcement Investigations and of the Anti-Corruption and Security Division (ACAS) to ensure that only the enforcement division may refer matters to institutions in the criminal justice system.

g. **Establishment of an enterpise-wide programme management office (PMO)**

SARS has completed the review of its entire business and investment plan (comprising of business projects across SARS). The review has indicated the need to restore to the centre a capability to plan for, direct and review operations and oversee all projects. Secondly, in SARS' experience it is prudent to have the capability to run normal operations separate from the capability to conceive and execute projects. To this end, EXCO has decided to establish a Programme Management Office. Preparations for the establishment of the office are underway. The PMO will be established under the direction of either the Office of the Commissioner or the Deputy Commissioner. The capability to execute projects exists within and is distributed unevenly between the divisions and the modernisation project. With the establishment of the PMO, all projects within SARS will be subject to the same standards of governance, financial control and review.

h. Other appointments

In addition to the advertisement for the head of the Academy, the recruitment for the position of the Chief Financial Officer is at an advanced stage. A short-list of the prospective candidates has been concluded. Interviews will be arranged shortly.

4. Potential candidates for your consideration for the Commissioner post

As I mentioned to you, although not required from me in my official capacity, in my personal capacity I wish to flag the names of Mr Gene Ravele, Ms Mmathabo Sukati and Mr Murphy Morobe whom you may wish to consider in the process of recommending candidates for the position of SARS Commissioner. I present the following list with full regard to Ministerial prerogative to advise the President on the potential appointment.

I have worked closely with Gene and Mmathabo and know their strengths and weaknesses better than in the case of Murphy whom I know more by reputation.

Mr Gene Ravele: As you know, Gene is currently a member of the SARS EXCO and serves as Chief Officer: Tax and Customs Enforcement Investigations. He is also accountable for Internal Relations at SARS. He is a lawyer by training and has worked at SARS for 18 years. He has worked his way up from senior manager to Chief Officer in a number of jobs ranging from transformation, anti-corruption, labour relations, communications, stakeholder relations, international relations, customs and tax and customs enforcement.

Gene has a good understanding of how SARS works. He has sound institutional memory supplemented by a strong ability to remember and recall detail when required. He has a good grasp of the tax and customs business although his customs knowledge is better than tax. He maintains a sound network of contacts across the three spheres of government and is also well known regionally and internationally particularly in customs circles. He is less known in the private sector and particularly the tax sector. This has been by design given his current role. However, in the role of Commissioner, he would have to elevate his profile with the private sector and in tax circles locally, regionally and internationally.

Over the past two-three years he has been maturing in his role as EXCO member and he is rising to the challenge of managing SARS as an enterprise that cuts across divisions. Increasingly, he is putting the elephant in the room at EXCO meetings and initiates the difficult conversations. He works well in the team but can, at times, appear to be severe. He is astute in reading governmental and organizational dynamics and is very sensitive to the positioning of the organization in relation to the rest of Government. He makes decisions assertively and timeously, even less popular decisions. He is widely respected across the organization for his ability to manage diversity.

Gene's integrity is strong. He is not driven by wealth generation and generally lives an uncomplicated, comfortable but fairly modest lifestyle. There have been some indiscretions in his personal life a number of years ago which he has disclosed, managed carefully and discreetly. This has not impacted negatively so far on his job.

Ms Mmathabo Sukati: Mmathabo was the Head of SARS Internal Audit from 2008 to 2013. She left SARS in August 2013 to join Transnet as Chief Audit Executive. Mmathabo is a qualified chartered accountant and holds a Communications degree from UCT and a MBA degree from Gibbs. Before joining SARS she was a partner and director at Price Waterhouse Coopers.

She doesn't have hands-on experience of managing SARS operations but has acquired an understanding of how the business works, what the business entails, where the weak links are and what is needed to fix them through her internal audit stint. She is known and respected at Head Office but is not well known in the regions.

Mmathabo's strengths are administration, building teams and developing individuals. She is a disciplined and precise administrator. She created and left a solid internal audit team with good gender and racial spread. She put in place excellent programmes that incorporate exchanges with the private and public sector for SARS audit graduates. She consistently scored well in staff engagement reviews. She is well known and respected in the private sector and particularly the audit and tax sector. She has some profile in black business having served as a member of the board of the Black Management Forum. Internationally, she is recognised as a voice of South African Internal Auditors and is currently Chairperson the South African chapter of the Internal Auditors Board and Senior Vice President of the international body.

Mmathabo is very strong and independently minded and would be able to manage a robust EXCO. As head of Internal Audit she stood her ground in the face of very strong opposition on technical grounds and went on to forge a healthy but arms-length relationship with business.

Mr Murphy Morobe: Murphy has a solid record in both the private and public sector. He has served in senior management positions including CEO of various private and public sector entities and currently serves on various private sector boards.

He currently chairs the Boards of Ernest and Young and LexisNexis Butterworths and is a director of Old Mutual and Remgro United. He previously amongst others served as CEO of Kagiso Media and the Financial and Fiscal Commission, chairperson of the Board of South African National Parks and spokesperson for President Mbeki.

He is regarded as an accomplished manager and communicator and a specialist in finance. He is well regarded in business circles and understands the inner workings of Government.

Mr Mfundo Nkuhlu: I've reproduced here only a short summary of Mfundo's career as I believe he is well-known to you. Mfundo is the managing director for corporate banking at the Nedbank Corporation. Before joining Nedbank in 2005, Mfundo was a senior executive at SARS. By all accounts, he has acquitted himself well in the financial service sector. While at SARS he displayed the highest standards of ethics, social concern and professionalism. Before SARS, Mfundo served the Department of Trade and Industry developing and coordinating the economic strategy for NEPAD. Prior to this role, he had played many senior roles within DTI. He has an BA(Hons) degree from UWC and hold an advanced diploma in management from Harvard.

Conclusion

I trust that this memo has given the Minister sufficient notice of the salient organisational issues at SARS.

Regards,

Ivan Pillay

Acting Commissioner for SARS

Appendix 6

Letter submitted by Mr Tom Moyane to

the Minister of Finance (Transformation of SARS)

11 November 2014

Office of the Commissioner

Office
Pretoria

Enquiries
Tom Moyane

Telephone
(012) 422 5017

Facsimile
(012) 452 9676

Room
Block A2

Date
2014-11-11

MR N NENE, MP
MINISTER OF FINANCE

South African Revenue Service

Pretoria Head Office
299 Bronkhorst Street,
Nieuw Muckleneuk, 0181
Private Bag X923, Pretoria, 0001
SARS online: www.sars.gov.za
Telephone (012) 422 4000

Dear Minister

TRANSFORMATION AND TURNAROUND OF SARS

1. PURPOSE

The purpose of this memorandum is to inform the Minister of the steps I propose to take in strengthening the SARS brand with a view to restoring the reputation of the organisation so that it is held with the same level of respect it was held in before the whittling away of its good reputation due to the numerous media reports that have surfaced since July 2013.

2. BACKGROUND

SARS has since its inception in 1997 managed to build up a very positive brand. However, the first crack in what is widely regarded as a successful organisation surfaced with allegations made against the former Commissioner Oupa Magashula. A number of media articles over the course of the year and especially the Hathurani and Johann van Loggerenberg matters have cast further aspersions, rightly or wrongly, on the integrity of SARS.

3. TIME FOR COMPREHENSIVE RELAUNCH OF THE SARS BRAND

It is imperative that I begin the process of re-launching the SARS brand by embarking on a comprehensive overhaul of the organisation in all aspects. My intention is to strengthen and revitalise the governance and ethical framework so that the organisation makes a fresh start after the toils of the past two years.

To assist me in this endeavour I would like to approach independent consulting companies to assist with an analysis of the following with a view to making enhancements in the main areas listed below:

(a) **Revenue Collection**

- Conduct a comparison with a number of institutes across effective tax categories to address efficiencies, protection of South African economy and integrity including customs collections
- Address performance processes

(b) **Operational performance**

- Review costs structure performance campaigns
- Review and analyse SARS' strategy to deliver on its core mandate
- Review the adequacy of the funding of model to push for continuous improvement

(c) **SARS Infrastructure**

- Adequacy of the IT infrastructure to sustain SARS' continuous development
- Is the IT roadmap adequate?
- Assess the SARS IT real estate assets

(d) **Organisation and governance**

- Structure and sizing
- Efficiency of decision making
- Governance model review

(e) **SARS image and perception**

- Analysis of the general perception of SARS by the taxpayer and public
- Does the image convey trust, efficiency and fairness?
- Measurement and brand improvement of the institution

I believe that there are no skills or capacity to undertake this task internally, and in any event the organisation will benefit more from the objective view taken by an external service provider. I am not proposing this course not as a quick fix solution but as the first step in building a solid base from which SARS can rise to the challenges of the future, especially in the light of the tough economic environment and the damage to its reputation.

RECOMMENDATION

I therefore request that the Minister considers the above matters and gives his approval for me to approach as an initial step a number of consulting companies listed in the SARS data base of service providers to discuss the above matter with the view of eliciting proposals for a turnaround plan for SARS.

TOM MOYANE
COMMISSIONER: SOUTH AFRICAN REVENUE SERVICE
DATE: 11 November 2014

RECOMMENDED/~~NOT RECOMMENDED~~

M JONAS
DEPUTY MINISTER OF FINANCE
DATE: 17/11/2014

APPROVED/~~NOT APPROVED~~

N NENE
MINISTER OF FINANCE
DATE: 19/11/2014

Appendix 7

Minutes of the procurement committee

Approval of Bain & Co appointment

21 January 2015

EXCO Procurement Subcommittee (EXCOPS)

SARS Commissioner

MINUTES of the EXCO Procurement Subcommittee Meeting held on Monday the 21 January 2015 at 14h00 Lehae la SARS, Second floor, GM Boardroom

MEMBERS

Matsobane Matlwa	Chief Finance Officer (Chairperson)
Prakash Mangrey	Group Executive: Finance
Mogogodi Dioka	Executive: Procurement
Yolande van der Merwe	Executive: Financial Own Account
Ramesh Jinabai	Executive: Operational Risk
John Cruickshank	Group Executive: Operations Finance

ATTENDEES

Kamogelo Mampane	Shakira Noormohamed
Prakash Ramnarian	Luther Lebelo
Holeng Kola	Thabang Thinane
Hosea Ntloedibe	
Ronald Makumva	
Jonas Makwakwa	
Dan Zulu	
Jan Gololo	
Dave Wickens	
Noxolo Ngubo	

SECRETARIAT: Tebogo Phoshoko: Project Coordinator Procurement

DECLARATION OF INTEREST		
ITEM	**NAME**	**DECLARATION**
NONE		

1.	**WELCOME & APOLOGIES**	**APOLOGIES**
	The Chairperson welcomed everybody to the meeting and apologies were noted.	Bob Head Makungu Mthebule Elizabeth Khumalo Kosie Louw
2.	**BID DOCUMENTS**	
2.1	RFP 26/2014 Approval to appoint a service provider for the provision of consultancy services to review the SARS operating model **Presenter: Holeng Kola** **Duration:** **Value: R 3 254 928.36**	
	As per the agenda **Background was given by the COO:** • The service provider will be appointed to review the SARS operating model because the commissioner does not want this to be done internally, but rather by an external service provider. • This will be a 2 folded process i.e. IT process and reviewing of the operating model. **Background on the procurement process** • The memorandum was received in December 2014. As procurement we wanted to participate in a transversal contract with any government department, but there was	

	none available. • Due to the December holidays the 21 days for advertisement wouldn't work. • We did a desktop exercise which gave us 5 service providers. • We then concentrated on those dealing with strategy compiling as per their company profiles. **Issues/Facts** • A concern was raised on the cost presented. It seems very low. • Why did we do a close tender? Time was of the essence • How were the companies invited for a closed tender chosen? They were selected from an appointed panel of consultants for the specific service required. • Why was Accenture and BBND not invited? Because they are not on our consultancy panel, but IT service providers. • There was a withdrawal from PWC because of the time. Did we get a better understanding from them? They said us expecting delivery in 6 months is not practical. • A question was asked whether the appointed BEC members were experts in the field or not? Some of them are and some not. They were chosen randomly. • What will be the deliverable for this consulting service? It will be recommendations from the service provider on how to improve our strategy by comparing us to other government departments. • Did the BEC consider advisory and implementation as phase 1 and 2 to be done by the same service provider? Yes they did, but concluded by saying they will appoint consultants to do advisory and at a later stage go to market again to appoint a service provider to implement. The other reason is that they needed to know what is to be implemented first which will be addressed by the report from the consultants appointed for advisory phase. It was also mentioned that the idea is that the appointed service provider must give recommendations that can be implemented by any service provider not them alone. I. **Decision** • Approved as per the BEC recommendation. II. **Reason the decision** The BEC recommendation is only for the reviewing and aligning phase and later from the findings we will move to the implementation phase.		
2.	**OTHER ITEMS / MATTERS ARISING**		
	• The new CFO (Matsobane Matlwa) was introduced to the committee as the new Chairperson as per the EXCOPS ToR. • This might be the last meeting that this committee (EXCOPS) holds because the commissioner wants to appoint a new committee that will be known National Bid Adjudication Committee (NBAC). The committee will be formed by Chief Officers only. • Until then this committee is still valid and may be called to meet if the need arises.		
8.	**Meeting adjourned at 15h30** **Confirmation of the next EXCOPS meeting date and time.**		
		Tebogo Phoshoko	

CHAIRPERSON (Matsobane Matlwa)

DATE

Appendix 8

Letter of suspension – Mr Pete Richer

5 December 2014

PMW Richer
Employee id 3669
Index: Employee Relations
Suspension documents

SARS

REGISTER CASE WITH HR
ER CASE NR: MCF/954

NOTICE OF SUSPENSION

EMPLOYEE	Peter Richer		
EMPLOYEE NUMBER	3669		
DIVISION	Strategy Enablement and Communication	OFFICE:	Head Office
DATE OF SUSPENSION	5 December 2014 - 21 January 2015		

REASON FOR SUSPENSION: Briefly describe the reasons why the employee should be suspended

To provide for due and proper investigations into allegations of Gross Misconduct, acts of Impropriety and bringing the organisation's name and reputation into disrepute.

