SNG Grant Thornton

TaxFocus

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Find out about our article of the month

October is now behind us, but what do you know and what have you learnt about October? Did you notice that it rained in the first week of October? I do not know about you but for me, I felt like the rain was washing away all the negative things experienced during this Covid pandemic. Rain generally has a renewal and rebirth aspect to it, symbolizing a good thing coming after a bad time or it can just mean the washing away of the old and re-growing something better.

Where does the name "October" come from?
October is the tenth month according to the Gregorian calendar. October shares a root with octopus and octagon - the Latin octo and Greek okto, which means "eight." So, how did October become the 10th month? The original Roman calendar had only ten months, and October was the eighth month. January and February had not been added to the calendar yet. Like its neighbouring months September, November, and December, the numerical name stuck, even after the calendar year was expanded from 10 months to 12 months.

Have you ever heard of an "October Surprise"?
An "October surprise" is an unexpected event or breaking news story that generally happens in October. The term/ jargon "October surprise" has been used to refer to both planned and unplanned events.

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"I'm so glad I live in a world where there are Octobers"

- L.M. Montgomery.

Well, we as the Tax Department do have breaking news. We are adding "January and February" to our calendar. This month, we welcome the strategic employ of our VAT Analyst Specialist as he joins the team to help build the Tax analytics division. We are also expanding our service offerings to include Customs & Excise services. We are looking into measures to build a strong and capable Customs & Excise team.

We thank you for the positive comments received for our first newsletter (September). In this month's Tax News, we investigate the recent judgement of Purveyors South Africa Mine Services (Pty) Ltd vs The Commissioner for the South African Revenue Services. Based on the outcome of this case, it appears the VDP process is not as easy as we all thought.

We also advise on what to look out for after the Carbon Tax filling season. You may need to get ready for the SARS Audit.

We also analyse the possible Employment Tax Incentive (ETI) abuse. Practitioners and auditors are encouraged to ensure that they view the ETI schemes holistically. We further look at the repayment of Covid-19 Employee Tax Deferral.

We also look at a recent High court judgment on a taxpayer obligation. Taxpayers are encouraged to disclose correct and full information on their returns, further, to have all grounds of dispute when objecting to SARS.

SARS warns of an error in the ITR14 when claiming doubtful debt allowance. We advise you of steps to take to overcome this error. Financial Emigration is now a hot topic. The National Treasury passed the law that South Africans who have emigrated or plan to permanently leave South Africa have until 28 February 2021 to effect financial emigration.

We also look at development from the African region. specifically relating to Nigeria, Kenya, and Uganda. **Uganda** Revenue Authority (URA) has announced the introduction of an electronic platform called Electronic Fiscal Receipting and Invoicing System (EFRIS) and it will start operating with the financial year 2020/21.

Nigeria: We take a look at common reporting standards, Judgement on VAT rental income of a real estate property company and collaboration FIRS with corporate affairs as well as new system of tax processes.

Kenya: we focus on the introduction of minimum tax, Digital Service Tax, Value Added Tax on digital supply and electronic Tax invoice.

We will always remind you of dates not to miss. But then again, if you do, we are here to help you waive all applicable penalties and interest – for a fee! And many more……

With that said, it may be autumn season in the Northern Hemisphere but here in the Southern hemisphere we continue enjoying spring.

Let us spark up October and make it better than September.
– unknown

Voluntary Disclosure Programme (VDP): Requirement of "voluntary"

In this month's article we look at the requirement of "voluntary" as proven to be significant in Purveyors South Africa Mine Services (Pty) Ltd v CSARS (Purveyors case).

The pertinent facts of Purveyors case are as follows:

- Purveyors South Africa Mine Services (Pty) Ltd (Purveyors) imported the aircraft into SA during 2015 which it then used to transport goods and personnel to other countries in Africa.
- Purveyors became liable for the payment of import VAT in respect of the importation of the aircraft. It failed to pay the import to SARS.
- During the latter part of 2016, Purveyors engaged certain representatives of SARS to obtain a view on the VAT liability on the importation of the aircraft. In doing so, certain facts relating to the importation transaction were disclosed to SARS representatives.
- Following the SARS engagement, Purveyors was advised that the aircraft should have been declared in SA and that the VAT thereon should have be paid. It was further advised that the penalties will be triggered for failure to pay VAT.
- A year later, Purveyors applied to SARS for Voluntary disclosure relief in terms of section 226 of the TAA.
- SARS declined to grant the relief on the basis that the requirements of section 227 have not been met. Of relevant is the requirement of 'voluntary'.

