



*South African Revenue Service*

# **SARS Response to SCOF Questions in 26 March & 9 May**

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	<b>Committee Member</b>	<b>Questions</b>	<b>Responses</b>
<b>1</b>	<b>Mr Maynier</b>	Sought clarity from the SARS Commissioner on the working relationship he had with the Minister of Finance.	The Commissioner said there was no warfare, as alleged, between SARS and the Ministry. There could be differences in opinions as part of their development and relationship building, but not warfare.
<b>2</b>		Perception was that the good story about revenue collection was being manipulated by SARS by playing with refunds -- refunds were being withheld to balance its books	On whether SARS withheld refunds, Ms Firdous Sallie said under no circumstances would SARS withhold people's money when due for payment. There were due processes and all assessments went through rigid processes to ensure that refunds were not fraudulent. The Minister is appraised on VAT refund regular basis. SARS is currently engaging Tax Ombudsman has initiated an intensive investigation as mandated by the National Treasury
<b>3</b>		Mr Maynier said the Commissioner was correct in noting the diminishing public trust in SARS. He said it had arisen due to the "civil war" between SARS and the Ministry of Finance, symbolized by a recent press conference held by SARS. He pointed out that the Commissioner, during the press conference, had said that he had approached the President to appoint a referee to adjudicate over the differences between the Commissioner and the Minister of Finance.	Commissioner Moyane remarked that terminology used to describe SARS' relationship with the Ministry should be constructive. He said terms such as "civil war" were to be avoided, as they painted a wrong picture and could find expression in the media space. Civil war was not an expression that needed to be maintained and sustained in this context. In his mind, "civil war" referred to attritions that involved the spillage of blood, and could not respond to Mr Marnier's question as he had not seen blood on the floor.
<b>4</b>		He asked if the President had reverted to the Commissioner, and if there had been any developments or due process in this regard.	This should be referred to the President
<b>5</b>		He pointed out that the Commissioner, during the press conference, had said that he had approached the President to appoint a referee to adjudicate over the differences between the Commissioner and the Minister of Finance. He asked if the President had reverted to the Commissioner, and if there had been any developments or due process in this regard.	This should be referred to the President

	Committee Member	Questions	Responses
6		He asked if the Commissioner at any time had attempted to get Judge Dennis Davis' speech or transcript. Also, had he sought to get the judge's response to the Commissioner's concerns before issuing a statement in this respect on 13 March?	About SARS' irrevocably broken relationship with the Davis Committee, Mr Moyane pointed out that Judge Davis's statements during a press conference had been an attack and affront to the organisation, and he could not allow this. He said SARS had had to respond, as the judge's statements had had the effect of damaging SARS' reputation. On why he had tried to get hold of the judge's transcript, he said it was the duty of an individual or the judge to get hold of reporters and clarify issues if published statements were factually incorrect. SARS had raised the matter four days after the statements were uttered, and had given the judge sufficient time to put the record straight.
7		He pointed out that the real reason why the relationship between SARS and the Davis Tax Committee had broken down was because SARS was resisting the Davis Tax Committee's efforts to investigate the state of tax administration at SARS. He asked for the Commissioner's comment on that.	SARS was not in any way saying the Davis Tax Committee should not carry out investigations. None of the interventions recommended by the judge during his correspondence with SARS had been refused. Mr Moyane said it was not true that SARS was resisting the Davis Tax Committee investigations. SARS had never resisted any lawful investigation, and was collaborating and exchanging notes with the Committee and had requested that terms of reference be furnished.
8		He asked if SARS had lodged a complaint with the Judicial Service Commission, as threatened. Was the Commissioner not in contravention of internal prescripts which prevented officials from attacking government in their personal capacity, and had he taken any action?	On whether SARS had lodged a complaint with the Judicial Service Commission, the Commissioner responded and said this was under consideration. SARS has sought legal opinion on the matter.
9		He asked for an update on the controversies surrounding investigations into the Jonas Makwaka matter.	SARS has received an interim report into the investigation. We have since raised points of clarity, and are waiting for a final report in this regard which will ready before mid-June by the legal team tasked with the investigation. However, the section which deals with possible criminal conduct is handled by the Hawks whose process we do not have authority over.