EMPLOYEE RESPONSE AGAINST SUSPENSION: Briefly describe the employee's response made against the suspension

REASONS FOR SUSPENSION REQUESTED. UNABLE TO BE PROVIDED AT THIS TIME.

EMPLOYER RESPONSE	Noted.	Proceed	Not Proceed

Please take note of the following:

- After consideration of the above representation against your suspension, you are hereby suspended for 30 working days with full pay and benefits, pending the outcome of an investigation and/or subsequent disciplinary hearing;
- Although your services may not be required by SARS during your suspension period, you need to be available and contactable by SARS. You are required to furnish SARS with the address and contact details of where you will reside during your suspension period;
- You need to obtain permission from the SARS representative mentioned below before visiting any SARS premises or contacting SARS employees during working hours;
- You are required to hand in your SARS ID/access card and/or any other SARS property as deemed necessary by the SARS representative administering the suspension.

NAME OF SARS REPRESENTATIVE:	CONTACT DETAILS:
Luther Lebelo	083 463 8882 LLebelo@sars.gov.za

RESIDENTIAL ADDRESS AND CONTACT DETAILS OF EMPLOYEE BEING SUSPENDED:

8 TAINTON STREET, DEWETSHOF, JHB
082 453 4168
Richerpmw@gmail.com

EMPLOYEE (Print Name):	Peter Richer	SIGNATURE:		DATE:	
HR MANAGER (Print Name):	Elizabeth Kumalo	SIGNATURE:	Kumalo	DATE:	5/12/14
LINE MANAGER (Print Name):	Thomas Moyane	SIGNATURE:		DATE:	5/12/14
WITNESS (if applicable) (Print Name):		SIGNATURE:		DATE:	

The signed Suspension Form must be faxed to the Employee Relations division on: 0865 169 251

2/14/20

Appendix 9

Letter from Mr Yunus Carrim to the Commission of Inquiry

PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

NATIONAL ASSEMBLY
MEMBER OF PARLIAMENT

PO Box 15 Cape Town 8000 Republic of South Africa
Tel: 27 (21) 403 2911
www.parliament.gov.za

22 November 2018

Ms Nonhlanhla Mkhwebane
The Secretary of the Nugent Commission
Tshwane

commission@inqcomm.co.za

Dear Ms Mkhwebane

Response to former SARS Commissioner Mr Adrian Lackay's testimony at the Nugent Commission on our Committee's unresponsiveness to his concerns.

As I explained in my telephonic exchange with you, this may seem a trivial matter given the many and many weighty matters the Nugent Commission has had to address, so I leave it to the Commission to decide if it is of any value.

I have been meaning to respond for some time now to Mr Adrian Lackay's submission to the Commission that the Standing Committee on Finance (Scof) and the Joint Standing Committee on Intelligence (Jsci) were not responsive to his concerns, but have, unfortunately, for various reasons, not come around to doing this until now. I apologise for coming so late to you.

Mr Lackay certainly wrote to me as the Scof Chairperson and the then Jsci Chairperson, Ms Connie September, on SARS mismanagement, under Commissioner Tom Moyane, of allegations against the "High Risk Investigation Unit," the so-called "rogue intelligence unit". We did indeed engage with Mr Lackay. I cannot speak for Ms September, but I respond as the Scof Chair as follows:

1. I do not recall all my exchanges with Mr Lackay – there were I think at least three over the phone – but several through emails, most of which, if not all, I have managed to trace.
2. Mr Lackay sent an email to Ms September and me on 24 March at 17:25, I replied to him and Ms September at 18:48 on 24 March, and he replied at 18:53, in fact, even expressing his appreciation for my "swift response".
3. I spoke with him over the phone on 25 March and subsequently, including on 15 April.
4. We also received emails from Mr Lackay on 25 March (09:46), 31 March (10:00) and 15 April (13:06).
5. Ms September wrote to Mr Lackay on 27 March (09:36) and 14 April (15:38).
6. To complicate matters, Ms Belinda Walter, another affected person in the matters Mr Lackay raised, also wrote to me on 22 April (13:27) to refute some of Mr Lackay's allegations, and I also spoke with her over the phone.
7. In my first, 24 March, response to Mr Lackay's email, I explained to him that after exchanges with Ms September and others, we had developed a "complementary division of labour" between what the Jsci would deal with and what our Committee would, but that almost all the issues he raised fell under the Jsci.
8. I also stressed in that email that the Committee could not serve the role of a Tribunal or Commission, but that we were committed to contributing in any way we could to an amicable solution to the issues.
9. At a Committee meeting a representative of the Legal Services Unit explained that it was the Jsci that had to deal with the matters raised in Mr Lackay's correspondence.
10. The "division of labour" between the two Committees was also raised with the Speaker's Office.
11. Mr Lackay's concerns were also raised at the ANC Finance Study Group and, it was decided that while Scof could play a very limited role in the matter, Mr Des van Rooyen, the then Study

Group Whip, and I should explore the possibilities of contributing to the political process being proposed to settle the matter.

12. While we were exploring this and finalising the parameters of the respective Committees roles, Mr Lackay's correspondence was publicly released causing huge tensions within the ANC and the Committee.
13. There was also a conflation of Mr Lackay's labour relations issues with the "rogue intelligence unit" issues, and Ms September, a former trade unionist, suggested that he consider pursuing his personal issues through seeking legal advice on whether it was a constructive dismissal. She explained that intelligence issues fell under the JSCI and also proposed that the matter be forwarded to the Inspector General.
14. At the time, there were allegations and counter-allegations around the so-called "rogue intelligence unit", and in that world of "smoke and mirrors" we did not want to be used by anybody.
15. The Scof could not have done much more to address Mr Lackay's concerns in the circumstances. Mr Lackay expected us to act outside of the norms of parliamentary committees in dealing with allegations such as he made, but this we, rightly, refused to do.
16. Even if the information that has since emerged in the public domain about SARS management of the "rogue intelligence unit" matter was available in 2015, our Committee would still not have been able to hold an open parliamentary inquiry into the allegations about the rogue intelligence unit. It would have required a Commission of Inquiry with the necessary mandate and expertise to attend to this. To some extent the Nugent Commission has come to serve that role, it seems to me.

There is a further matter that has recently arisen. SARS recently withdrew its and Mr Moyane's legal action against Mr Lackay. Our understanding was that Mr Lackay was being taken to court primarily because he had breached the secrecy provisions of the Tax Administration Act, but it has emerged that it was on the grounds of defamation that the case was being pursued, which we are now told that organs of state cannot do. This arose in our Committee's review of the 2017/18 Annual Report of SARS, and in our Committee's 23 October "Budgetary Review and Recommendation Report' we noted the following:

"The Committee notes the withdrawal of the SARS case against Mr Adrian Lackay. It was understood that Mr Lackay was primarily being taken to court because of breaches of secrecy in terms of chapter 6 of the Tax Administration Act (Sections 67, 68, 69 and 236) and also for defamation. The Committee could obviously not interfere in these allegations of Mr Lackay's transgressions. Whether Mr Lackay was taken to court because he had written to the Chairpersons of Scof and the Joint Standing Committee on Intelligence or because he was suspected of leaking his correspondence to others and into the public domain was not clear. If it was solely because he wrote to the Chairpersons, it reinforces the need for a structure – maybe a Board, an Inspector General's Office, the OTO or some other structure – where such matters as those raised in Mr Lackay's correspondence can be addressed fairly in closed meetings, apart from, in his specific case, the Office of the Inspector-General of Intelligence. Acting SARS Commissioner Mr Mark Kingon, however, informed the Committee that Mr Lackay was taken to court solely on the basis of defamation, and "It is well-established law that the State, including Organs of State, cannot sue for defamation. There is no doubt in law on this aspect." SARS said that notwithstanding the settled law, Commissioner Moyane proceeded to institute claims for damages based upon defamation on behalf of SARS, as well as in his official and personal capacities. The High Court dismissed the claim of SARS on 24 November 2017. SARS said that: "In the process, and in relation to a claim that should never have been instituted in the first place, both SARS and Lackay incurred legal costs". The SARS Corporate Legal division reviewed the matter, and this led to the agreement between Mr Lackay and SARS, which disposed of the matter in as far as SARS as an institution and the Commissioner in his representative capacity is concerned. It is not clear why the case was still being pursued after the High Court had dismissed SARS' claim. If the case against Mr Lackay was based solely on allegations of defamation and SARS current legal interpretation is correct that organs of state cannot sue for defamation, the Committee believes that serious consideration needs to be given by SARS for the costs of the litigation to be retrieved from those responsible. The Committee requires SARS to respond to this at its next Quarterly Briefing to the Committee."

I do not know if the final report of the Nugent Commission will mention Mr Lackay's views about the unresponsiveness of the Scof and Jsci to his correspondence to us, but if it does, I would be very grateful if consideration could be given to briefly covering my response that we did respond to him within the context of the parliamentary rules and norms.

Should you need any further clarity, please contact me. You can reach me through this email address and at 0825530174.

I thank you for your attention and convey good wishes.

Yours sincerely

Yunus Carrim
Chairperson: Standing Committee on Finance

COMMISSION OF INQUIRY INTO TAX ADMINISTRATION AND GOVERNANCE BY SARS

APPENDICES TO THE FINAL REPORT

VOLUME 2 OF 2

INDEX

APPENDICES TO THE FINAL REPORT OF THE COMMISSION OF INQUIRY INTO TAX ADMINISTRATION AND GOVERNACE BY SARS TO THE PRESIDENT OF SOUTH AFRICA

VOLUME 1 OF 2

VOLUME 2 OF 2

Appendix 10

Letter from Mr Tom Moyane to the Minister of Finance on the appointment of EXCO Members:

Ms Mogola Makola

Ms Refiloe Mokoena

Ms Mmamathe Makhekhe-Mokuane

6 April 2017

Office of the Commissioner

SARS

Office:
HC&D

Enquiries:
Zanele Zamxaka

Telephone:
012 422 8614

Reference:

Chief Officers

Date
06 April 2017

MOTIVATION FOR APPOINTMENT OF:
Mogola Tsibugo Makola
Refiloe Mokoena
Mmamathe Makhekhe Mokhoune

South African Revenue Service
Pretoria Head Office
299 Bronkhorst Street,
Nieuw Muckleneuk, 0181
Private Bag X923, Pretoria, 0001
SARS online: www.sars.gov.za
Telephone (012) 422 4000

SS
M3/5/2 (987/11)

MOTIVATION FOR APPOINTMENT OF THREE CHIEF OFFICERS: IN ENFORCEMENT, LEGAL COUNSEL AND DIGITAL INFORMATION SERVICES & TECHNOLOGY ON GRADE 09B

1. Purpose

The purpose of this memo is for the Minister to take note of the appointment of three Chief Officers: **Mogola Tsibugo Makola as Chief Officer: Enforcement, Refiloe Mokoena as Chief Officer: Legal Counsel and Mmamathe Makhekhe Mokhuane as Chief Officer: Digital Information Services & Technology on Grade 09B**, in accordance with section 5(1) (a) and 18(3) of the SARS Act; and section 4 of the legal opinion provided by Byron Morris, especially paragraph 4.19 of that legal opinion, paragraphs 21 to 28 of the legal opinion provided by Wim Trengove SC and Kate Hofmeyr, and paragraphs 52 to 54 of the legal opinion provided by Vincent Maleka SC and Ndumiso Nxumalo (see attached).

