

Fixing SA's tax challenges the Al Capone way

Judge Dennis Davis believes that an Al Capone strategy should be applied to nab those who are not paying their fair share of tax

“There is a significant number of people and companies who are completely exploiting the system, whether it be evasion of customs duty, the manipulation of the VAT system or simple evasion of tax or transfer pricing and similar shenanigans which companies deal with. That’s where the real problem lies.

“According to our tax tables there are only 5,000 people who have taxable income over R5m a year in South Africa. Now if you just drive around and count the houses in suburbs like Sandton, Bryanston and Bishopscourt, you’ll quickly realise that something doesn’t add up,” he says.

He believes that ordinary South Africans who are tax compliant should be supporting any moves to overhaul and rehabilitate SA’s tax system, including lifestyle audits for those who are purchasing big-ticket items like Ferraris or expensive properties.

Where lifestyles and spending don’t match up to declared earnings, we need to investigate, and we need to prosecute where needed. Davis believes that making an example out of a few prominent individuals, and ultimately having them end up in jail, would be a highly effective deterrent to illegal tax evasion.

“As a constitutional lawyer who is concerned about corruption, I am absolutely convinced that the Al Capone strategy is the best way to deal with this,” says Davis.

The Al Capone strategy is basically that you need just one or two provable facts. For example, if you look at somebody’s bank statement and there is an element of cash flow that can’t be explained, you know a crime has been committed. In the case of Al Capone, it was tax evasion, rather than his other crimes, that eventually landed him in jail.

“If you have people in the revenue committee who are deeply committed to honouring the right principles, which there are, it’s absolutely possible to make this strategy work in SA,” says Davis.

State corruption

“The other thing that always comes up when we talk about increasing tax revenue collection is the issue of state corruption,” says Davis.

“I would like to think that the vast majority of South Africans understand the levels of inequality in our country and will gladly pay tax to help bridge the divide, provided the money goes towards the upliftment of the people who really need it. Therein lies a big problem,” says Davis.

As the extent of state corruption is revealed, people are more likely to say, ‘why should I hand over my money to government, it’s just going to be stolen anyway, so it is better off with me’.

“The only way to change that mindset is through improved service delivery,” says Davis.

Despite the challenges, Davis remains optimistic and believes that the South African Revenue Service (Sars) under Edward Kieswetter is going to make a positive difference to SA.

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