



THE TIME IS RIGHT FOR another amnesty

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In 2003, South Africans were given a lifeline—a chance to come clean and regularise any offshore funds they had kept under the radar.

This amnesty was more than just a bureaucratic exercise; it was a moment for individuals and businesses to align with the law, disclose their foreign assets, and contribute to a shared vision of a prosperous South Africa.

But, as time has shown, not everyone took that lifeline. Despite the government's efforts, a significant amount of money remained unreported, hidden and out of reach.

Why the 2003 amnesty was necessary?

The 2003 amnesty was introduced with three main goals in mind:

1. **To enable regularisation:** People who had crossed the line could set things right without facing harsh penalties.

2. **To maximise disclosure:** The government wanted full transparency regarding foreign assets, making it easier to bring those assets back home.
3. **To expand the tax base:** By encouraging repatriation, the amnesty aimed to increase revenue, fuelling the nation's growth.

Back then, there was a wave of optimism in South Africa. The economy was on the upswing, and there was a genuine belief that investing in our own country was the way forward. The government, recognising this momentum, established the Financial Intelligence Centre and began expanding its network of international treaties to track down undisclosed foreign funds.



- ▶ The amnesty was part of a broader strategy—a nudge to encourage people to contribute to the nation's progress.

Global context and the need for compliance

The world was changing. Tax havens were losing their appeal as the global community became increasingly intolerant of untaxed funds. For South Africans, the message was clear: disclose now or face the consequences later.

The government's timing was strategic. With the economy booming and the tools in place to track non-compliance, the 2003 amnesty seemed like a win-win. South Africans had an opportunity to come clean and the country could harness those funds to build a better future.

An amnesty of limited success

Some 42 679 applications were submitted in the 2003 amnesty and R68.6 billion foreign assets were regularised, raising some R2.9 billion in the amnesty levy.

But even with all the right ingredients, the 2003 amnesty did not fully succeed. Fast forward fourteen years and the Special Voluntary Disclosure Programme (SVDP) was introduced—a more stringent version of the amnesty; but, this too, revealed that not all funds had been brought to light.

The SVDP was tougher. It required more detailed information and imposed higher penalties, which made it less attractive to those still holding out. Even so, it managed to uncover R3.8 billion in foreign assets, proving that there were still plenty of undisclosed funds out there.

Clearly, not everyone regularised their foreign assets the first time and I would suggest that not everyone regularise their assets in the SVDP.

Challenges with the current Voluntary Disclosure Programme

Today, the Voluntary Disclosure Programme (VDP) continues to offer a path to regularisation, but it is not without flaws. The lack of clarity on how far back one needs to go to regularise matters, especially older contraventions, is a major stumbling block. The interest rates imposed by the VDP can be crippling, even for minor infractions.

While it is true that death and tax are certain, neither are inherently voluntary by nature and when a very narrow interpretation is given by SARS to the term 'voluntary' with a view to exclude applications, the process is brought into disrepute.

While the South African Reserve Bank has maintained a similar rate for regularisation in both the amnesty and the SVDP, the current rules are not as transparent or reasonable as they need to be to encourage widespread compliance. As a result, many South Africans have found other ways to keep their funds hidden or move them offshore without detection.

New opportunity with the Government of National Unity

Despite the economic challenges we face, there is a sense of hope with the Government of National Unity. Just as the 2003 amnesty opened a door for regularisation, the current climate offers a new opportunity to bring unregularised funds into the fold.

A fresh amnesty, designed with the right balance of incentives and penalties, could be the key to unlocking these hidden assets. It is about finding that 'just right' approach—one that encourages participation without being too lenient or too harsh.

Urgent action is needed

SARS was hit hard during the state capture era; it lost key personnel and effectiveness. While it is improving its systems by accelerating the use of technology and leveraging global information exchange agreements, the process of audit and dispute resolution remains slow and cumbersome.

The urgency is very real. Our economy cannot afford to wait. A new amnesty could provide a quicker, more efficient solution, bringing in much-needed revenue to address the pressing needs of our country.

Many countries have successfully used amnesties and even redesigned their banknotes to bring hidden cash into the formal economy. By requiring people to exchange old notes for new ones within a specific timeframe, they have managed to recover previously untaxed funds. South Africa can take a decisive step by adopting similar strategies.

New amnesty, brighter future

The time is ripe for the Minister of Finance to introduce a new amnesty in the upcoming mini-Budget in October 2024. Clear legislation with a time limit, reasonable rules, tolerable rates and bearable penalties will see South Africans willingly stepping forward to regularise their foreign assets.

I propose the following approach:

Like the 2003 amnesty and the SVDP, foreign exchange regularisation should be based on the value of assets as of 30 September 2024, with a levy of 5% for repatriation and 10% for funds kept offshore.

Similarly, for income tax, PAYE and VAT regularisation, a 10% levy should be applied to the value of assets, be they local or foreign, as of 30 September 2024. This would also reset the assets' base value for Capital Gains Tax at that point.

Let me be equally clear, the regularisation is not only for the foreign assets and the income that generated those assets. Regularisation is also for those skeletons buried deep in South African entities seemingly far away from the grasp of SARS.

This is not just about collecting taxes; it is about building a future where everyone contributes to the nation's growth and prosperity—where every South African has a stake in shared success. I urge the Minister to seize this golden opportunity to bring hidden assets into the light. Now is the time to act!

