

Sars takes legal action against Sasfin Bank

The Commissioner for the South African Revenue Service (Sars), Edward Kieswetter, has confirmed that the revenue service has instituted legal proceedings against Sasfin Bank.



Image source: Rabia Elif Aksoy – [123RF.com](https://www.123RF.com)

Sars has conducted a thorough investigation into various South African taxpayers who had not made true and accurate tax disclosures to it.

“The investigation revealed that the taxpayers had colluded to expatriate funds offshore in a manner that obscured tracing the expatriated payments and jeopardises the recovery of tax in South Africa.

“The Commissioner’s position is that it is inappropriate to comment on the question of liability and compensation for the fiscus’ loss, as these are legal issues that are now before the South African judicial system. Given this development, Sars will not be making any further comment,” Sars said on Tuesday.

The Commissioner affirmed his commitment to pursue the enforcement and recovery of taxes without fear, favour or prejudice in the interest of upholding the fiscal integrity of the South African tax system.

Sasfin's response

Meanwhile in an announcement on Tuesday, shareholders of Sasfin Holdings Limited were advised that Sasfin Bank, a wholly owned subsidiary of Sasfin Holdings, was served a civil summons for a total amount of R4,872,327,649.27 plus interest and costs in the form of a damages claim, instituted by Sars.

“This summons, which was received on 9 January 2024, arises from Sars’ purported inability to collect income tax, value added tax and penalties allegedly owed by former foreign exchange clients of the bank.

“Former foreign exchange clients of the Bank operated as a syndicate that ran an unlawful scheme to facilitate the expatriation of money out of South Africa and colluded with former employees of the bank who operated outside the scope of their employment.”



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Sasfin Holdings Limited also added that the bank took decisive action when it became aware of this unlawful scheme, including instituting an expanded investigation led by an independent forensic consultancy.

This resulted in the termination of relationships with the implicated clients and employees and the opening of criminal cases against them.

“Subsequent to receiving the summons, Sasfin Bank engaged transparently with the relevant regulators on the matter and obtained a legal opinion from ENS, authored by Professor Dale Hutchinson, Professor Michael Katz and Aslam Moosajee and endorsed by Adv. Wim Trengove S.C.”

“The legal opinion is unequivocal that the claim falls outside of the recognised parameters of applicable law and has a very remote likelihood of success. On the basis of this legal opinion, Sasfin Holdings concluded that the claim will not result in the recognition of any liability.”

In the SENS announcement, the board of directors of Sasfin Holdings “remains of the view that Sars’ claim has no merit and has little chance of success.”

“The Bank will therefore defend the claim, and given that this involves a defended trial action, the matter is only likely to come to trial in several years’ time,” said Sasfin Holdings.

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