Legal issue

At issue was whether Purveyors met the requirement of 'voluntary' in respect of its VDP application submitted to SARS. Purveyors contended that it did meet the requirement of 'voluntary' on the basis that the VDP application was submitted prior to it being notified by SARS of an audit or investigation into its affairs despite the prior knowledge by SARS of the default (failure to pay import VAT).

SARS contended that the requirement of 'voluntary' relates to disclosure of the information or facts of which SARS had been unaware of.

Court decision

The court agreed with SARS that the VDP application was not voluntary on the basis that there was no disclosure by Purveyors of the information or facts of which SARS was not already aware of. Consequently, the case was decided against Purveyors. As it is evident from above, for VDP application to be valid the disclosure must be voluntary. What can be deduced from Purveyors case is that the disclosure must be of information or facts which SARS was not already aware of. Although it is not yet known at this stage whether Purveyors will appeal the High Court decision, there is important lesson to be drawn from Purveyors case. It was unwise of Purveyors to seek tax advice from SARS which resulted in it disclosing certain information outside of the formal VDP processes. In this regard, it is therefore imperative that taxpayers seek tax advice from the appropriate source as there are implications as Purveyors had subsequently discovered.

For a downloadable version of a detailed write up of this case, please log onto our website on **www.granthornton.co.za/newsroom**

Submissions for the Carbon Tax (CBT) Environmental Levy Account (DA 180) together with payments of any carbon tax liability opened on 1 October and close on 29 October 2020 for the 2019 tax period. The completed DA 180, annexures and supporting documents must be submitted via the SARS eFiling platform through the 'Excise Levies & Duties'.
It is likely that taxpayers may be selected as part of the verification audit performed by SARS Excise which is an important requirement to ensure the correctness of the declarations and payments made as well as allowances claimed.

There are mainly two types of audits that will be performed:

1. Desk Audits
2. Compliance Audits

For details on the above two audit types and what to look out for, please see our Carbon Tax Alert on our website on www.grantthornton.co.za/newsroom .

The CBT is a new tax in response to climate change, which is aimed at reducing greenhouse gas (GHG) emissions in a sustainable, cost effective and affordable manner.

Carbon Tax gives effect to the polluter-pays-principle and helps to ensure that firms and consumers take the negative adverse costs (externalities) of climate change into account in their future production, consumption, and investment decisions.

The Carbon Tax Act of 2019 came into effect on 1 June 2019. It will be administered and collected by SARS.

The CBT is assessed, collected, and enforced as an environmental levy in terms of the Customs and Excise Act, 1964, read with the relevant provisions of the Carbon Tax Act, 2019.

The CBT is imposed on entities in the country that operate emissions generation facilities at a combined installed capacity equal to or above the carbon tax threshold.

For detailed information on:

- Carbon Tax licencing requirements
- Carbon tax Administration
- Carbon Tax Allowances
- Carbon Tax Audit requirements

Please log onto our website on **www.grantthornton.co.za/newsroom** for detailed information on the above.

Beware of Employment Tax Incentive (ETI) Scheme Abuse!

Practitioners and auditors are encouraged to ensure that they view the possible ETI abuse schemes holistically and not as separate distinguishable components. The potential impact of an ETI abuse scheme may be material, either individually or in aggregate and practitioners and auditors are reminded to consider the effect of all identified misstatements on the audit and the financial statements, in accordance with ISA 450, Evaluation of Misstatements identified during the Audit. Misstatements from such schemes may even require restatement of previous years' financial statements given the potential tax and liabilities that may arise, that the practitioner and/or auditor would have to respond appropriately to. The practitioner and/or auditor would consider any related impact on the appropriateness of management's use of the going concern basis of accounting. The practitioner and/or auditor should also consider the obligations contained in Section 360 of the IRBA Code of Professional Conduct (Revised November 2018) relating to non-compliance with laws and regulations (NOCLAR), as well as Section 45 of the Auditing Profession Act and Regulation 29 of the Companies Regulations, 2011 relating to Reportable Irregularities.

The matter has been brought to the attention of SARS and National Treasury and following on from positive engagements with them, we expect that the necessary interventions will be implemented shortly with public communication issued in due course.