2. Background

The transformation agenda of SARS towards a simpler, focused and better alignment to SARS core mandate and strategic drivers culminated in the announcement of the operating model on the 18th August 2015. After the Chief Officer recruitment drive, three Chief Officer positions remained vacant and these roles are pivotal in leading key functions in the organisation.

3. The Process

One of the Executive Search companies on SARS preferred recruitment service provider panel was briefed to source potential candidates for the Chief Officer roles in the external market, while also looking at the internal candidates. The first round of interviews with shortlisted external and internal SARS candidates were conducted on the 9 -11 September 2015, 21 June 2016 and 13 December 2016

ANNEXURE C

HR ADMIN & PAYROL

EMPLOYEE INITIALS & SURNAME:
MM Mokhuane

PECENTAGE PENSIONABLE SALARY	65%

INFO TYPE 8		
TOTAL COST TO COMPANY	/CTC	R 185 782.20
TOTAL PACKAGE	/TPA	R 183 923.00
BASIC SALARY	1000	R 119 549.95
ADD CASH ALL	1P00	R 33 869.06
MEDICAL AID CASH ALL	1P20	R 2 500.00
HOUSING ALL	1P30	R 2 500.00
SERVICE BONUS	1P50	R 9 962.50

INFO TYPE 0014	(Service Bonus)	R 0.00
INFO TYPE 0151	(Group Life)	R 1 710.48

3.2. Interview Panel Details for Enforcement and Legal Counsel

Panel Member Name and Surname	Panel Member Job Title
Mr Tom Moyane	SARS Commissioner
Mr ME Moemi	DG: Sports and Recreation SA
Adv Eric Mkhawane	CEO: Office of the Tax Ombud
Mr Teboho Mokoena (Observer)	Chief Officer: Human Capital and Development - SARS
Ms Auguste "Gusti" Coetzer	Director: Executive Search – Talent Africa

3.2.1 Interview Panel Details for DIST

Panel Member Name and Surname	Panel Member Job Title
Tom Moyane	SARS Commissioner
Teboho Mokoena (Observer)	SARS Chief Officer: Human Capital & Development
Zach Modise	National Commissioner: Department of Correctional Services
Lionel October	Director General: Department of Trade and Industry
Lt Gen (ret) Solly Ngubane	
Auguste (Gusti) Coetzer	Talent Africa

4. **Vacancy Details and Recommended Candidate Profile**

4.1. Vacancy Details

Vacancy Reports to details:			
Position reports to (Job Title)	Commissioner	Job Grade	10
Position reports to (Name and Surname)	Tom Moyane	Position Number	10000001
Vacancy details:			
Role Cluster e.g. infrastructure	Office of the Commissioner	Job Title	Chief Officer: Enforcement, Legal Counsel and DIST
Role Family e.g. Protection	Enforcement, Legal and Strategy	Job Grade	9B
Number of advertised positions	3	Type of Employment	Permanent with GEPF
Advert/Post Bulletin Ref Number	CO	Contract Period	Permanent
Position Number(s)	10035189, 10035187, 10035188		
Division	Enforcement		
Physical Location	Head Office, Pretoria		

4.2. Selection Decision Matrix

		Selection Criteria

Candidate Name *(ranked from most recommended to least)*	Interview Score	PCV/Vetting	Assessments	Ref Check
Mogola Tsibugo Makola	Recommended	Recommended	Development Required	Recommended
Refiloe Mokoena	Recommended	Recommended	Development required	Recommend
Mmamathe Makhekhe Mokhuane	Highly Recommended	Recommend	Development required	Recommend

- The panel interviewed seven candidates for the CO: Enforcement position, Mogola Makola was interviewed for the CO: Legal Counsel Position but the panel unanimously recommended her for the Chief Officer: Enforcement position, based on her experience and qualifications.
- The panel interviewed five candidates for Legal, and unanimously recommended Refiloe Mokoena
- The panel interviewed four candidates for DIST, and unanimously recommended Mmamathe Mokhoune

4.3. Recommended Candidate Profiles

Candidate Profile for Chief Officer Enforcement	
Candidate Name	Mogola Tsibugo Makola
Identity Number	7801010621088
Race	African
Gender	Female
Disability	No
(If) External Employee Job Title	N/A
(If) Internal Employee Job Grade	N/A
(If) Internal Employee Number	N/A
South African Citizen	Yes

	Career history
2001 – date	Bowman Gilfillan Incorporated (Gauteng, South Africa)
2001 – 2003	Candidate Attorney
2003 – 2005	Associate and Senior Associate (Tax Practice Group)
2005 – 2008	Senior Associate in Corporate Department (Tax Practice Group)
2005 – 2006	Sullivan & Cromwell, Foreign Associate (Corporate Department) (LLP, New York) Exchange programme.

Candidate Current Employer	Bowman Gilfillan Incorporated (Gauteng, South Africa)
Current Employment Date	2008 – date
Job Title	Partner in Tax Practice Group (Corporate Department)
Job Description	Six partners in the Tax Practice Group. Managing a staff compliment of 10 to 14 personnel. Works across the divisions in Kenya, Uganda, Madagascar and Botswana.
Career History	**Transactions performed:** • Advising VSNL SNOSPV Pte Limited on its disposal of shares in Nexus to Vodacom, 2013 – 2015.

- Advised the Naartjie Custom Kids Incorporated on the sale of its South African business to Truworths International Limited, 2014.
- Advised Apollo Global Incorporated on the acquisition of shares in a South African target which operates in the higher business education sector, 2013.
- Advised Renaissance Capital on its acquisition of BJM Securities, 2010.
- Advised Abbott Laboratories on the restructuring of its pharmaceutical business in South Africa, 2012. Have continued to provide ongoing tax support to Abbott Laboratories and AbbVie locally with regard to the transaction.
- Advising Old Mutual on the restructuring of one of its asset management divisions, 2015.
- Advising Old Mutual's product structuring divisions on the structuring of some of their products, 2015.
- Advising Old Mutual on some of its investments, 2015.

- Ongoing tax advice to the Old Mutual Group on various transactions and the structuring of their products, 2016.
- Ongoing tax advice to the Standard Bank Group on various transactions and employee related matters.
- Advised Pfizer Laboratories on the restructuring on its pharmaceutical business in South Africa, 2014.
- Advised the Public Investment Incorporation SOC Limited in relation to its investment in the Kleoss I Fund, 2014.
- Advising IOMA in relation to the distribution of financial products in South Africa, 2015.
- Advising the National Empowerment Fund on various transactions / investments, 2014 – 2015.
- Advising Eskom SOC on various transactions, 2015.
- Advising South African Breweries (SAB) on some of their transactions, 2016.
- Advising Airports Company South Africa SOC on various tax disputes with the South African Revenue Services.
- Advising various foreign financial institutions on the establishment of a presence in South Africa and the distribution of financial products in South Africa.
- Currently working on Old Mutual, separating their business splitting business into four units. Client specifically asked for her to work on this role for tax.

Year Obtained	Qualification
1992	Matric
1998	Bachelor of Arts
2001	Bachelor of Laws
2005	Masters in Law (LLM), Tax

Candidate Profile for Chief Officer Legal Counsel	
Candidate Name	Refiloe Mokoena
Identity Number	6209270789085
Race	African
Gender	Female
Disability	No
(If) External Employee Job Title	N/A
(If) Internal Employee Job Grade	N/A
(If) Internal Employee Number	N/A
South African Citizen	Yes

	Career history
1991 – date	Mageza Raffee Mokoena Incorporated (MRM) Attorneys (Gauteng, South Africa)Attorney
March 2016 – date	Acting Judge
April 2015 – September 2015	Acting Judge
April 2008 – April 2013	Executive Corporate Compliance and Regulatory (Group Compliance Officer)
1990 – 1991	Mhinga Attorneys

Candidate Current Employer	Telkom (Pty) Limited (Gauteng, South Africa)
Current Employment Date	April 2008 – April 2013
Job Title	Executive Corporate Compliance and Regulatory (Group Compliance Officer)
Duties	• Conducted forensic verifications of suppliers and reviewed contract/s bid awarded to suppliers and was responsible for fraud, corruption and theft investigations. • Oversaw the Corporate Compliance Programme, functioning as an independent and objective body that reviewed and evaluated compliance issues / concerns within the organisation. • Conducted and enterprise-wide competition compliance audit assisted by Edward Nathan and Sonnenberg Attorneys. • Ensured that the Board of Directors management and employees were in compliance with the laws, rules and regulations of regulatory agencies, that company policies and procedures were followed and that behaviour in the organisation met the company's standards of conduct. • Advised and developed compliance programmes for Telkom to ensure compliance with local and international fraud, money laundering and anti-corruption laws such as the prevention and combating of Corrupt Activitities Act (South Africa), Foreign Corrupt Practices Act (USA) and Anti-Corruption and Economic Crimes Act (Kenya). • Represented the firm in communication and interaction with the regulatory bodies. • General litigation (including regulatory law, property law and procurement)

Year Obtained	Qualification
1979	Matric
1985	Bachelor of Arts Bachelor of Laws (B. Juris)
1987	Bachelor of Laws (LLB),
2010 :	Master's in Business Administration (MBA),(Currently busy with dissertation)

Candidate Profile for Chief Officer Digital Information Services & Technology	
Candidate Name	Mmamathe Makhekhe Mokhuane
Identity Number	6704210690088
Race	African
Gender	Female
Disability	No
(If) External Employee Job Title	Chief Information Officer
(If) Internal Employee Job Grade	N/a
(If) Internal Employee Number	N/a
South African Citizen	Yes

Candidate Current Employer	Department of Water and Sanitation
Current Employment Date	Sept 2013 - to date
Job Title	Chief Information Officer
Job Description	• Direct & manage information technology strategic plans, programs & schedules for business & finance data processing, computer services, network communications & management information services to accomplish organisational goals & objectives. • Direct the information and data integrity of the organisation, its business units and tax payers. • Develop strategic plans and implement the objectives of the information technology needs of the organisation to ensure the computer capabilities are responsive to the needs of the organisation's growth and objectives. • Direct and establish operating policies and approaches for computing and information technology in response to changing requirements for IT by internal and external stakeholders. • Evaluate overall operations of computing and information technology functions and recommend enhancements. • Advise senior management on strategic systems conversions and integrations in support of business goals and objectives
Career History	Chief Information Officer (2013 - current) Department of Water & Sanitation. • Provided strategic operational support and enabled the province to deliver on its mandate smoothly, efficiently, professionally and on-time. • Develop Organisational Excellence through proper and timeous planning, monitoring and evaluation, coordination of the strategic and business planning processes to ensure alignment, linkages ad integration across the whole province.

	National Provincial Chief Information Officer (2006-2013) (North West Province Government) • Supported Head of Department, senior management and the other users in the department in the efficient and effective utilisation of information and information technology as strategic resources to enable them to executive their functions efficiently and effectively. • Manage the information Technology function of the department and ensured the establishment of sound information management systems. • Aligned the department's information management and information technology strategy with the strategic direction of the department. **Chief Information Officer (2004-2005) Department of Communications** **Chief Information Officer (2002-2004) Department of Transport**

Year Obtained	Qualification
2004	MBA
2000	Information Technology Management
1999	Advanced Project Management
1997	Diploma Business Management

5. EE Targets (Divisional/Regional EE Plan)

The EE profile should exclude Non-South African citizens who obtained citizenship after 27 April 1994.

National EAP - Grade 9B

Grade	TOTAL	Female				Male				FN
		A	C	I	W	A	C	I	W	
[illegible]	6	0	0	0	0	4	0	0	2	0
[illegible]	100.00%	0.00%	0.00%	0.00%	0.00%	66.67%	0.00%	0.00%	33.33%	0.00%
SARS Target	100.00%	35.3%	4.6%	1.0%	4.3%	42.1%	5.4%	1.7%	5.6%	0.0%
Variance %		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
EE Requirements	1	1	0	0	0	0	0	0	0	0
New Profile #	7	1	0	0	0	4	0	0	2	0
New Profile %	100.00%	9.64%	1.26%	0.27%	1.17%	57.14%	1.48%	0.46%	28.57%	0.00%

5.1. Motivation for Recommending a Non-EE Candidate
N/A

5.2. Motivation for Recommending a Foreign National without Permanent Residency or Work Permit
N/A

6. **Financial Implications and Proposed Remuneration**

6.1. Salary Range for Grade: 9B (Reward Level 25)

Minimum	Median	Maximum
R 2 207 076.00	R2 758 848.00	R 3 310 608.00

6.2. **Motivation for Proposed Remuneration:**

The proposed remuneration is at 80% compa-ratio to SARS Rem Level 25 which is also similar to the market Grade midpoint. Internal parity on the similar roles has also been considered.