	Committee Member	Questions	Responses
10		He asked if the Commissioner recognised that he was accountable to the Finance Minister.	<p>Mr Moyane clarified that the SARS Commissioner was not a Director General. He had certain powers which were higher than those of a Director General.</p> <p>The Commissioner said he was appointed in accordance with SARS Act 34 of 1997 which states “The President must appoint a person as a Commissioner for SARS” The employment of the Commissioner and the terms thereof are solely governed by the SARS Act. The act also stipulates the powers of both the Commissioner and the Minister; namely, that the Commissioner is the a) Accounting Officer and b) Accounting Authority. This Act therefore clearly defines the lines of accountability</p>
11		SARS’ relationship with the Davis Tax Committee had irrevocably broken down. He asked if the Commissioner at any time had attempted to get Judge Dennis Davis’ speech or transcript. Also, had he sought to get the judge’s response to the Commissioner’s concerns before issuing a statement in this respect on 13 March?	Mr Moyane pointed out that Judge Davis’s statements during a press conference had been an attack and affront to the organisation, and he had not sought permission from him. He said SARS had had to respond, as the judge’s statements had had the effect of damaging SARS’ reputation. On why he had tried to get hold of the judge’s transcript, he said it was the duty of an individual or Judge to get hold of reporters and clarify issues if the published statements were factually incorrect. SARS had raised the matter four days after statements were uttered, and had given the judge time to put the record straight. SARS was not in any way saying the Davis Tax Committee should not carry out investigations. None of the interventions recommended by the judge during his correspondence with SARS had been refused.
12		He asked if it was true that the newly-appointed Mr Kgabo Hlahla had allegedly been dismissed due to misconduct from the Department of Health in Limpopo in 2015.	<p>On Mr Kgabo Hlahla’s appointment at SARS, Mr Moyane said he was hearing for the first time that Mr Hlahla had been dismissed in his previous role. He was taking the allegations seriously and would investigate. SARS followed due processes, such as engagements with recruitment agencies and human capital development channels during its recruitments.</p> <p>The inquiry by the Commissioner has revealed that Mr Hlahla was not dismissed at the time he was appointed by SARS. He was still on suspension, pending the finalisation of the case that the department intended to bring against him. Mr Hlahla did declare in the Candidate Declaration Form that there was a pending case against him.</p>

	Committee Member	Questions	Responses
13		Mr Maynier said there had been much celebration around the 13 additional highly qualified personnel to be appointed to the transfer pricing unit. He asked if the appointments had been made to date.	Mr Moyane said they had recruited specialists in the transfer pricing unit. Although they were competing with the private sector for the skills, they had an internal training programme and pipeline for the skills. Ms Firdous Sallie, Acting Chief Officer: Business and Individual Tax (BAIT), SARS, said SARS was currently training a sizeable staff complement on transfer pricing, and skills building was under way. SARS was becoming a poaching ground for the unique skills being produced. Nine individuals had been recruited and were already on board, and five were in the process of being recruited, five have been on-boarded.
14		Question not captured in the minutes Rating agencies	On the issue of Mr Luther Lebelo, he said the fact that Mr Lebelo was a SARS employee did not take away his right to express personal opinions. He said Mr Lebelo was expressing his own personal opinions, not pronouncing on SARS' position.
15		Question not captured in the minutes- Skills	Despite the hovering dark cloud, there was light at the end of the tunnel. Commissioner said it pained his heart to hear people say SARS had lost skills. It was like a spit in the face, as current personnel at SARS were working hard and had to be appreciated. There was no skills death, and SARS was up-scaling its capabilities. SARS is a 14000+ organisation, and is carried by many employees in various roles. SARS attrition remains low by market at less than 6% per annum over the last 5 years. <b><i>See Annexure A for more information</i></b>
16	Mr A Lees (DA)	He asked if SARS would support a change in legislation that stated that refunds be paid within 14 days, and that the audits take place afterwards.	Dr Carolissen said it was untrue that SARS withheld refunds to balance its books. It was important for SARS to go out to the public and seek to correct those wrong perceptions. On whether SARS withheld refunds, Ms Firdous Sallie said under no circumstances would SARS withhold people's money when due for payment. There were due processes and all assessments went through rigid processes to ensure that refunds were not fraudulent
17		He asked the Commissioner to confirm that his bodyguard was indeed involved in the case reported at Brooklyn Police Station. He asked the Commissioner to shed more light on the whole saga.	Internal investigation completed and report due to the Commissioner by Human Capital & Development on the outcome. Ipid is pursuing the matter also. More clarity to be provided in this regard.