Although there are legal variations on how ETIs can be arranged, there are specific requirements that need to be complied with for employers to legally qualify for the incentive. It should be noted that the ETI was meant to encourage employers to employ young people so that they gain work experience and concomitant skills. Actual employment is therefore the intention and purpose of the ETI.

The intention of the ETI was never that employers would gain financially from the incentive or would just provide or secure education components without actual employment and related cash compensation.

The main features and risk indicators of the ETI abuse schemes that practitioners and auditors should be alerted to are outlined as follows:

- An employment relationship is purported to be created in form, but in substance, no such relationship between the "scheme employee" and the participating employer exists.
- The participating employer will have a sudden material increase in staff numbers, in many instances three-to-fourfold without a corresponding business or office space increase.
- No or very little of the purported salary is paid directly to the employee as a cash component and the entire cash component or majority of the cash component is paid as a training fee to a training service provider or other party. Therefore, actual payroll cash payments will not match payroll liability data for these "scheme employees".
- The "scheme employee" is placed in a purported full-time education or training programme. This results in the "scheme employees" providing no services to the participating employer and therefore gaining no work experience or concomitant skills, as intended by the ETI.
- The net cash flow from the scheme as it relates to the employer is always positive and the positive amount is always less than the full ETI received by the employer, thereby resulting in financial gain to the participating employer.

High Court Judgement on Taxpayer Obligation

The high court confirmed the obligation of an individual taxpayer to be vigilant about the contents of their income tax return. The High Court also found that taxpayers must clearly state all the grounds of a dispute with SARS at the objection stage.

In a matter involving the estate of a deceased taxpayer, two fundamental issues were decided by the Full Bench. First was the appropriate level of penalties to be applied if a taxpayer failed to disclose the proceeds of a share-option and second whether the taxpayer could introduce a new ground for a dispute (in this case, concerning interest) at the Appeal stage of a dispute.

The Full Bench confirmed that an individual taxpayer has an obligation to be vigilant when filing a tax return and that penalties are appropriate when a taxpayer falls short of this duty.

In this case SARS argued that this obligation to be vigilant is proportional to the commercial aptitude of the taxpayer, and the court confirmed the penalties imposed. The taxpayer sought to dispute the imposition of interest on provisional tax at the appeal stage of the dispute process, and the Full Bench confirmed that the taxpayer ought to have raised this at the objection stage.

The High Court judgment also dealt with the pre-litigation engagement between SARS and the taxpayer, which resulted in a substantial reduction in the additional tax imposed.
SARS Commissioner Mr Edward Kieswetter said SARS affirms its position to attempt to resolve a legitimate dispute before litigating. However, in this process, SARS is obliged to maintain consistency in how all taxpayers are treated and to not deviate from a clear and certain legal standard.

He added: **"SARS is committed to resolving disputes as efficiently and as cost-effectively as is possible, and the Alternative Dispute Resolution (ADR) process is intended to reach such a resolution and limit unnecessary litigation. The ADR process can only work if both SARS and the taxpayer approach the process with a willingness to act proactively and in the spirit of resolution."**

Repayment of COVID-19 Employess Tax Deferrals

Background

On 21 April 2020, the President announced additional measures to assist employers to provide financial stability to their employees. One of these measures included a 35% deferral on the monthly PAYE liability owed to SARS for five months from 1 April to 31 August 2020. In addition, SARS will not impose any penalty or interest on the deferred PAYE liability amount. This meant that employers were still liable to pay the remaining 65% PAYE as per normal.

Repayment obligation

The employer must make repayment of the deferred tax in six equal instalments, together with the monthly payroll tax liabilities, starting in October 2020 (payable by 7 October 2020) and every subsequent month until March 2021 (payable by 5 March 2021). SARS has determined the six equal instalments in respect of the total deferred employees' tax and has included the amounts since 15 September 2020 in the monthly Statement of Account (EMPSA).

The instalments are payable on the following dates:

- 7 October 2020.
- 6 November 2020.
- 7 December 2020.
- 7 January 2021.
- 5 February 2021; and
- 5 March 2021.

Penalty and interest will be imposed on any default (short payment or no payment) of any instalment.

Repayment process

SARS has sent an urgent communication for members' attention regarding employers' EMPSA. The same information was also published on the SARS website – you can follow the enclosed link for easy access:

- https://www.sars.gov.za/Pages/Whats-New.aspx
- https://www.sars.gov.za/TaxTypes/PAYE/Pages/default.aspx

The EMPSA was amended during the first half of September 2020 to include details of the monthly deferred payments (Payment Reference Numbers (PRN's) and amounts) payable over the six months period from 7 October 2020 to 5 March 2021.