6.3. Recommendation for Proposed Remuneration:
N/A

These are **External Appointments.**

7. Appointment Recommendation

It is recommended that the Minister of Finance note the appointment of **Mogola Tsibugo Makola** as **Chief Officer: Enforcement, Refiloe Mokoena as Chief Officer: Legal Counsel and Mmamathe Makhekhe Mokhuane as Chief Officer: Digital Information Services & Technology on Grade 09B.**

8. Signatories

Recommended by	Teboho Mokoena Chief Officer: HC&D	06/04/2017 Date
Approved by	Tom Moyane SARS Commissioner	10/4/2017 Date
Noted by	Minister of Finance MKN Gigaba 2017/04/15 Date Approved / Not Approved I presume that they were vetted and taken through performance assessment	

Appendix 11

Report submitted by Mr Cecil Morden to the Commission of Inquiry

national treasury
Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

28/08/2018

Economic Tax Analysis

Submission to the Nugent Commission:

The tax revenue forecasting process and an analysis on how much of the revenue shortfall is due to poor economic performance, poor forecasting or tax administration problems

Introduction

1. Tax revenue collections have substantially underperformed projected forecasts over the past four years. This submission provides a summary of when tax revenue forecasts are published by National Treasury and explains the process behind the how these forecasts are determined. The note also attempts to disentangle the impact of economic performance on the extent of the revenue shortfalls over the past four years. This analytical exercise will not be able to provide exact definitive answers to some of the questions around the extent to which any underperformance is explained by the economy, but it would provide an indication of which tax instruments may have experienced potential administrative problems in collection.

The Budget process and tax revenue forecasts

2. National Treasury publishes a fiscal framework in the Budget in February and in the Medium Term Budget Policy Statement (MTBPS) in October each year. The fiscal framework sets out the fiscal position of government, with projections over the next three years for revenues and for expenditures, where the expenditure projections are known as the Medium Term Expenditure Framework (MTEF). The revenue and expenditures estimates are critical to determining the sustainability of the country's finances, illustrated through the budget balance and the debt-to-GDP ratio. In times when there is a budget deficit, as is the current case, the estimates help determine the level of borrowing that government is required to make over the following year to fund government expenditures. The revenues estimates are one of the main inputs in helping to determine the level of government expenditure over the MTEF. The forecasts are thus vital for the functioning of government.

Table 3.1 Consolidated fiscal framework

R billion/percentage of GDP	2013/14	2014/15 Outcome	2015/16	2016/17 Revised estimate	2017/18	2018/19 Medium-term estimates	2019/20
Revenue	1 008.1	1 098.9	1 222.0	1 297.3	1 414.1	1 535.2	1 668.5
	27.8%	*28.4%*	*29.9%*	*29.4%*	*29.8%*	*29.9%*	*30.1%*
Expenditure	1 143.4	1 233.5	1 364.2	1 445.2	1 563.1	1 677.1	1 814.3
	31.5%	*31.9%*	*33.4%*	*32.8%*	*33.0%*	*32.7%*	*32.7%*
Non-interest expenditure	*1 033.8*	*1 112.1*	*1 227.9*	*1 291.8*	*1 393.8*	*1 489.5*	*1 608.0*
	28.5%	*28.8%*	*30.0%*	*29.3%*	*29.4%*	*29.0%*	*29.0%*
Budget balance	-135.4	-134.6	-142.2	-147.9	-149.0	-141.9	-145.8
	-3.7%	*-3.5%*	*-3.5%*	*-3.4%*	*-3.1%*	*-2.8%*	*-2.6%*

Source: National Treasury

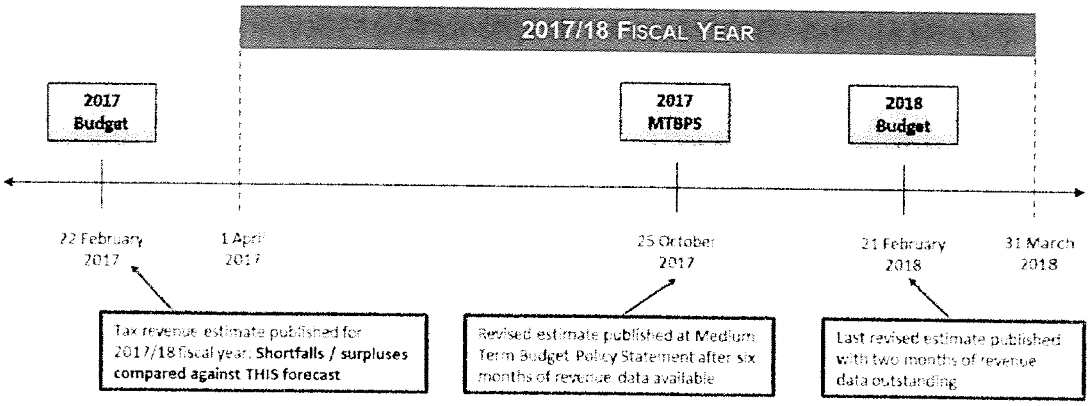
The tax revenue forecasting process

3. To determine the tax revenue forecasts the National Treasury convenes a Revenue Analysis Working Committee (RAWC), which is comprised of officials from the National Treasury, SARS and the South African Reserve Bank (SARB). The objective of the RAWC is to provide a best estimate for revenue forecasts to be published in the annual Budget and MTBPS. The RAWC usually meets at least twice before each published forecast and is chaired by the Deputy-Director General for Tax and Financial Sector Policy at the National Treasury. Four separate revenue forecasts are presented to the RAWC, from the Economic Tax Analysis and Economic Policy units at the National Treasury and from SARB and SARS. Each team providing forecasts brings a unique and different perspective on the state of the economy, on revenue performance, the impact of tax policies and on the ability of the revenue agency to collect tax revenues. The final revenue forecasts for each tax instrument is generally agreed to by consensus, or an average of the forecasts is taken if there remains some disagreement.

4. The SARB have provided analysis on the accuracy of the forecasts from each participant in the RAWC and compared it to the consensus forecast. Their analysis found that, on average, the consensus forecast has smaller errors than any of the individual forecasts by participants in the RAWC for the major tax instruments. This point hopefully illustrates the potential advantage of having a structure such as RAWC to provide estimates for revenue forecasts, as the inputs from the many views and skills of different officials from separate institutions ultimately lead to better forecasts.

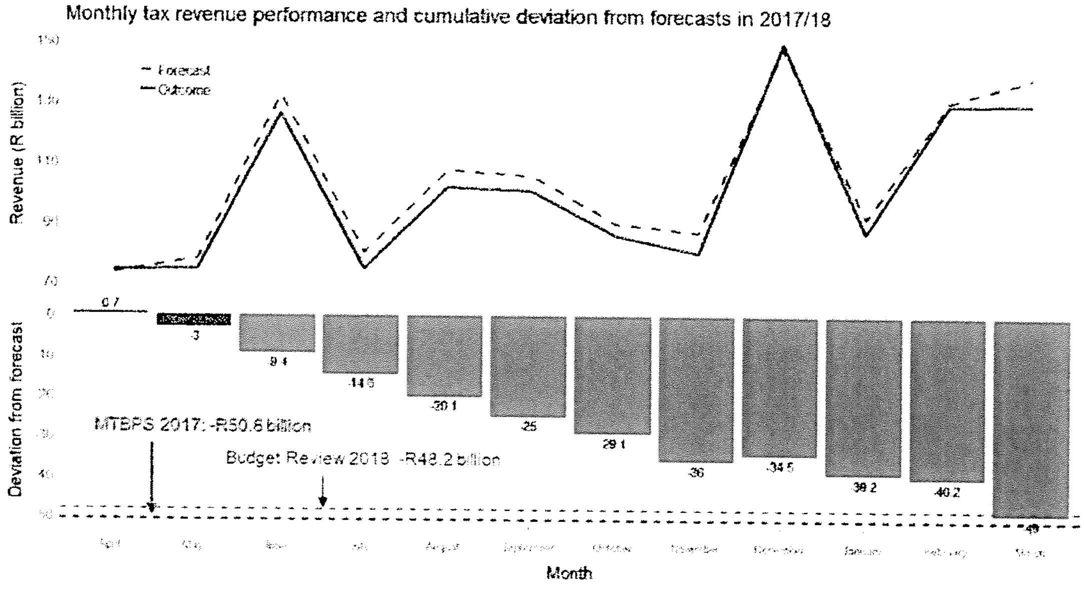
Published tax revenue forecasts and calculation of the shortfall

5. National Treasury publishes tax revenue forecasts in the annual Budget Review and the MTBPS each year. Tax revenue forecasts are made for the next three fiscal years, aligning with the Medium Term Expenditure Framework. The figure below shows the points at which the latest estimates were made for the 2017/18 fiscal year. The last forecast before the 2017/18 fiscal year (which starts on 1 April 2017) was made at the 2017 Budget on 22 February 2017. A revised estimate was published in the MTBPS on 25 October 2017 and a further revised estimate for 2017/18 was published on 21 February 2018.



6. The headline shortfall figure for 2017/18 was R49 billion, which is the actual revenue collected for 2017/18 compared to the last forecast before the start of the 2017/18 fiscal year, i.e. the forecast from the 2017 Budget. The figure below shows the monthly revenue forecasts and actual monthly collections in the top panel and the cumulative shortfall or surplus in the bottom panel. After six months, National Treasury estimates suggested that revenue collections were around R25 billion below the forecast and the MTBPS in October 2018 published a revised estimate for 2017/18 that was R50.8 billion below the 2017 Budget forecast. The shortfalls continued to grow, and by the 2018 Budget the revised estimate that was published was slightly better, indicating a R48.2 billion expected under-collection. The actual shortfall came in at R49.03 billion.

Monthly tax revenue performance and cumulative deviation from forecasts in 2017/18



7. The table below indicates the stages of the revenue forecasts and the final shortfall for each of the past four fiscal years. In each case the shortfall is compared to the Budget Review

immediately preceding the start of the fiscal year. In these four years, the revenue estimates were all revised down at the time of the MTBPS. In the past there have been increases in the revenue estimate at the time of the MTBPS, for example in 2006 the revenue estimate was revised up by R32.9 billion in October 2006. Unfortunately, most of the revisions after 2009 have been downwards.

Tax revenue forecasts and shortfalls from past four years

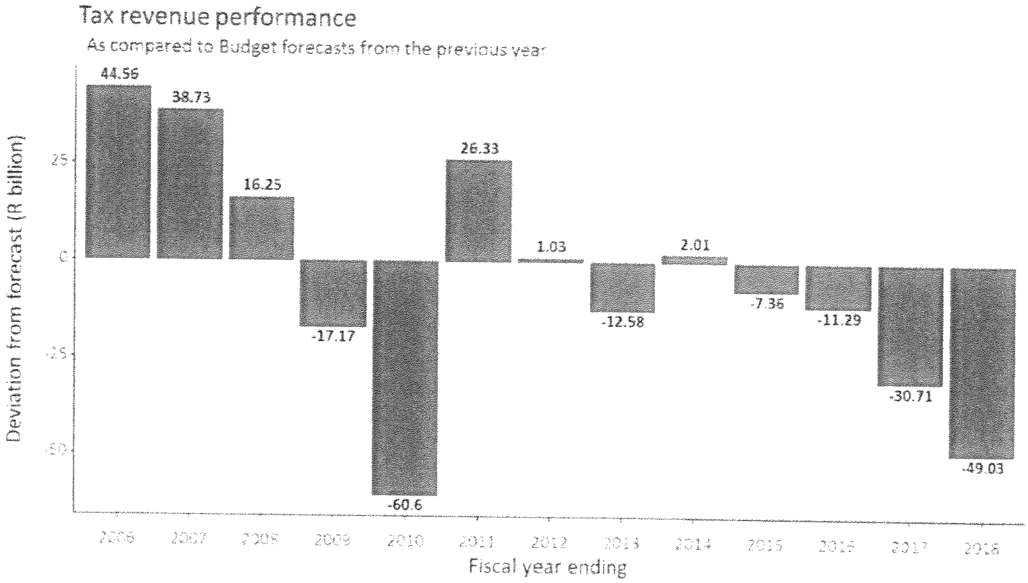
R million	2014/15	Deviation	2015/16	Deviation	2016/17	Deviation	2017/18	Deviation
2014 Budget Review	993,650							
2014 MTBPS	983,600	-10,050						
2015 Budget Review	979,000	-14,650	1,081,275					
Actual/2015 MTBPS	986,295	**-7,355**	1,073,700	-7,575				
2016 Budget Review			1,069,700	-11,575	1,174,790			
Actual/2016 MTBPS			1,069,983	**-11,292**	1,152,000	-22,790		
2017 Budget Review					1,144,380	-30,410	1,265,490	
Actual/2017 MTBPS					1,144,081	**-30,709**	1,214,700	-50,790
2018 Budget Review							1,217,307	-48,183
Actual							1,216,464	**-49,026**

8. For the past four years, some commentators may say that SARS has exceeded their targets by showing that collections are higher than the revised forecast at the time of the MTBPS or the revised forecast that is made just before the end of the fiscal year. For example, 2014/15 final tax collections were around R7 billion *higher* than the estimate made in the 2015 Budget (with just over one month remaining in the fiscal year), yet these collections were R7.355 billion *lower* than the original forecast from the 2014 Budget. Over the full year this would be seen as an under-collection of R7.355 billion. In our view it is not appropriate to assess performance based on the revised estimates (that are published in the MTBPS or the Budget that is just before the end of the fiscal year) since a large part of the fiscal year has already gone by when those revisions are made and the revised estimates already reflect the impact of lower collections in that year. Those lower collections could be due to under-performance in the economy, or incorrect tax policy estimates or tax administrative problems. In our view any calculation of shortfalls or surpluses should be compared to the forecast made before the start of the fiscal year.