	Committee Member	Questions	Responses
18		He asked how many senior members and skilled staff, particularly in the SARS information technology (IT) department, had left since the Commissioner's appointment, and how many vacancies had been filled.	Vacancies: On SARS executives' credentials, he indicated that the timeframe requested by the Committee meant that SARS had to de-scale. He clarified that de-scaling did not mean that the SARS entourage brought before the Committee was mediocre -- the team he led was ably qualified. SARS was a victim of its own circumstances by not socialising the depth and breadth the organisation had. The team he led was capable of responding and fully qualified in the absence of Chief Officers, who were currently dealing with revenue reporting. Overall, there is a total of 25 persons that left SARS Digital Information Systems and Technology division since 2014/2015: 2014/15: 5 2015/16: 7 2016/17: 13
19	Ms Mahlangu (EFF)	To what extent illicit flows, tax evasion and related crimes constituted matters under criminal investigations, and were identified as expenditure items in the presentation. She asked for a comparison with the previous quarter.	SARS has always been worried by issues around business collusion. SARS was gathering information and would get back to the Committee.
20		How the operating model had contributed to reaching the revenue collection milestone. How had this model contributed to the third quarter report, given the low tax revenue on the key tax bases? She asked if it was working and efficient.	Since June 2016, SARS has been embedding the New Operating Model. The full impact can be seen in the efficiencies and rationalisation of resources in our revenue campaigns which have thus far been successful; namely ability to meet and exceed the revenue target since the Operating Model was adopted and implemented.
21		The contribution of small, medium and micro enterprises (SMMEs) to revenue collected and the extent of the public response after SARS had rolled out a small business desk.	The Small Business desk was implemented in the 53 Branches in August 2014 with 142 desks and 21 MTU's. During the previous financial year 559 706 taxpayers were serviced at these desks including 17 MTU's. Summary of the top 5 queries received in this queue: <ul style="list-style-type: none"> <li>• Request for Forms – Request for IRP6</li> <li>• Assessment Maintenance – Tax Clearance-Tender</li> <li>• Authenticate Client</li> <li>• Assessment Maintenance – Tax Clearance – Good Standing</li> <li>• Copies and Reprints – TCC</li> </ul>