Employers and representative employers must not include and process the repayments with the payment of the monthly payroll tax liabilities. Therefore, affected employers can unfortunately not include the COVID-19 PAYE Deferred Relief payment due on 7 October 2020 in their September 2020 EMP201 declaration payments via eFiling.

Employers and representative employers are advised to make a separate payment concerning each instalment against the unique 19-digit payment reference number (PRN) reflected in respect of each instalment on the employer's EMPSA to allocate the payment of each instalment to the correct period. As such, employers are required to pay the PAYE Deferred Relief payment separately via eFiling by using the PRN next to "COVID-19 INSTALMENT" for October 2020 on the EMPSA which is available on the eFiling profile. Alternatively, employers may use the EFT payment option by using the "SARSPAYE" beneficiary option under the SARS public beneficiary listed on the banking platforms and using the PRN on the EMPSA or the EMP201 declaration for September 2020.

If any changes to this process (COVID-19 PAYE Deferred Relief payment) is implemented before the next payment, which is due on 6 November 2020, SARS will issue a further notice before such a date.

Doubtful Debt Allowance – Error in ITR14

SARS in a recent communique issued an alert to all its stakeholders that it is aware of the issue about claiming the doubtful debt allowance in terms of section 11(j)(i) or (ii) in the ITR14. SARS further stated that it is in the process of correcting this aspect and envisage such to be corrected by the end of the year.

Your options are therefore to:

1. Wait for the ITR14 to be corrected and then complete and submit your return, or
2. If you want to proceed with the submission of the ITR14, you should select "Y" to the question "Is the company carrying on banking, financial services or insurance" this would enable you to select the allowance in terms of section 11(j)(i) or (ii).

Please note that if you opt for the latter, it will be understood that this is not a misrepresentation but an interim work around measure aimed at circumventing the issue in the SARS tax return.

eFiling by using the PRN next to "COVID-19 INSTALMENT" for October 2020 on the EMPSA which is available on the eFiling profile.

Alternatively, employers may use the EFT payment option by using the "SARSPAYE" beneficiary option under the SARS public beneficiary listed on the banking platforms and using the PRN on the EMPSA or the EMP201 declaration for September 2020.

If any changes to this process (COVID-19 PAYE Deferred Relief payment) is implemented before the next payment, which is due on 6 November 2020, SARS will issue a further notice before such a date.

Financial Emigration: Emigrant retirement 3-year capture now confirmed by National Treasury

South Africans who have emigrated or plan to permanently leave South Africa have until 28 February 2021 to effect financial emigration. National Treasury has laid down the new law that the consequence is that your retirement money will be locked in for three years, you are not allowed to touch it, and best apply it to your personal circumstances.

On Tuesday 13 October 2020 in Parliament, National Treasury ("Treasury") and SARS presented to the Standing Committee on Finance on a number of proposed amendments to legislation, which amongst others, would directly affect South Africans who have already moved abroad, or are planning on moving abroad. The feedback to stakeholders, specifically around the withdrawal of retirement funds upon financial emigration, was certainly one which was foreseen after it was proposed in the draft Taxation Laws Amendment Bill ("TLAB") in July 2020.

As proposed in the draft TLAB, Treasury has confirmed, that the 3 year lock-in will be implemented from 1 March 2021.Treasury stated that the 3-year rule is a mechanism to ensure that there is a sufficient lapse of time for all emigration processes to have been completed with certainty.

Consequently, from the effective date of the proposed amendments, one will need to be able to prove under both South African residency tests that they are non-resident for a period of 3 consecutive years, post 1 March 2021, before they will be allowed to withdraw these funds from South Africa.

For those South Africans who listened to the call to formalise their affairs by financially emigrating, the opportunity to withdraw retirement funds remains. For those who decided against this, Treasury has announced that those who still intend to financially emigrate may do so, however they require that complete applications must be received by the South African Reserve Bank (SARB) before 1 March 2021.

South Africans leaving SA have about 4 months to financially emigrate under the current exemption to withdraw their retirement funds, before it is locked in for 3 years minimum.