Tax revenue performance and potential reasons for deviations from forecasts

9. Tax revenue collections have significantly underperformed projected forecasts over the past four years, when comparing to the last estimate before the start of the fiscal year. The latest under collection is R49 billion for the 2017/18 fiscal year, which is the largest shortfall since the global financial crisis (as shown in the figure below). The extent of the shortfalls has a significant impact on the debt trajectory and the ability of government to meet its public expenditure commitments, and is partly the reason behind the announcement of tax measures in the 2018

Budget to increase tax revenues by R36 billion (which includes an increase in the value-added tax rate to 15 per cent).



10. Any under or over-performance of tax revenues could be attributed to a number of factors, namely:

   a. A downturn in economic performance compared to the time of forecast
   b. Changes in the structure or composition of growth, such as earnings or consumption
   c. An increase in avoidance or evasion
   d. Administrative effort and efficiency
   e. An incorrect estimation of tax policy changes on tax revenues, or
   f. Forecast errors, amongst others

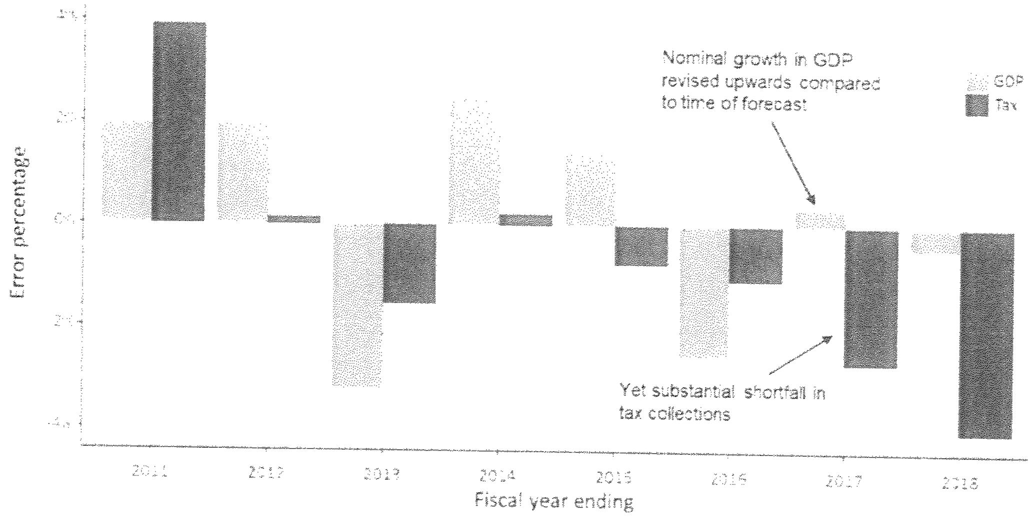
11. Identifying the reasons behind the latest shortfalls, to the best extent possible, could assist the Commission in determining whether tax administration had a role to play in these under-collections. Similarly, these results could potentially help identify whether other elements in the forecasting process could be improved. For example, if the shortfall is due to incorrect estimates of the revenue impact of tax policy changes, or forecast errors, greater effort should be taken in improving the accuracy of those models to avoid the substantial expenditure and debt implications. If these shortfalls are due to increased tax avoidance or evasion, if this can be identified, there would be valid reasons to attempt to bolster tax administration performance to reduce these leakages. There are, however, fewer options to correct the deviations if the largest proportion of the error is due to an under-performance in the underlying tax bases.

Changes in economic performance and tax revenues, tax buoyancies, and tax elasticities

12. When assessing the impact of economic growth on tax revenues, the first element to check may be whether actual economic growth was different to what was expected at the time of the revenue forecast. The figure below shows the percentage difference in nominal GDP compared to what was forecast, and the percentage difference in tax revenues. In 2015/16 there was a large under-performance in nominal GDP alongside a smaller shortfall in tax collections. For 2016/17, the figure shows that there was a slight *increase* in nominal GDP compared to what was expected, yet tax revenues fell considerably short of expectations. Similarly, in 2017/18 actual nominal GDP growth was slightly below the forecast, but tax revenues deteriorated further. At first glance this may look like convincing evidence that economic performance did not play a large part in the shortfalls in the last two years, however this may not necessarily be true. The shortfalls could be due to a change in the structure of nominal GDP to less tax intensive GDP components (i.e. to components of GDP which have lower tax collections). For example, a shift in the composition of GDP away from imports towards exports would lead to a lower level of tax revenue with a similar nominal GDP figure, as the shift would lead to a loss of customs duties and import VAT and an increase in VAT refunds.

Forecast error for nominal GDP and tax revenue estimates since global financial crisis

As a proportion of actual tax revenue and nominal GDP outcomes



13. To elaborate on this further, nominal imports at the time of the 2016 Budget were expected to be R1.474 trillion for 2016/17, but actual nominal imports only came in at R1.3 trillion, a substantial shortfall which ultimately would lead to lower customs duties and import VAT (even though nominal GDP was slightly higher than the 2016 Budget forecast). It would thus be misleading to use nominal GDP alone as an indicator to assess tax revenue performance.

14. One measure that is often quoted is the overall tax buoyancy figure, which is a direct measure of how tax revenues have changed with changes in nominal GDP. The tax buoyancy for 2017/18 was initially forecast to be 1.41 in the 2017 Budget, after a tax buoyancy of 0.88 for 2016/17.

Some commentators have stated that this large increase in the overall tax buoyancy shows that the forecasts are excessively optimistic, but this ignores the impact of compositional changes in GDP (as discussed above) and also represents a misunderstanding of tax buoyancies and tax elasticities. Tax buoyancies show the change in tax revenues compared to the change in the economy (or each tax base), including the impact of any tax policy measures. Tax elasticities *exclude* the impact of tax policy changes and show changes in tax revenues due to the underlying change in the tax base only. The tax buoyancy of 1.41 that was forecast for 2017/18 includes additional tax revenue of R28 billion from tax policy changes announced in the 2017 Budget. Excluding the R28 billion would lead to an overall tax elasticity of 1.08. There are thus valid reasons for instances where the tax buoyancy increases by a substantial margin. But again, it is less useful to examine the overall tax buoyancy or tax elasticity figure only as it may be skewed by changes in GDP composition.

Table 4.2 Budget revenue[1]

R million	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
		Outcome		Revised		Medium-term estimates	
Gross tax revenue	**900 015**	**986 295**	**1 069 983**	**1 144 382**	**1 265 488**	**1 384 399**	**1 507 553**
GDP (R billion)	*3 624.3*	*3 863.1*	*4 086.8*	*4 409.8*	*4 741.2*	*5 129.2*	*5 545.5*
Tax buoyancy	*1.17*	*1.46*	*1.47*	*0.88*	*1.41*	*1.15*	*1.10*

15. There should also be some caution in characterizing the revenue forecast as a "target", which is the term sometimes used. The RAWC helps to determine the expected level of revenue collections from SARS, however this should not be viewed as a target in a similar manner to, say, a target for a sales team. The forecast estimates are not set at an arbitrary desired level that government hopes to achieve, which may well be unrealistic. The forecasts are a best estimate, given the expectations for growth in the economy and the individual tax bases. The revenue forecasts are an important component in determining the projected budget deficits and debt-to-GDP ratios for the country, along with feeding into the projected levels of expenditure that can be incurred for national, provincial and local governments. Government would not be able to plan for their expenditure programmes, or anticipated borrowing requirements, without a realistic view of the expected income from taxes. Unrealistic assumptions or revenue targets would be quickly discovered by private sector analysts and investors and would undermine the credibility of our budget publications, which may have wider consequences for investment and economic growth. National Treasury does not seek to overestimate potential collections, and the RAWC process ensures there is sufficient checks so that no one institution can overly influence the estimates.

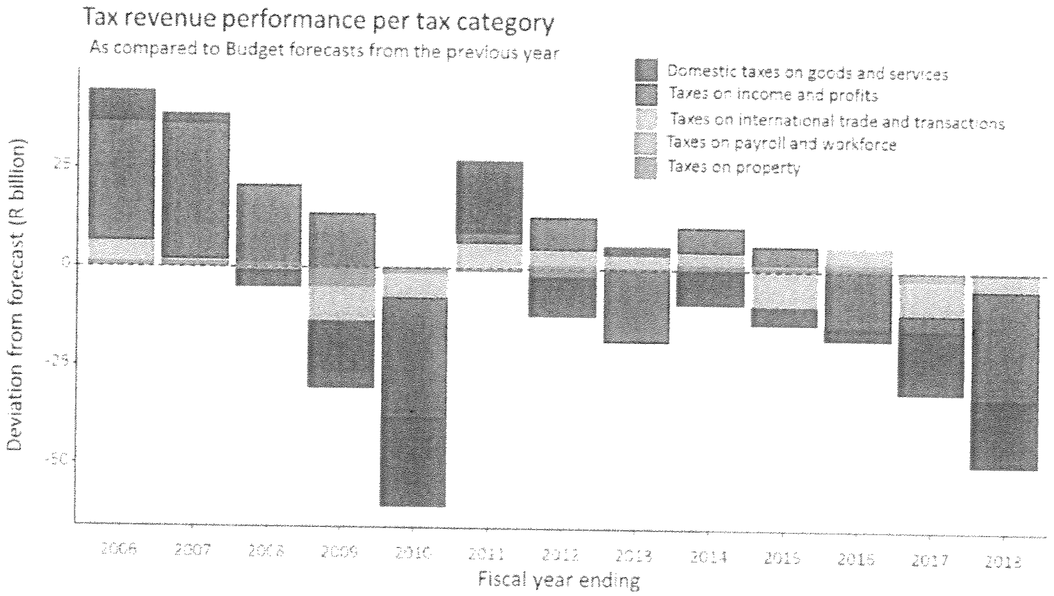
16. Alterative mechanisms have been suggested to assess the performance of SARS, such as by referencing the R1 trillion collected, or that the tax-to-GDP ratio is similar to other advanced countries at around 26 per cent. In our view these are not relevant metrics for evaluating whether the correct amount of tax is being collected. The R1 trillion mark would have been reached in any case due to inflation, and tax policy measures can lead to a structurally higher

level of taxes in an economy, which has occurred in South Africa over the past five years with large effective increases in tax rates.

17. From these points, looking at the overall change in revenues in relation to the economy (or other measures) are not insightful, and any assessment of tax revenue performance should instead focus on the individual tax revenue components.

Contribution of particular tax instruments

18. The revenue performance per main category of tax indicates that the two largest contributors to the shortfall over the last few years have been domestic taxes on goods and services (which includes value-added tax on both domestic and imported goods) and taxes on income and profits (which includes personal income taxes and corporate income taxes). Taxes on international trade and transactions (which includes customs duties) also showed a material shortfall in 2016/17.