	Committee Member	Questions	Responses
22		The extent to which misunderstandings between SARS and the Treasury had had an effect on SARS' capacity to deliver.	The Commissioner commented that negative comments are damaging and distracting. They impacted negatively on the reputation of SARS and the morale of its staff. People peddling unsubstantiated allegations must be made aware that they might be sabotaging the South African economy, as SARS had an important role to play in the economy. He expressed concern about the current onslaught that perpetuated a false narrative, to the effect that SARS was falling apart. He identified a worrying trend whereby the media chose to articulate the opinions of former SARS officials long departed from the organization and not seek clarity from SARS within a reasonable time.
23		Previous meeting with the Commissioner, where a commitment to fill vacant posts had been made. She asked if this had been done.	<p>On female representation at SARS, he said three Chief Officer's positions are going to be occupied by women, as all the interviewees had been women. The complexion of the SARS executive was going to change dramatically.</p> <p>Two female Chief Officers, namely Chief Officer: Legal and Chief Officer: Digital Information Systems and Technology started on 1 May 2017. Another female Chief Officer, for the Enforcement division will start in July 2017.</p>
24		She noted perceptions in certain quarters that there was a tax revolt in the country. She asked for the Commissioner's comment on this.	<p>On perceptions that there was a tax revolt, the Commissioner said SARS was not at a stage where it could emphatically pronounce about it, although it was worried. Corporate income tax had grown by 2% instead of the anticipated 8% in February. The shift from 8% to 2% was worrying, and SARS was going to carry out an investigation into this issue.</p> <p>Latest taxpayer survey results concluded in conjunction with HSRC shows no significant drop in compliance. However a follow up survey planned for December 2017 will provide more clarity as a new baseline has been established.</p>
25		Remarked that there was warfare between SARS and National Treasury, as evidenced by SARS holding a press conference to discuss issues around its relationship with the Treasury. She said such matters were meant to be discussed internally. She asked if SARS had sought intervention from the President, prior to the press conference.	He remarked that there was no warfare between SARS and the Ministry. There could be differences in opinions as part of their development and relationship building, but not warfare.

	<b>Committee Member</b>	<b>Questions</b>	<b>Responses</b>
<b>26</b>		She asked if SARS was doing anything to restore public confidence, and when the issue of refunds was to be addressed.	Dr Carolissen said it was untrue that SARS withheld refunds to balance its books. It was important for SARS to go out to the public and seek to correct those wrong perceptions.  He pointed out that over the last two years, SARS had managed to grow revenue collection by 8.5% year-on-year, despite a dampening economic growth outlook. Exceeding economic performance reflected the good performance of SARS. Under very difficult economic conditions, SARS had managed to maintain 26% revenue to GDP ratio, which was simply extraordinary.
<b>27</b>		She asked if there were any new developments pertaining to the 2016 report that touched on the illicit flow of funds.	Counsel has been briefed. The counsel is Advocate Loxton. And he indicates that there is a need for extensive research for this opinion and that it will take three to four weeks to conclude.
<b>28</b>		She asked about the cost of the nine baggage scanners recently procured by SARS, and if they had been procured in South Africa.	SARS Customs has installed and commissioned a number of cargo and baggage scanners over the past 3 years. In total, there are 2 fixed (Re-locatable) cargo scanners, 1 mobile (Truck mounted) cargo scanner and, 18 baggage scanners currently in operation at various Customs Ports of Entry throughout the country.  The above scanners were procured from Nuotech Company Limited, a provider of Non-Intrusive Scanning and Detection devices based in China. The 2 fixed cargo scanners were procured through Tender RFT 12/2006 and the baggage scanners were procured through Tender RFT 17/2012. The mobile cargo scanner, which was originally commissioned in 2008 was refurbished by Nuotech and then relocated and commissioned in Beitbridge in 2016.  From 2014 to date, SARS's expenditure on all works, goods and services related to the procurement, implementation and commissioning of the scanners amounts to R98 715 268 for the cargo scanners and R10 391 507 for the baggage scanners (the latter of which includes current financial commitments). In excess of 260 Customs Officials trained.
<b>29</b>	<b>Ms Kekana</b>	She asked if the Davis Tax Committee had a timeframe, and when its evaluation was due.	The DTC has set itself a target date of 31 December 2017 to wrap up all of its work. However, this timeframe must be confirmed with the current Minister of Finance.