Income tax effects of the restatement of comparative amounts from an IFRS perspective

According to IAS 8 Accounting Policies, Changes in Accounting Estimates and Errors (IAS 8), retrospective application is applying a new accounting policy to transactions, other events and conditions as if that policy had always been applied. Retrospective restatement is correcting the recognition, measurement and disclosure of amounts of elements of financial statements as if a prior period error had never occurred. Hence, when an entity changes an accounting policy or discovers an error that occurred in one or more previous reporting periods, is should adjust its financial statements retrospectively, unless it is impractical to adjust the comparative information.

The retrospective application of an accounting policy, or the retrospective restatement of comparative amounts due to the discovery of an error may have an effect on amounts recognised in the prior years' financial statements, which can have an effect on the income taxes recognised in those periods. Some errors in the preparation of the financial statements will likely result in errors in the tax return where the amounts recognised in the financial statements are used in the preparation of the tax return. Thus, restating prior period numbers might mean that information included in the entity's prior period tax return is not accurate. Income tax should be determined for each year of assessment, changes in prior year amounts can therefore not be adjusted in the income tax return of year that errors are discovered or changes in accounting policies are effected.

If the change results in the prior year taxable income being higher or tax loss being lower than previously submitted to the South African Revenue Service ("SARS"), taxpayers are encouraged to apply for voluntary disclosure in order to correct the prior period tax return.

See article by Director Azwinndini on page 3. If the prior period adjustment results in lower than previously reported taxable income (or assessed loss being higher) taxpayers are encouraged to apply to SARS in terms of section 93 of the Tax Administration Act no.28 of 2011 (" the TAA") read with section 99 of the TAA. Section 93 of the TAA provides that SARS may reduce the assessment if amongst other reasons listed in that section there is a "readily apparent undisputed error in the assessment by the taxpayer in a return".

In situations when the restatement of comparative amounts is followed by similar adjustments to the income tax returns, the current tax of the entity or the estimated tax loss should be adjusted because in essence, what is done for in the accounting records and financial statements is similar to what is done for tax purposes by the tax authority. In this case there are no differences between accounting and tax which may necessitate the raising of deferred tax. However, in some instances, the tax authority may treat the restatement differently from the accounting treatment required by IAS 8, or at the time of reporting, it is uncertain how the tax authority will react to the restatement. In these situations, the reporting entity should adopt a tax position which it believes the tax authority will accept and use that position to determine the entity's taxable income or tax losses and tax bases of the amounts restated (IFRIC 23 para 9 – 12).

Please log onto our website on **www.grantthornton.co.za/newsroom** for detailed article on the above.

Analytics and Tax Analytics

The field of Data Analytics, or Analytics for short, has been around for many years. It emerged from Statistics and other fields out of the need to answer specific questions and gain in-depth knowledge of the nuggets hidden in data. It is therefore not new at all. What has brought the field to centre stage across the industry spectrum is the speed of modern computing which has made it possible to generate and process tonnes of data in the wink of an eye. A feat unimaginable a few decades ago.

Against this backdrop, any field where data is generated and processed lends itself as a prime candidate for Analytics. The Tax function is unfortunately no exception to the hold of Analytics. Companies who will ignore this reality will do so at their own peril. The area of VAT where constant processing and analysis of data is required demands that modern analytical techniques be employed to ensure the accuracy of the results. Furthermore, to harness the data and unravel the nuggets hidden in it such as the trends, the outliers, risks, reduce audit turnaround time and conduct in-depth analytics for detecting fraudulent activities, one needs state of the art techniques and keeping abreast with global developments.

This is the case for such taxes as VAT where fraudulent activities are replete. Tools that enable speedily and accurately sifting through the data to reduce errors, improve compliance, detect fraud and meet the demands of the Revenue Authority are proving indispensable. They also come with such benefits as cost reduction, faster decision-making, and efficient new products and services.

Data Extraction

One of the critical and often neglected phase in Analytics is the collection, cleansing, and loading of data in repositories also known as the ETL process. It is the bedrock of Analytics where the proverbial phrase, garbage-in, garbage-out, can be seen in action with dire consequences to decision makers.

The credibility of data is significant if decision-making and operations are to be altered in an efficient way. This is the reason Revenue Authorities around the world are investing significant amounts of cash in gathering data, transforming it and loading it into data centres for Analytics.

The Front-end - Tax Analytics and Visualisation

Without credible information in the data centres, the Tax Analytics front-end consisting of interactive reports and dashboards can be reduced to nullity. With that said, the front-end is equally important. Visualisation of data through graphs can provide tax practitioners with a fresh and new way of looking at datasets, enormously simplifying these complex datasets. Importantly, they provide a single version of truth and foster uniformity with everyone being afforded the opportunity to sing from the same hymn sheet.
With Tax Analytics, the tax function can be transformed from being ex post facto to being ex ante, while being able to nowcast.