19. The 2016/17 and 2017/18 shortfalls can be broken down into each sub-category of tax, as per the table below. The 2016/17 tax year saw a shortfall of R16.5 billion in personal income taxes, a R14.7 billion shortfall in import VAT and an R8.5 billion shortfall in customs duties. In 2017/18 there was a further R21.1 billion shortfall from personal income taxes, with another R9.5 billion shortfall in import VAT and an R8.5 billion shortfall in domestic VAT. Further significant shortfalls occurred for dividend withholding tax (R6.2 billion), customs duties (R3.5 billion) and specific excise duties (R2.5 billion).

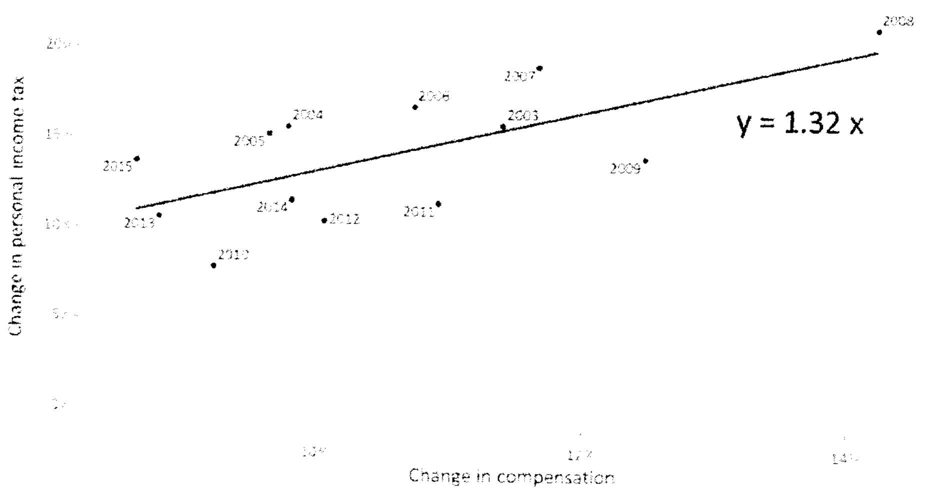
Tax year	2016/17		2017/18	

	Forecast	Actual	Shortfall	Forecast	Actual	Shortfall
Personal income tax	441,040	424,545	- 16,495	482,086	460,953	- 21,133
Domestic VAT	322,445	321,475	- 970	344,823	336,279	- 8,544
Import VAT	164,013	149,265	- 14,748	162,304	152,782	- 9,522
VAT refunds	-185,199	- 181,574	3,625	-194,377	- 191,071	3,306
Corporate income tax	198,293	204,432	6,139	218,692	217,412	- 1,280
Fuel levy	64,495	62,779	- 1,716	70,902	70,949	47
Customs duties	54,043	45,579	- 8,464	52,608	49,154	- 3,454
Specific excise duties	38,000	35,774	- 2,226	39,871	37,356	- 2,515
Dividends withholding tax	25,250	31,130	5,880	34,717	27,719	- 6,998
Other minor taxes	14,621	14,853	232	16,038	18,249	2,211
Skills development levy	17,640	15,315	- 2,325	16,641	16,012	- 629
Electricity levy	8,568	8,458	- 110	8,641	8,501	- 140
Transfer duties	8,084	8,208	124	8,423	7,723	- 700
Ad-valorem excise duties	3,277	3,396	119	3,639	3,781	142
Withholding tax on interest	218	446	228	480	665	185
Total	1,174,788	1,144,081	- **30,707**	1,265,488	1,216,465	- **49,023**

The use of tax base changes to forecast tax revenues

20. Tax revenues are closely linked to the change in what is being taxed, whether that be wages, consumption or imports. This link to an individual tax base is an important tool in creating forecasts for tax revenues. If we have a reasonable idea behind how tax revenues will react to changes in their tax bases, then we can derive the anticipated tax revenues from the expected future value of those tax bases. For example, the figure below shows the change in the wage bill with the changes in personal income tax revenues from 2004 up to 2015, after taking out tax policy impacts (the tax elasticity). This data suggests that for a one percent increase in the wage bill (compensation) there has been a 1.32 percent increase in personal income tax revenues.

Relationship between growth in PIT revenues and compensation



21. National Treasury publishes what they believe are the important tax bases for the major tax instruments and the expected relationship between that tax base and the revenue to be collected from that tax instrument. The table below shows the latest assumptions from the 2017 MTBPS where, for example, the wage bill is the main tax base for personal income taxes and it is expected that a one percent increase in nominal imports will lead to a one percent increase in customs duties. The progressive nature of our personal income tax regime means we get slightly more taxes as wages increase, however most other taxes are expected to have a one-to-one relationship with their tax bases (a similar finding to that from the International Monetary Fund). The buoyancy figure for personal income taxes was 1.3 in the 2016 MTBPS, but has been substantially lowered to 1.15 after the recent under-collections in personal income taxes (less personal income tax collections are being made for the same level of growth in the wage bill). Publishing the changes in tax revenues alongside each tax base improves the transparency behind our assumptions and hopefully clearly shows that the estimates are reasonable.

Table C.3 Tax revenue and tax bases

R million	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
		Outcome		Estimate		Projections	
Personal income tax	**352 950**	**388 102**	**424 545**	**461 262**	**499 839**	**544 873**	**595 467**
Wage bill[1]	*8.6%*	*7.5%*	*7.8%*	*6.3%*	*7.3%*	*7.8%*	*8.1%*
Buoyancy	*1.61*	*1.32*	*1.20*	*1.36*	*1.15*	*1.15*	*1.15*
Corporate income tax	**184 925**	**191 152**	**204 432**	**213 905**	**223 577**	**236 172**	**251 047**
Net operating surplus	*2.5%*	*2.5%*	*6.2%*	*7.0%*	*4.5%*	*5.6%*	*6.3%*
Buoyancy	*1.73*	*1.35*	*1.13*	*0.67*	*1.00*	*1.00*	*1.00*
Net value-added tax	**261 295**	**281 111**	**289 167**	**301 320**	**324 750**	**352 135**	**383 266**
Household consumption	*6.0%*	*6.0%*	*6.9%*	*5.8%*	*6.7%*	*7.2%*	*7.6%*
Buoyancy	*1.65*	*1.26*	*0.41*	*0.72*	*1.17*	*1.17*	*1.16*
Domestic VAT	**286 776**	**297 422**	**321 475**	**340 354**	**365 294**	**394 271**	**427 274**
Household consumption	*6.0%*	*6.0%*	*6.9%*	*5.8%*	*6.7%*	*7.2%*	*7.6%*
Buoyancy	*1.47*	*0.62*	*1.17*	*1.01*	*1.10*	*1.10*	*1.10*
Import VAT	**136 544**	**150 745**	**149 265**	**151 967**	**161 486**	**174 804**	**190 083**
Nominal imports	*2.6%*	*3.0%*	*0.9%*	*4.3%*	*6.3%*	*8.2%*	*8.7%*
Buoyancy	*1.63*	*3.45*	*-1.08*	*0.42*	*1.00*	*1.00*	*1.00*
VAT refunds	**-162 025**	**-167 056**	**-181 574**	**-191 000**	**-202 030**	**-216 940**	**-234 091**
Nominal exports	*4.4%*	*5.3%*	*6.4%*	*6.0%*	*5.8%*	*7.4%*	*7.9%*
Buoyancy	*0.74*	*0.58*	*1.36*	*0.87*	*1.00*	*1.00*	*1.00*
Customs duties	**40 679**	**46 250**	**45 579**	**47 162**	**50 116**	**54 249**	**58 991**
Nominal imports	*2.6%*	*3.0%*	*0.9%*	*4.3%*	*6.3%*	*8.2%*	*8.7%*
Buoyancy	*-3.00*	*4.54*	*-1.60*	*0.80*	*1.00*	*1.00*	*1.00*

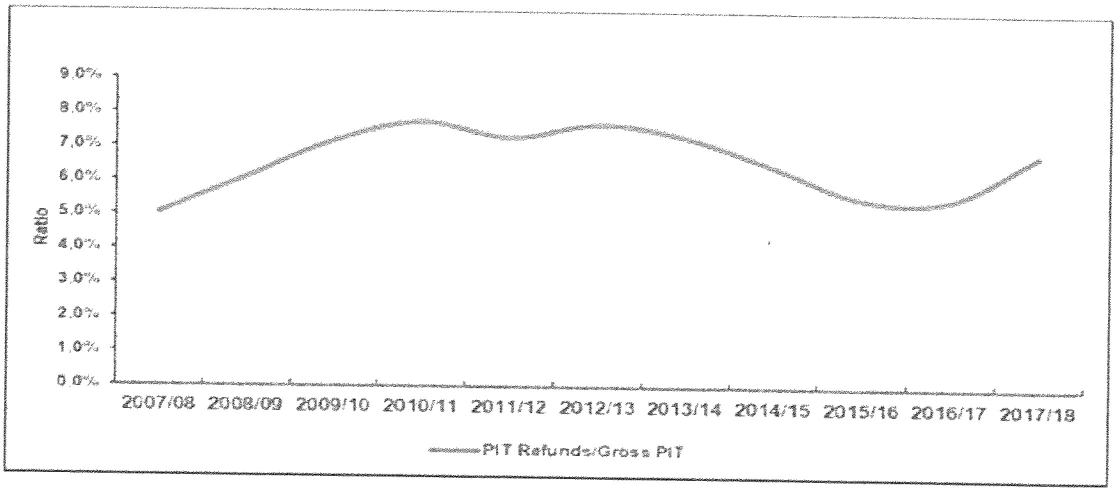
Assessing to what extent revenue underperformances were due to the economy

22. To assess the impact of changes in the economy on tax revenues from *previous* fiscal years it may be worthwhile to follow a similar approach, by evaluating how the underlying tax base changed compared to what was expected. As discussed, changes in the tax base should give an indication on expected changes in tax revenue for each tax instrument. These economic variables are separately determined by STATSSA and in effect provide a separate, independent

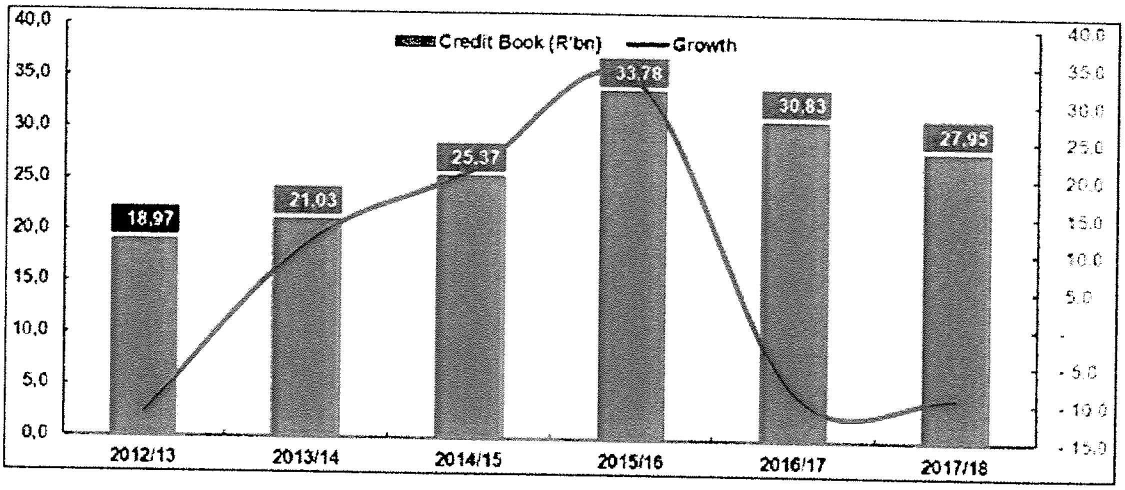
source to compare whether taxes have changed in the same manner as the underlying tax base. If a separate and independent source is saying that wage growth was higher than expected, one would expect SARS to collect more in personal income taxes, or vice versa.

23. One can try to identify how much of each shortfall was due to underperformance in the economy by re-estimating the outcome using the actual change in the underlying tax base according to STATSSA data (instead of using projected variables). In effect this calculates the forecast as if we have perfect foresight into the change in the economy in the year ahead. If the model to predict the revenue is reasonable, the forecast using outcome data should provide an estimate for what the tax revenue collections should have been given the change in the economy through the tax year.