	Committee Member	Questions	Responses
30		Ms Kekana said it seemed as if SARS was withholding tax refunds to make sure its books looked good. She emphasised the importance of awareness campaigns to educate ordinary South Africans on SARS. She asked the impact of business collusion and fraud on revenue collection, including the possibility of such businesses under-reporting.	He said as a tax administration authority, SARS was always worried by issues around business collusion. SARS was gathering information and would get back to the Committee after seeking legal opinion on whether SARS had recourse to the alleged collusive conduct of the banks.
31	Mr Buthelezi	He asked about the credentials of SARS executives, as there were narratives that there was brain drain at SARS. He noted that SARS' skills were largely appreciated after departure.	On SARS executives' credentials, he indicated that the timeframe requested by the Committee meant that SARS had to de-scale. He clarified that de-scaling did not mean that the SARS entourage brought before the Committee was mediocre -- the team he led was ably qualified. SARS was a victim of its own circumstances by not socialising the depth and breadth the organisation had. The team he led was capable of responding and fully qualified in the absence of chief officers, who were currently dealing with revenue reporting
32		He asked why SARS was failing to collect R30 billion. Was it related to the much talked about skills flight from SARS? He asked how revenue target setting was done, and if SARS was part of the revenue target setting process, why then cry foul at the end of the process.	The R30 billion downgrade revision from February 2016 to February 2017 for the 2016/17 financial year is fully attributable to economic factors as laid out in 2017 National Treasury budget review page 17. Revenue collection targets were estimates set by the Minister of Finance, based on recommendations from a revenue analysis working committee comprising representatives from various entities such as the Reserve Bank, SARS and National Treasury, and was also based on the obtaining macroeconomic dynamics. The revenue analysis working committee did research about best practices worldwide in setting revenue collection targets, and applied unique local dynamics as well. It sought to balance legislative and economic dynamics, an example being the target set in paying Value Added Tax refunds. Dr Randall Carolissen, Head: Research, SARS, acknowledged the R30 billion revenue collection shortfall. He said blaming SARS for the deficit was hugely unfortunate, as it created a wrong impression. He explained that the variance between forecast and actual revenue estimates were on the basis of a comparison between biased estimates and actual performance. The initial revenue collection target presupposed economic growth margins which had been higher than what had actually prevailed. It was totally incorrect that there was a R30 billion deficit, and it cast a bad light on SARS. Revenue collection estimates and resultant variances had to be viewed mindful of economic contexts and circumstances. See more details Annexure B for more information.