Publication of Comments and Responses by National Treasury

The 2020 Draft Response Document includes a summary of all the written comments received on the 2020 Draft Tax Bills published for public comment on 31 July 2020 as well as a summary of all the written and oral presentations made during public hearings on the 2020 Draft Tax Bills held by the Standing Committee on Finance (SCoF) on 7 October 2020.

To access the document, use the link: http://www.treasury.gov.za/public%20comments/TLAB%20and%20TALAB%202020%20Draft/2020%20Draft%20Response%20Document%20on%20the%202020%20Draft%20Tax%20Bills%20-13%20October.pdf

SARS Official Updated guides relating to Tax Directives. The following guides are available on SARS platform;

- Guide to Complete the Tax Directive Application Forms
- Completion Guide for IRP3a and IRP3s Form
- Guide to Complete Submit and Cancel a Recognition of Transfer

Please follow this link for further details: https://www.sars.gov.za/ClientSegments/Individuals/Need-Help/Tax-Questions-Answered/Pages/I-want-to-get-a-tax-directive.aspx

www.grantthornton.co.za/newsroom for detailed article on the above.

Important dates

Take note of the following important dates. Note that SARS levies penalties and interest for late submission of returns and/or payments.

Due date for submission	What to submit
06-11-2020	PAYE submissions and Payments
16-11-2020	D-date for taxpayers filling online
25-11-2020	VAT manual submission and Payments
27-11-2020	Excise Duty payments
30-11-2020	VAT electronic submissions and Payments
30-11-2020	CIT Provisional Tax Payments
07-12-2020	PAYE submissions and Payments
24-12-2020	VAT manual submission and Payments
30-12-2020	Excise Duty payments
31-12-2020	VAT electronic submissions and Payments
31-12-2020	CIT Provisional Tax Payments
31-12-2020	End of fiscal quarter

From The Rest Of Africa Desk

Uganda

On the spree of Tax compliance administration reforms

Uganda Revenue Authority (URA) has announced the introduction of an electronic platform called Electronic Fiscal Receipting and Invoicing System (EFRIS) and it will start operating with the financial year 2020/21. According to URA, it is an initiative under the Domestic Revenue Mobilisation Strategy (2019/20-2023/24) and it will be used by all taxpayers in the country to manage issuance of e-receipts and e-invoices.

The new legislation is aimed to address challenges such as suppression of sales, non-issuance of tax receipts or invoices, curb false refund claims, fictitious purchases with no physical movement of goods and unverifiable claims by taxpayers due to loss of records.

Implementation of these regulations have received mix responses from the public at large due to infrastructure challenges prevailing in the country as well as the expectation of the authority to manage stock module in the system for traders and manufacturers in the country. The closest counterparts of Uganda i.e. Tanzania and Kenya are already having the e-Invoices system in the country. However, the scope of the same in both these countries are currently limited to issuance of the e-Invoices only. Responding to these challenges positively, URA has postponed the implementation of EFRIS to January 1, 2021 which was planned initially from July 1, 2020.

In addition, the tax authority has implemented the Digital Tracking solutions known as Digital Tax stamps as a mechanism of identifying manufactured products and improving tax administration on them.

https://www.gtuganda.co.ug/ for detailed article on the above

Nigeria

Common Reporting Standard (CRS)

Federal Inland Revenue Service (FIRS) launched an AEOI-CRS (automatic exchange of information-common reporting standard) portal for the use of financial institutions in the country. Reporting financial institutions under the Income Tax (Common Reporting Standard) Regulations 2019 are to enrol on the portal:
Reporting Financial Institutions includes Commercial Banks, Merchant Banks, Discount Houses, Mortgage and Development Banks, Insurance and Life Assurance Companies, Investment Advisers, Trustees, Asset Management Companies, Issuing Houses, Brokers/Dealers, etc.

A Primary User (PU) is expected to be designated by each reporting Financial Institution (FI). The PU is the custodian of the FI's login details on the portal. A letter signed by the Chief Executive Officer of the FI introducing the PU to the FIRS is required as part of the enrolment process.
Fis are expected to submit their CRS reports for 2019 not later than 30 September 2020.