24. The process is further complicated, however, as there may be other policy or administrative reasons behind changes in tax collections in each year. National Treasury estimates the policy impact of tax proposals in each year, but these may be incorrect. For example, large changes were made to the tax treatment of retirement reform contributions from 1 March 2016, where it was thought the changes would be revenue neutral (the revenue gains from introducing a R350 000 cap on deductible contributions were expected to closely match the revenue loss from higher deductions allowed for provident fund and retirement annuity contributions). SARS officials have mentioned that there has been a significant increase in deduction related to retirement fund contributions, which could be part of the reason for the increase in personal income tax refunds in 2017/18 (as shown in the figure below). Subjective adjustments are needed to try and exclude policy impacts such as this from the analysis, as a change in revenue from a policy decision should be seen in the same light as a change in revenue due to the economy. These can be identified to a large degree using administrative data from SARS, unfortunately National Treasury has not yet received the full anonymized data for 2016/17 to be able to identify these impacts.



25. Another noteworthy subjective change is in relation to value-added tax refunds. The figure below shows that the credit book for value-added tax (how much SARS owes to taxpayers for VAT refunds) increased by more than 20 per cent in 2014/15 and then by more than 30 per cent in 2015/16. Simplistically, one would expect the change in the credit book to grow by an amount closer to VAT growth (which was 7.5 per cent in each year). Large increases in the credit book suggest that fewer refunds were paid out in comparison to previous years, leading to higher overall tax collections. SARS subsequently reduced the credit book in 2016/17 and 2017/18, which appears to show that additional VAT refunds were paid out in those years, which would reduce tax revenues. The Tax Ombud Report into VAT refunds was published in September 2017. An allowance is made for these changes to the credit book in the analysis.



26. The table below shows the forecasted increase in the tax base for each tax instrument, the actual tax base increase, a post-forecast adjustment (as discussed above) and a revised forecast derived from the actual change in the tax base for the 2017/18 tax year. The last two columns show how much of the shortfall (or surplus) is due to the change in the economy or from subjective adjustments, and how much of the shortfall is potentially due to other factors (which may be due to increases in avoidance or evasion, or because the model to estimate the revised revenue is incorrect).

27. For personal income taxes, the tax base was expected to increase by 7.78 per cent, and the actual increase for 2017/18 was below that at 7.58 per cent, which should have reduced personal income taxes by around R4 billion, yet the shortfall was R21 billion. However, SARS has suggested that there have been an exceptionally large number of additional contributions made to retirement annuity funds after the allowable limit was increased from 1 March 2016. The analysis here assumes that this led to an additional R7.5 billion reduction in personal income taxes, which is taken off in the revised calculation. These two changes would then explain R12 billion of the R21 billion shortfall, but would not account for the additional R9 billion under-collection. For domestic VAT, R7.4 billion of the R8.5 billion under-collection is not explained by

changes in the economy (namely consumption) over 2017/18, and no other adjustments are made as there were no major policy changes in 2017/18 relating to domestic VAT. It is worth noting that for import VAT, the forecasted increase in the tax base was 9.78 per cent, yet nominal imports only grew by 2.99 per cent, a substantial difference. Using this method, almost the entire shortfall of R9.5 billion is explained by the poor performance of nominal inputs. Also for customs duties (which has the same tax base), the revenue figure outperformed by over R2 billion compared to what would have been expected given the much lower growth in nominal imports.

28. Two further adjustments are made that go beyond investigating only the changes in the underlying economy. For VAT refunds, the tax base increase (exports) was significantly lower than originally forecast, yet total VAT refunds paid out was relatively close to the original target. An additional R5 billion in VAT refunds is added to the revised estimate as SARS were actively running down their credit book, meaning that they were intentionally trying to pay out more VAT refunds (after the investigation by the Tax Ombud into the delay of VAT refund payments).

29. The other adjustment is a R5.5 billion decrease in the revised estimate for dividends withholding tax. Budget 2017 announced an immediate increase in the dividend withholding tax rate from 15 per cent to 20 per cent. It was expected that the higher revenues from the tax increase would flow through to the fiscus over the course of the 2017/18 tax year. Instead, there was a massive spike in dividend payments (and the resulting tax) in March 2017, where additional tax revenue of around R5.5 billion accrued to the previous tax year. In effect this shifted tax revenue to the previous year (where payments were taxed at the lower rate of 15 per cents), making the 2016/17 final tax revenue figure appear to be R5.5 billion better, at the expense of the 2017/18 tax collections.

30. Re-calculating each individual tax instrument and attributing a portion of the performance of each tax instrument to what can be explained by the economy or by other policy measures, shows that around 40 per cent of the shortfall in 2017/18 cannot be explained by economic performance or policy measures, according to this method. The largest unexplained deviations are for personal income tax and domestic value-added taxes. This correlates with statements from SARS officials that there has been an increase in the number of people and companies who are failing to submit income tax and value-added tax returns. The higher levels of non-compliance could well be feeding through to lower tax revenues, and would suggest that SARS has not been able to effectively counter this trend.

Tax type	Shortfall	Forecast of tax base change	Actual tax base change	Subjective adjustment for policy / other	Re-calculated revenue estimate	Due to economy or policy / other	Not explained
Personal income tax	-21,133	7.78%	7.58%	-7.500	470.141	-11,945	-9,188
Domestic VAT	-8,544	7.13%	6.91%	-	343.684	-1,139	-7,405
Import VAT	-9,522	9.78%	3.29%	-	154.176	-8,128	-1,394
VAT refunds	3,306	9.59%	2.70%	-5.000	-191.468	2,909	397
Corporate income tax	-1,280	6.63%	8.90%	-	222.626	3,934	-5,214

Fuel levy	47	7.52%	6.98%	-	70,127	-775	822
Customs duties	-3,454	9.78%	3.29%	-	47,079	-5,529	2,075
Specific excise duties	-2,515	6.26%	4.71%	-	38,916	-955	-1,560
Dividends withholding tax	-6,998	6.63%	8.90%	-5,500	29,233	-5,484	-1,514
Other minor taxes	2,211	7.52%	6.98%	-	15,889	-149	2,360
Skills development levy	-629	7.78%	7.58%	-	16,476	-165	-463
Electricity levy	-140	1.31%	1.42%	-	8,578	-63	-77
Transfer duties	-700	7.52%	6.98%	-	8,365	-58	-642
Ad-valorem excise duties	142	7.52%	6.98%	-	3,633	-6	148
Withholding tax on interest	185	6.63%	8.90%	-	485	5	180
Total	-49,023					-27,548	-21,476
Percentage of shortfall						**56.2%**	**43.8%**

31. The same process was followed to try and identify the extent of shortfall being explained by the economy for the 2016/17 tax year. The table below includes three additional adjustments, a R3 billion decrease in the revised estimate for VAT refunds, the R5.5 billion *increase* in the revised estimate for dividend withholding tax, which led to a surplus following the rate announcement, and a largely subjective R2.5 billion decrease in personal income taxes due to the retirement reform amendments (which allowed provident fund members contributions to be deductible, but also capped the allowable deduction at R350 000). There are relatively large unexplained shortfalls for personal income tax (which may be due to policy), import VAT and specific excise duties. Using the same approach, it would again appear that around a third of the revenue shortfall is not explained by the poor performance in the economy.

Tax type	**Shortfall**	**Forecast of tax base change**	**Actual tax base change**	**Subjective adjustment for policy / other**	**Re-calculated revenue estimate**	**Due to economy or policy / other**	**Not explained**
Personal income tax	-16,495	8.77%	7.81%	-1,500	428,479	-12,561	-3,934
Domestic VAT	-970	7.35%	6.92%	-	318,006	-4,439	3,469
Import VAT	-14,748	11.25%	0.91%	-	152,115	-11,898	-2,849
VAT refunds	3,625	9.96%	6.37%	-5,000	-182,696	2,503	1,122
Corporate income tax	6,139	4.70%	6.17%	-	204,258	5,965	173
Fuel levy	-1,716	7.74%	6.84%	-	65,420	925	-2,641
Customs duties	-8,464	11.25%	0.91%	-	46,671	-7,372	-1,092
Specific excise duties	-2,226	6.65%	6.30%	-	39,450	1,450	-3,677
Dividends withholding tax	5,880	4.70%	6.17%	5,500	30,911	5,661	219
Other minor taxes	232	7.74%	6.84%	-	15,415	794	-562
Skills development levy	-2,325	7.78%	7.81%	-	16,408	-1,232	-1,094
Electricity levy	-110	1.22%	0.60%	-	8,523	-45	-65
Transfer duties	124	7.74%	6.84%	-	7,991	-93	218
Ad-valorem excise duties	119	7.74%	6.84%	-	3,220	-57	176
Withholding tax on interest	228	4.70%	6.17%	-	232	14	214
Total	-30,707					-20,385	-10,322
Percentage of shortfall						**66.4%**	**33.6%**

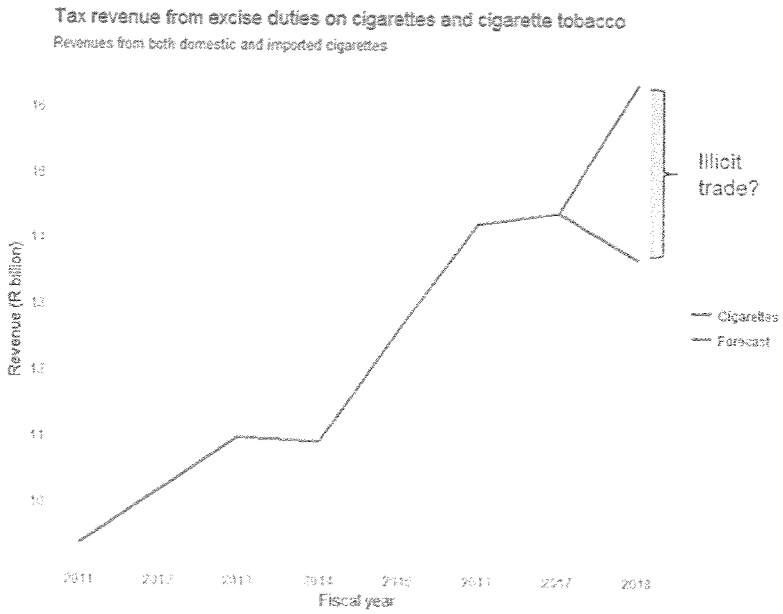
32. For 2015/16, there was a substantial increase in the VAT credit book and the subjective change is to assume that an additional R6.5 billion in revenue was collected due to the credit book increase. Even with this R6.5 billion additional allocation, it appears that collections

outperformed the economy by around R5 billion, or 40 per cent of the shortfall of R11 billion (table is shown in the Annexure). This can mainly be explained by a substantial increase in collections in import VAT and customs duties, even though the outcome for nominal imports was lower than forecast. For corporate income taxes, there was a large decrease in the tax base (net operating surplus), but this model suggests that the shortfall should have been much larger. In effect this means that more tax was collected than would have been thought based on the change in the underlying economic variables. There were again, however, large under-collections in personal income taxes and domestic VAT, which cannot be explained by the model.

33. A large number of simplifying assumptions are implicit in this approach, including that tax revenues should directly correlate with the tax base from STATSSA. There may be valid reasons why this would not be the case, for example if there are now fewer high income individuals underlying that wage bill growth, or if the underlying elasticities should be much lower given poor economic performance. Alternatively, there may be other tax policy impacts that have not been correctly estimated. These can potentially be identified once micro-data becomes available. Many improvements could be made, but this method should provide an initial view on what is driving the recent shortfalls in tax collection.

Specific excise duties for tobacco

34. Given the sensitivities of the previous method, it is also worthwhile to examine individual tax instruments to assess their performance. The tables above show that specific excise duties appeared to have a large amount of unexplained variation. When looking at specific excise duties on tobacco in particular, the last two tax years have shown a leveling off and then a fall in excise duties on tobacco. Looking at overall macro consumption statistics may not identify trends in the individual product categories, but the fall in excise duties (in years when the excise duty on tobacco products has increased by more than inflation) is worrying. Survey data on tobacco smoking prevalence do not show an equal decline in consumption, and neither is the increase in the use of alternative products ("vaping"), suggesting this 20 per cent decrease in expected revenue for 2017/18 alone may be largely due to increased illicit trade.



Conclusion

35. The RAWC process incorporates the views of different institutions to create a best estimate for the revenue forecasts, while the publication of many of the assumptions behind the revenue forecasting estimates allows for greater transparency. The forecast numbers need to be credible to allow for proper government planning and to make investors comfortable with forecasts of the country's fiscal position

36. There are a multitude of ways of looking at the performance of tax revenues, and indirectly the performance of the revenue agency. In our view the most appropriate measure is by investigating the tax collections of each tax instrument in relation to the growth in their tax base (which is estimated by a separate institution).