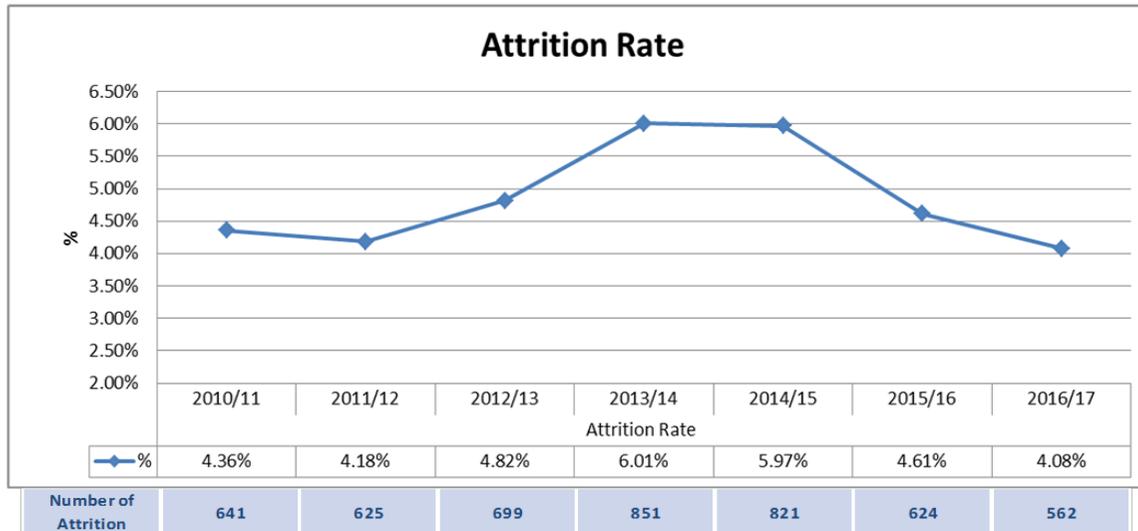
	Committee Member	Questions	Responses
33		He asked SARS to share its views about the broad terms of reference of the Davis Tax Committee.	The DTC's Terms of Reference are broad and include the analysis of detailed tax issues as well as the impact on the economy at a macro level. Technical advice and SARS' input was provided to the Committee through a permanent member as well as through ad hoc input on various aspects of the Committee's work.
34		The EFF MP asked if it was not better for SARS to acquire its own property, rather than rent office space, as a cost cutting measure. She pointed out that SARS had moved its offices to an upmarket area in George, and asked what had influenced its decision to move from the town centre to the upmarket area. Can SARS Quantify the actual value of 5% reduction in real estate.	<p>In April 2015, SARS developed a Corporate Real Estate Strategy which among other things highlighted the need to reduce the cost of managing its property portfolio. This will be achieved by reducing the leased portfolio through the acquisition of targeted sites as well as increasing the use of State Owned portfolio through the Government Immovable Asset Management Act (GIAMA) protocol.</p> <p>Thereafter in 2016 SARS adopted a Property Acquisition Plan, a strategic game changer, which articulates a measured intent to shift, in the long term, from a predominantly leased based portfolio to an owned portfolio. In implementing the Property Acquisition Plan, SARS will need to consider options to construct or purchase functional buildings where it is financially feasible in order to reduce its leased portfolio in line with operational requirements.</p> <p>The long term goal is to gradually decrease the leased portfolio whilst increasing the SARS Owned or State Owned portfolio as escalating operating costs for leases will not be sustainable.</p>
35		It was reported that SARS moved its offices to an upmarket area in George how does this property acquisition align with this new rental estate strategy.	<p>George office: SARS initially followed a tender process which did not yield a positive result. The second exercise yielded a solution, which was not in the CBD of George, and the terms of the arrangement was for the landlord to construct the SARS specified building as a turnkey solution. The site was selected by the Bid Adjudication Committee taking into consideration the specifications for Branch Office and other SARS functions. The locality is close to major routes, banks and is easily accessible for all taxpayers.</p> <p>Furthermore the PFMA process was fully complied with. The Branch Office specifications included;</p> <ul style="list-style-type: none"> <li>a) ground floor presence</li> <li>b) close to bus/taxi routes and other public transport</li> <li>c) security and safety</li> </ul>

			<p>d) public parking</p> <p>e) IT connectivity/Telkom/ mobile and wireless capability</p> <p>f) accessibility for taxpayers and staff</p> <p>g) must have the required minimum floor space to accommodate our counters and seating for taxpayers</p> <p>h) Aesthetics including air-conditioning, ablution facilities, locker rooms etc.</p>
	<b>Committee Member</b>	<b>Questions</b>	<b>Responses</b>
36		Outsourced debt by tax collectors. What percentage of debt has the company recovered	Outsourced debt collection=R888,906,061 as at 31 March 2017 Project ends end of May 2017. Percentage of the debt has been recovered 13.4% of the debt book reduced by R1.3Bn. Percentage of the amount being paid to the collectors is 4.2% of amount recovered, translating to about R37million
37	<b>Mr B Topham (DA)</b>	SARS to give an insight into outstanding debt and its credit balance so as to enable some understanding on refunds. He made reference to complaints about SARS' fortnight systems backups, and asked if it was possible to do maintenance after hours to avoid service provision disruptions.	The outcome of the Office of the Tax Ombudsman will give me clarity on this question.
38		He asked if the rumour that Mr Hlengani Mathebula, Chief Officer: Strategy and Communications & Enforcement had been suspended was true.	Mr Moyane remarked that he did not run SARS based on sentiments from the media. The Mathebula suspension narrative was "fake news" meant to destabilise SARS. It was meant to break the collegiality that existed within the senior leadership of the organisation and create an impression that there was a kangaroo court that was taking place. Mr Mathebula was on vacation leave, and it was not true that he had been suspended.
39		She asked if there were any new developments pertaining to the 2016 report that touched on the illicit flow of funds.	Counsel has been briefed. The counsel is Advocate Loxton. And he indicates that there is a need for extensive research for this opinion and that it will take three to four weeks to conclude.
40		<p><b>BEPS/Illicit flows:</b> Transfer pricing unit – Role of SARS (Should allocate more time next appearance)</p> <ul style="list-style-type: none"> <li>• Experience, Expertise, Targets, People needed ,Issues we are dealing with</li> <li>• Do we think there is more legislation required</li> </ul>	To be presented in the next SCOF appearance