Tax Appeal Tribunal delivers judgement on VAT on Rental Income of a Real Estate Property Company

The Tax Appeal Tribunal (TAT) ruled in favour of a real estate company that VAT is not applicable on their rental income since is does not constitute the supply of goods or rendering of service. TAT gave the judgement on the position of the VAT act which clearly states that VAT is applicable on goods and services.

FIRS Collaborates with Corporate Affairs Commission (CAC) on Issuance of TIN ON Incorporation

Federal Inland Revenue Service (FIRS) has collaborated with the Corporate Affairs Commission (CAC) to issue Taxpayer Identification Number (TIN) at the point of incorporation or registration of a company or business name, respectively. The issuance of TIN does not preclude tax registration, the company must complete the registration at the nearest FIRS office.

FIRS Introduces New Systems into the Tax Process.
FIRS launched tax Promax for the processing of Tax Clearance Certificates (TCC). The new system has changed the outlook of the certificate and delivers a copy of the TCC to the registered email of the company. FIRS introduced TP Plat to enable the ease of filling TP returns. FIRS has launched the VAT auto collect majorly for remittance of VAT by Fast Moving Consumer Goods (FMCG) entities such as supermarkets, cinemas etc.

FIRS also launched the Stamp Duties portal to ease the remittance of stamp duties.

https://www.grantthornton.com.ng/ for detailed article on the above

Kenya

Tightening the Tax Noose - Minimum Tax:

The Kenya Revenue Authority (KRA) shall, with effect from 1st January 2021, require entities operating in Kenya to remit 1% of their gross turnover under the minimum tax regime where 1% of the gross turnover is higher than the instalment tax due. The tax which shall be paid on a quarterly basis is aimed at sealing the loophole currently being exploited by loss making entities by ensuring that all companies carry their fair share of the tax burden.

Stakeholders have lobbied for revision of the Minimum Tax provision to the intent that the tax applies to companies that report losses for a continuous period of at least three years. Parliament is yet to accede to this request. Loss making entities are therefore set to bear the brunt of the new tax should the status quo remain.

The tax shall be payable on the twentieth day of the fourth, sixth, ninth and twelfth months.

Digital Services Tax:

With effect from 1st January 2021, persons who provide a service and whose income from such service, is derived from, or accrues in Kenya through a digital marketplace shall be subject to tax at 1.5% of the gross transaction value. The tax which shall be due at the point of payment for the service shall be offset against the income tax liability at the end of the year for resident and non-resident persons who have a permanent establishment in Kenya.

It is not clear how KRA intends on implementing the digital service tax especially on non-resident entities. The OECD is set to release the global consensus guidelines on implementation of Digital Service Tax by the end of 2020. Hopefully, the guidelines shall provide clarity on what shall otherwise be a logistical nightmare for the Revenue Authority.

Value Added Tax on Digital Market Supplies:

Persons who make a supply of a taxable service through the digital marketplace shall be required to charge VAT at the current rate of 14%. A person who makes a business to consumer (B2C) supply of a service to a recipient who is in Kenya shall be required to register for VAT under the simplified tax registration framework.

The Cabinet Secretary for National Treasury and Planning has, in the VAT (Digital Market Supplies) Regulations 2020, given a six-month window for persons from an export country who are required to apply for registration to do so.

Electronic Tax Invoice:

In the recently released Value Added Tax (Electronic Tax Invoice) Regulations 2020, taxpayers shall be required to maintain Electronic Tax Registers that are capable of transmitting invoice data to the KRA system.

The information transmitted by the electronic tax registers shall be received by KRA through the Tax Invoice Management System which shall not only enhance compliance but significantly reduce incidence of VAT fraud.
These measures have been put in place to enhance compliance and plug the current revenue deficit.

https://www.grantthornton.co.ke/ for detailed article on the above

Tax and Fun

Sure, you did not expect those two words in the same sentence? At SNGbGrant Thornton Tax we have a very serious job to do and we do not take it lightly. But we can see the funny side of things as we strive to meet our revenue targets.