37. The analysis suggests that the last two fiscal years have seen large unexplained shortfalls in some categories of taxes (such as personal income tax and domestic value-added tax), while other shortfalls can be largely explained by economic conditions (such as import value-added tax and customs duties). Notwithstanding the large margins of error in the analysis, there is some reason to believe that shortfalls in personal income taxes and domestic value-added tax could be a result of administrative problems in collection, as these results are closely linked to statements by SARS officials on the increased levels of non-compliance from the non-filing of personal income tax and value-added tax returns.

Annexure

Tax type	Shortfall	Forecast of tax base change	Actual tax base change	Subjective adjustment for policy / other	Re-calculated revenue estimate	Due to economy or policy / other	Not explained
Personal income tax	-5,788	8.95%	8.10%	-	397.840	3,950	-9,738
Domestic VAT	-16,539	7.41%	6.23%	-	304.642	-9,319	-7,220
Import VAT	10,748	4.41%	3.01%	-	140.664	668	10,080
VAT refunds	3,109	8.60%	5.62%	6.500	-164.631	5,533	-2,424
Corporate income tax	-10,880	4.89%	-0.48%	-	184.052	-17,980	7,100
Fuel levy	-59	8.13%	5.79%	-	55.895	229	-288
Customs duties	4,590	4.41%	3.01%	-	41.903	243	4,347
Specific excise duties	594	4.90%	5.61%	-	36.209	1,726	-1,132
Dividends withholding tax	1,450	4.89%	-0.48%	-	21.145	-1,339	2.789
Other minor taxes	1,431	8.13%	5.79%	-	12.787	-210	1,641
Skills development levy	530	8.95%	8.10%	-	15.169	479	52
Electricity levy	-302	2.02%	0.62%	-	8.702	-72	-230
Transfer duties	81	8.13%	5.79%	-	7.123	-192	273
Ad-valorem excise duties	-477	8.13%	5.79%	-	3.133	-358	-119
Withholding tax on interest	219	4.89%	-0.48%	-	-	-	219
Total	-11,292					-16.640	5.348
Percentage of shortfall						147.4%	-47.4%

Appendix 12

Copies of Invoices submitted to SARS by Mashiane, Moodley, Monama Attorneys

MASHIANE MOODLEY MONAMA
Attorneys

Reg No 2003/00911/21

34/9154.

114 West Street Sandown • Sandton
P.O Box 784040 Sandton
Johannesburg • 2146 • South Africa

Tel • +27 11 303 7900
Fax • +27 11 303 7999/303 7902

Lodgement No: Jhb 426 /Pta 1470
Docex 2 • Nelson Mandela Square
www.m4attorneys.co.za

SARS - SOUTH AFRICAN REVENUE SERVICE
WATERKLOOF HOUSE
BROOKLANE

Pd 04/01/17

2016 -12- 29

Invoice Date	2016/10/31
Invoice No	4746
VAT Reg No	4210205136

Page 1

Cost Centre: David Maphakela
Contact: David Maphakela

TAX INVOICE

Date	Voucher	Details	Vat Rate	Vat Amount	Dr Amount	Cr Amount
Matter:		SAR2/0047 - SARS / Van Loggerenberg & Lackay (Rogue)				
Your Ref:		Luther Lebelo				
2016/10/14		Perusal of the book written by JVL and AL to assess if no taxpayer information was released and to draft an opinion together with Counsel. (9 hours)	14.00%	2,822.40	22,982.40	
2016/10/15		Continuous perusal of the book. (8 hours)	14.00%	2,508.80	20,428.80	
2016/10/16		Continuous perusal of the book. (7 hours)	14.00%	2,195.20	17,875.20	
2016/10/17		Continuous perusal of the book. Finalisation of the book. Attended a consultation with Counsel with regard to the structure of the opinion. (12 hours)	14.00%	3,763.20	30,643.20	
2016/10/23		Perusal of case law. Discussion with Counsel. Attended consultation with counsel. Drafting aspects of the opinion. (8 hours)	14.00%	2,508.80	20,428.80	
2016/10/30		Further consultation with Counsel. Finalisation of the opinion. (3 hours)	14.00%	940.80	7,660.80	
2016/10/17		Travelling costs per kilometer (30 kms)			90.00	
2016/10/23		Travelling costs per kilometer (30 kms)			90.00	
2016/10/30		Travelling costs per kilometer (30 kms)			90.00	
2016/10/31		Disbursement re payment to advocate Mtembu			253,330.00	
2016/10/31		Disbursement payment to Advocate Mokhari			346,560.00	
Totals				14,739.20	720,179.20	

RECEIVED
FINANCE OWN ACCOUNTS
2016 -12- 29
Signature:........................

Invoice Summary

	Vat Amount	Amount (Excl)	Total
Total for transactions @ 14.00%	14,739.20	105,280.00	120,019.20
Total for transactions with no VAT		600,160.00	600,160.00

SAP
5105660705
2017 -01- 04
CAPTURED
APTM

Remittance Advice

PO BOX 784040
Sandton
2146

Tel: 0113037900
Fax: 0113037999

Please use this reference: SAR2/0047

Please note that payment is due on presentation.Payment may be made into the following bank account:

Standard Bank
Sandton City Branch Code 018105
Account Number 023201576
Please fax proof of payment to 011-3037999

Invoice No 4746

720,179.20

Attorneys

SARS – SOUTH AFRICAN REVENUE SERVICE
WATERKLOOF HOUSE
BROOKLANE

Invoice Date	30/09/2016
Invoice No	4685
VAT Reg No	4210205136

Cost Centre: David Maphakela
Contact: David Maphakela

36/9154

Page 1

TAX INVOICE

Date	Voucher	Details / Description	Vat Rate	Vat Amount	Dr Amount	Cr Amount
Matter:		**SAR2/0047 – SARS / VAN LOGGERENBERG & LACKAY (ROGUE)**				
Your Ref:		Luther Lebelo				
21/09/2016		Drafted a brief to counsel. Perusal of the book (10 hours)	14%	2,996.00	24,396.00	
22/09/2016		Continuous perusal of the book. Attended a consultation with both Junior and Senior counsel. Attended a meeting with the Hawks (Xaba) with regard to the procedure and process in respect of instituting a criminal complaint against Lackay and Johann. (10 hours)	14%	3,136.00	25,536.00	
22/09/2016		Travelling costs per kilometre (130 kms)	14%	0.00	390.00	
TOTALS				6,132.00	50,322.00	

RECEIVED
FINANCE OWN ACCOUNTS
2016 -12- 20
Signature:.........................

Invoice Summary

	Vat Amount	Amount (Excl)	Total
Total for transactions @ 14.00%	6,132.00	43,800.00	49,932.00
Total for transactions with no VAT		390.00	390.00

Lebelo 13.12.2016

Amount Due

Remittance Advice

Kindly quote this reference: SAR2/0047

PO Box 784040
Sandton
2146

Tel: 011 303 7900
Fax: 011 303 7999

Please note that payment is due on presentation. Payment may be made into the following bank account:

Standard Bank
Sandton City Branch Code 018105
Account No: 023201576
Please fax proof of payment to 011 303 7999

Invoice No

Amount Due 50322.00

SAF
5105660521

5829462

297116

MASHIANE MOODLEY MONAMA
Attorneys

Reg No [illegible]

[illegible]
Tel • +27 11 303 7900
Fax • +27 11 303 7999/303 7902

Lodgement No Jhb 425 /Pta 1470
Docex 2 • Nelson Mandela Square
www.m4attorneys.co.za

SARS - SOUTH AFRICAN REVENUE SERVICE
WATERKLOOF HOUSE
BROOKLANE

Invoice Date 2017/05/31
Invoice No 5376
VAT Reg No 4210205136

Page 1

Cost Centre: Cost Centre - David Maphakela
Contact: David Maphakela

5105674368
3600011297

TAX INVOICE

Matter: SAR2/0033 - Opinion on Powers of the Commissioner
Your Ref: Luther Lebelo

Date	Voucher	Details	Vat Rate	Vat Amount	Dr Amount	Cr Amount
2017/05/12		Received instructions from the office of the Commissioner with regard to allegations against the Commissioner in book titled " The Maputo Connection" . Acquired the book from the Wits library. Commence to peruse the book. (10 hours)	14.00%	2,576.00	20,976.00	
2017/05/13		Continuous perusal of the book.	14.00%	2,191.00	17,841.00	± R40.000
2017/05/14		Continuous perusal of the book.	14.00%	2,191.00	17,841.00	
2017/05/15		Continuous perusal of the book, prepared for a consultation with the commissioner. Consultation with Counsel. Drafted a memorandum to counsel.	14.00%	2,833.60	23,073.60	+
2017/05/16		Working on an opinion for the commissioner. (9 hours)	14.00%	2,576.00	20,976.00	
2017/05/20		Working on an opinion for the Commissioner. (9 hours)	14.00%	2,318.40	18,878.40	± R40.00
2017/05/21		Continous drafting of the opinion. (8 hours)	14.00%	2,060.80	16,780.80	
2017/05/29		Working on an opinion with Senior Counsel with regard to the powers of the Commisisoner to deal with bonuses and salary increment outside Ministerial consent. Telephone discussion with the Comissioner and briefed him on the progress. (11 hours)	14.00%	3,967.04	32,303.04	+
2017/05/30		Working on aspects of the opinion. Attended a meeting with the Commissioner. Discussion with counsel. (5 hours)	14.00%	1,803.20	14,683.20	+ 159.60
2017/05/30		Travelling costs per kilometer (110 kms)			390.50	
2017/05/31		Disbursement payment to Advocate Mokhari			159,600.00	+
2017/05/31		Disbursement payment to Advocate Mtembu			93,331.00	93.
Totals				22,517.04	436,674.54	

Invoice Summary

	Vat Amount	Amount (Excl)	Total
Total for transactions @ 14.00%	22,517.04	160,836.00	183,353.04
Total for transactions with no VAT		253,321.50	253,321.50

5376

Remittance Advice

PO Box 784040
Sandton
2146

Tel: 011 303 7900
Fax: 011 303 7999

Please use this reference: SAR2/0033

Please note that payment is due on presentation. Payment may be made into the following bank account:

Standard Bank,
Sandton City Branch code 018105
Account No: 023201576
Please fax proof of payment to 011-3037999

Invoice No 5376

436,674.54

MASHIANE MOODLEY MONAMA
Attorneys

Reg No 2003/00[illegible]/21

Suite 19, 2nd Floor, Katherine and West, 114 West Street Sandown • Sandton
PO Box 784040 Sandton
Johannesburg • 2146 • South Africa
Tel • +27 11 303 7900
Fax • +27 11 303 7999/303 7902

Lodgement No. Jhb 426 /Pta 1470
Docex 2 • Nelson Mandela Square
www.m4attorneys.co.za

SARS - SOUTH AFRICAN REVENUE SERVICE
WATERKLOOF HOUSE
BROOKLANE

Invoice Date 2016/07/31
Invoice No 4515
VAT Reg No 4210205136

Cost Centre: Cost Centre - David Maphakela
Contact: David Maphakela

5105653083
3600008169

TAX INVOICE

Matter: SAR2/0042 - SARS (Luther & Makwakwa) / FICA
Your Ref: **Luther & Makwakwa**

Date	Voucher	Details	Vat Rate	Vat Amount	Dr Amount	Cr Amount
2016/07/01		Consultation with counsel. Finalisation of the opinion. Travelled to SARS to meet with Jonas and present the opinion. Acquired commnents and instructions to work on the letter. (9 hours)	14.00%	2,822.40	22,982.40	
2016/07/12		Travelled to SARS and attended a meeting with Mr Makwakwa. Travelled back to Sandton and held a discussion with Mr Mashiane. Incoporated Mr Makwakwas' input. Arranged a consultation with Mr Lebelo for a full briefing on progress report. (5 hours)	14.00%	1,568.00	12,768.00	
2016/07/01		Travelling costs per kilometer (110 kms)			330.00	
2016/07/12		Travelling costs per kilometer (110 kms)			330.00	
2016/07/31		Disbursement payment to Advocate Manyage			26,220.00	
Totals				4,390.40	62,630.40	

Invoice Summary

	Vat Amount	Amount (Excl)	Total
Total for transactions @ 14.00%	4,390.40	31,360.00	35,750.40
Total for transactions with no VAT		26,880.00	26,880.00

SAR
[illegible]

Remittance Advice

PO Box 784040
Sandton
2146

Tel: 011 303 7900
Fax: 011 303 7999

Please use this reference: SAR2/0042

Please note that payment is due on presentation. Payment may be made into the following bank account:

Standard Bank,
Sandton City Branch code 018105
Account No: 023201576
Please fax proof of payment to 011-3037999

Invoice No

62,630.40