	Committee Member	Questions	Responses
41		Panama papers out of the 1700 people not even one prosecuted	“The offshore structures that were revealed in the “Panama Papers” are complex in comparison to those utilised in most other countries. The Audit division of SARS is at an advanced stage of unravelling one particular structure that represents roughly 600 of the 1083 taxpayers that were matched against the SARS taxpayer database. A decision to criminally prosecute either a taxpayer or an intermediary or both in this regard can be made thereafter. It should also be noted that taxpayers have, up to the end of September this year, an opportunity to regularise their offshore tax affairs through the SARS and SARB Special Voluntary Disclosure Programme (SVDP). A number of “Panama”-related taxpayers have already made use of this opportunity, and it is expected that many more will make use of the SVDP before the window expires.”
42		GRAP spent R120 m, is SAP being used to implement GRAP	<p>The conversion from the modified cash basis to the accrual basis of accounting is not restricted to mere policy updates but requires extensive changes to SARS’ underlying systems and business processes, including the implementation of a new accounting system, supporting processes, as well as significant taxpayer and transactional data clean up. Some progress has already been made with the conversion of Transfer Duty, Customs, Excise and Withholding Tax on Interest to the new accounting system. These revenue streams currently comply with accrual reporting standards.</p> <p>In 2016/2017 EXCO approved a strategic shift in the IT strategy to utilise SAP to a greater degree. This shift in the IT strategy was an adoption of the principle of considering buy before build. The utilisation of SAP almost end to end resulted in the introduction of new functionality requiring a level of reskilling of existing staff as well as technical infrastructure changes.</p>
43		Easy- file is SARS using consultant	The Easy-file in SARS is currently run and maintained by the approved Service Provider but it is in the process of being insourced and delivered within SARS itself.
44		Given the Zero tolerance of fraud and corruption, how many staff members have been suspended, convicted and dismissed from the reported incidents of fraud in the last year	As at end of February 2017, there were 9 fraud-related suspensions. This is out of a total of 21 in all.

SCOF Questions on (SARS): Third Quarter Performance & APP presentation

Annexure A- Question 16: SARS Attrition



### Annexure C- Question 33: R30B down revisions

REVENUE (R billions)									
	2008/2009	2009/2010	2010/2011	2011/2012	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017
Printed	R 642.10	R 659.30	R 647.90	R 741.60	R 826.40	R 898.00	R 993.70	R 1 081.30	R 1 174.80
MTBS	R 641.90	R 589.00	R 679.20	R 728.60	R 821.40	R 895.00	R 983.60	R 1 073.70	R 1 152.00
Revised	R 627.70	R 590.40	R 672.20	R 738.70	R 810.20	R 899.00	R 979.00	R 1 069.70	R 1 144.40
Actual	R 625.10	R 598.70	R 674.20	R 742.70	R 813.80	R 900.00	R 986.30	R 1 069.90	R 1 144.40
Deviation from printed	R -17.00	R -60.60	R 26.30	R 1.10	R -12.60	R 2.00	R -7.40	R -11.40	R -30.40
Actual Tax to GDP ratio	26%	23.50%	23.90%	24.10%	24.50%	24.90%	25.70%	26.50%	26%