So here are some strange facts

- Odd bit of Tax Knowledge you might never have known if we did not highlight it here
- Tax Dodgers

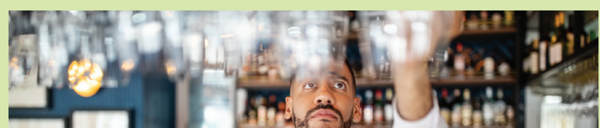
"Here's the story about the stripper who deducted her boob job and ended up in tax court. Her name was Cynthia Hess (aka "Chesty Love") and she originally deducted the surgery as a medical expense. The IRS disallowed it because cosmetic surgery that is not to correct a disfigurement or for life-saving purposes is not deductible. The higher court allowed the expense but not as a medical expense. They allowed it as a bona fide ordinary and necessary business expense." – Bonnie Lee, E.A., Owner of Taxpertise

"In the 1600s and 1700s in England, there was a tax on the number of windows in a house. (This was repealed in the 1800s because people started to get sick from living in homes with a lack of air, due to having limited windows.)" – Josh Zimmelman, owner of Westwood Tax & Consulting.

"In England there is a tax on televisions. Colour televisions are taxed more than black and white televisions, and if a blind person has a television, they only must pay half the tax. Truly bizarre!" – Max Robinson, Jumpstart Tax

Several European nations have a tax on cow flatulence. It is actually very important because methane gas is one of the main greenhouse gases that causes climate change. But still: cow flatulence.

Texas has a "Sexually-Oriented Business Fee" that charges strip clubs that serve alcohol $5-per-patron. Of course, it is most referred to by a different name: the pole tax. Revenue raised to the tax goes to health care and programs for victims of sexual assault.



"Are you a drug dealer, thief, or corrupt official? The IRS wants to tax your dirty money, too. You can include your income on Form 1040, line 21, or on Schedule C or Schedule C-EZ (Form 1040) if you are "self-employed". As part of the Fifth Amendment, you have no obligation to disclose where the money came from. Now the question is, how many thieves and drug dealers are honest enough to pay up?" – Ivy Chou, Content Director for Deals Plus.

Tax Dodgers

Lionel Messi

Barcelona FC and Argentina's soccer star Lionel Messi and his father Jorge Horacio have paid €10 million in back taxes to try and avoid being charged for tax evasion. The two were summoned to appear in a court near Barcelona in September 2013, relating to taxes owed for image rights income in 2010 and 2011. If convicted, they could face a sentence of six years in prison.

Dolce and Gabbana

The founders of the world known Italian designer label Dolce & Gabbana, Domenico Dolce and Stefano Gabbana were convicted of tax evasion by a Milan court in June 2013. Prosecutors alleged that the fashion designers failed to declare €200 million when two of the company's main brands were sold to a Luxembourg-based holding company.
Dolce and Gabbana were sentenced to one year and eight months in prison, suspended, and were ordered to pay a penalty of €500 000 to the Italian tax administration.

In the separate cases in Italy, in 2000 the late opera singer Luciano Pavarotti paid more than $12 million in back taxes, while former MotoGP world champion Valentino Rossi agreed to pay $51 million to Italy's tax agency in 2008.

Lauryn Hill

In May 2013 the famous former Fugees band member who won the Grammy award with her solo career album The Miseducation of Lauryn Hill was sentenced to three months in Federal prison and further three months of home confinement for failing to pay taxes on more than $2 million in earnings during a five-year period. She had pleaded guilty to the charges in 2012. In all, Federal prosecutors said Hill had earned approximately $2.3 million during the five years and had an unpaid tax total of $1,006,517. She told the court she had always meant to eventually pay her taxes but had been unable to since her career tanked.

Leona Helmsley

The hotel magnate famously is quoted as saying "We don't pay taxes. Only the little people pay taxes." The judge ordered her prison sentence to begin on 15th April which is Tax Day in the USA.

Al Capone

They never managed to hang charges on Mr. Capone for racketeering but his avoidance of paying tax proved his downfall.

Wesley Snipes

On 2 April 2013 American actor, film producer, and martial arts expert Wesley Snipes was released from jail after almost three years for failing to submit income tax returns. Snipes was convicted of three misdemeanour counts of failing to file tax returns in 2008. Between 1999 and 2001, Snipes avoided $7 million in taxes. One of Snipes' original defences was that he had relied on the advice of his tax advisors, Eddie Ray Kahn, and Douglas P. Rosile. They were convicted by the same jury of tax fraud and conspiracy and both got longer prison terms than Snipes.

Ulrich Hoeness

Ulrich Hoeness, the German football legend, and former Bayern Munich football club president was sentenced to three and a half years in prison after being convicted for tax fraud by a German court on Thursday 13 March 2014. Hoeness cheated the German state out of 27m Euros in unpaid tax. He said he would not appeal the verdict and he had resigned from his position as president and board chairman of the football club.

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