

2008

## Responding to Dave King

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4 November 2008 -- The South African Revenue Service (SARS) is mandated by law to collect all taxes due to the fiscus from all eligible South African taxpayers in the right amount and at the right time.

Tax collection has been central to government's ability to provide essential services like water, housing, education and pensions to millions of citizens deprived of these necessities by apartheid. SARS's approach has been to continuously ensure equity among all taxpayers. All taxpayers must pay their share.

SARS will act decisively in the face of fraud and any other tactics by taxpayers to undermine the tax base.

Today David Cunningham King launched an unprecedented attack on SARS at a media briefing. SARS will not respond to each allegation individually. The content of documents issued to the media today is, in SARS's view, fabricated, false or a gross distortion of fact to mislead the media, and by extension, the public. Mr King is clearly desperate in the face of numerous investigations that he and his companies are facing.

Mr King has never showed respect for the law and our country. His refusal to pay tax is evidence of that. It must be clear that Mr King is not the victim that he purports to be but he is the person who lied in his tax returns, who failed to pay tax and attempted to dissipate assets while under investigation by SARS.

He attempts to erode the culture of growing tax compliance in South Africa. At the same time millions of South Africans try to be tax compliant citizens and honestly contribute to the fiscus.

The issue at hand is quite simple. In addition to the current dispute about money he made through Specialised Outsourcing, over the past 6 years King has failed to submit an income tax return or pay the requisite income tax due.

### **The true facts of the matter are as follows:**

- King faces criminal charges, has acted fraudulently, evaded tax and lied about his income and profits generated since 1990. He has dissipated assets and is using his wealth to ensure matters are not decided by an independent tax court. In this way he attempted to avoid paying tax. He declared an annual income of only R80 000 average p.a. for 1990 – 2001, despite making over a billion rand in this period. According to Mr King, even his wrist watch and golf clubs belong to Ben Nevis. In fact, in 2000, Mr King attempted to have himself deregistered as a taxpayer.
- SARS will pursue any taxpayer, given its limited resources, who defies the law and who is consistently non-compliant. SARS has spent the last 8 years protecting the revenue base and has attempted to collect the taxes due from Mr King. All of this has been done in terms of the Income Tax Act and the Constitution.
- King has never been successful in either the Supreme Court of Appeal or the Constitutional Court in South Africa. The Supreme Court of Appeal has issued three judgements against King and associate companies relating to the preservation of assets. A recent application by King for leave to appeal was rejected by the Supreme Court of Appeal. On one occasion when King sought leave to appeal to the Constitutional Court, this application was refused. During the past 8 years SARS has approached the courts of South Africa, on numerous occasions, to protect the interest of SARS and to stop Mr King from dissipating assets.
- King has consistently, through delaying tactics, avoided the courts. He has delayed matters in the tax courts. He has continuously delayed the criminal trial. SARS challenges Mr King and Ben Nevis to have their tax appeals enrolled and heard immediately.
- King faces a variety of very serious criminal charges. If convicted he could be sentenced to a term of imprisonment of no less than 15 years. This is the reason for his constant filibustering. The 322 charges include fraud, money laundering, racketeering and tax evasion for period 1990 to 2001 (and for non-remittance of tax returns for 2002 – 2005). It is alleged that over an extended period of time King defrauded SARS in relation to his tax affairs.
- King has had numerous opportunities over the past 8 years to make a full and frank disclosure to SARS about his assets, income and tax affairs. He has so far steadfastly refused to do so or alternatively has provided false information. In fact, King has repeatedly acted erratically by entering into negotiations with SARS under the pretence that he wants to resolve his tax affairs and has continuously walked away from negotiations. He keeps moving the goal posts!
- In July this year, King, through his counsel, told the Pretoria High Court, that he had reached a settlement agreement with SARS. He refused to provide such proof to the court or to SARS. The document which was eventually presented to SARS is a false document. Investigations revealed that it was produced by fraudulent means. King admitted to signing the "fraudulent document". SARS proceeded to lay criminal charges with SARS. SARS reiterates that there has never been a settlement agreement with King.

- Additional charges of fraud, forgery, uttering and/or corruption have been registered and are being investigated against King and others by the South African Police Service (SAPS). SARS **will issue the fraudulent document with this media statement** and draws attention to the following detail, i.e.:
  1. the authorisation letter is issued from the SARS Germiston office by an individual that does not exist;
  - 2.
  3. **The number of the office, stipulated under the reference section of the letter, refers to a bathroom in the Germiston office;**
  - 4.
  5. The agreement is signed by a certain Mr Whatley, purportedly on behalf of SARS. SARS does not use tax practitioner's to sign settlement agreements on its behalf;
  - 6.
  7. Since 4 July 2008, King has refused to provide this document to SARS, indicating that he is communicating with another SARS authority. It was later established that this individual was the Head of Customs: Mr Leonard Radebe. Radebe was immediately suspended. He later resigned before facing a disciplinary inquiry.
  - 8.
  9. Recently, Mr King attempted to pay the stipulated amount as per the document namely R300 million, whilst being advised by SARS that the documents is a fraud.

SARS wants to make it clear that all taxpayers must pay taxes in the amounts due. Using sophisticated advisors or tax arrangements will not absolve anyone from such responsibility. SARS will not be diverted or intimidated. We have always worked within the context of the law and the Constitution and anyone who feels differently should go to any court and challenge SARS. It is our responsibility to protect the South African tax base by effectively and firmly dealing with tax evasion and fraud and this we do proudly.

[Click here for fraudulent document](#)

ENDS.