ACCOUNTANTS
& AUDITORS

With Compliments

We have seen a significant increase in South African Revenue Service's (SARS') performance of audits and there are a number of methods that SARS uses when identifying taxpayers for audits. These include a ***random selection of taxpayers, SARS interdepartmental referrals, referrals by the general public, discretionary selection, computer generated selection or refund audits.***

Our solution is to proactively perform the checks and balances that will be performed by SARS's systems before you submit your tax return. This will reduce the subsequent time you will need to spend providing SARS with correct and relevant documentation in the case of an audit. It will also alert you to any potential red flags that may trigger the audit.

We call this process the "Proactive IT14SD Reconciliation" and we urge you to let us help you with this critical check, preferably at your financial year end prior to the submission of your final VAT and PAYE returns for the year or failing that when we prepare your Annual Financial Statements.

Contact us now to help you.

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In this Issue

DIGITAL DISRUPTION IS A RACE - ACT NOW!

"Innovation is the ability to see change as an opportunity not a threat" (Steve Jobs)

New waves of technology are threatening existing business' models and undermining revenue streams.

Recently Paris was brought to a standstill by angry taxi-drivers protesting that their livelihoods were being undermined by Uber. Newspapers from the New York Times to local suburban weeklies are losing most of their revenues to digital advertising.

Don't panic

Your business still has many advantages. You have your customer database - who to contact, what type of service or product they need. You understand your business and the sector you are in. There is still loyalty to your brand.

How do you leverage this to ensure your business stays intact?

The most important thing is to understand the big picture. The change is so powerful and rapid that incremental improvements will probably be insufficient.

It is important that you determine where the real value add lies. You need to ask some searching questions such as:

- Does the new environment favour taking out costs in your supply chain? For example some businesses who deliver to customers are using Uber to make this delivery. They are saving substantial transport and labour costs. These businesses have the flexibility to either reinvest these savings or add to their bottom line.

- Does the technology enable you to radically restructure your sales strategy? The most time-consuming and expensive activities of a sales force lie in travelling to clients. Some businesses have used technology (Skype, the Internet) to detail their products or services to customers. In one case sales representatives meet clients only twice a year and Skype them to sell new deals and new products. Productivity and sales have increased and they have saved nearly thirty per cent of their selling costs.

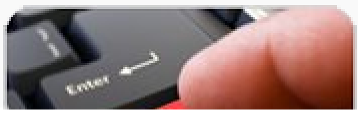
One strategy that is working well is mixing technology consultants with your experienced staff. This interaction often gives excellent results. You are combining knowledge within the business to expertise in new technologies.

Another successful intervention is keeping your staff up to date with the changes you are making. Rapid change can lead to job insecurity amongst your staff and openness and transparency are often the best antidotes in this situation.

Threat or opportunity?

Whilst we are living in turbulent times, keeping your head and understanding what can be done can lead to even greater prosperity.

"PAY NOW ARGUE LATER" PRINCIPLE: SOME LIGHT ON THE HORIZON FOR TAXPAYERS



For many the principle of "pay now argue later" seems unfair. This principle allows SARS to demand payment of an assessed tax **even if**

the taxpayer is disputing the assessment. In other words the obligation to pay the tax is not suspended.

However unfair it may seem, “pay now argue later” has been accepted by the Constitutional Court.

A recent High Court case has given taxpayers hope that this principle can be successfully suspended in appropriate cases, until a court has reviewed the SARS decision.

Asking SARS to waive “pay now” payment

Recent tax legislation has allowed taxpayers to request that SARS waive the “pay now argue later” principle pending the outcome of an appeal against an assessment. A “senior SARS official” can approve this request taking into account factors including -

- The tax compliance record of the taxpayer
- Whether there was prima facie fraud involved (note this is at the discretion of the senior official to decide)
- If disallowing the taxpayer’s request would result in “irreparable hardship” to the taxpayer, balanced against the prejudice to SARS or the fiscus if the tax is not paid
- Whether there is adequate security “tendered” by the taxpayer (SARS are not just looking at whether the taxpayer has sufficient assets to cover the tax liability, they are looking to obtain actual security such as a guarantee)
- If recovery of the tax is in “jeopardy” or there is a risk the taxpayer will dissipate the assets.

These give the SARS senior official wide latitude and there are other undisclosed factors that SARS may consider. This means a taxpayer faces an uphill task in getting SARS to agree to waive payment until the matter is settled.

If SARS rejects a taxpayer’s request for postponement, then the taxpayer has the right to approach the courts for a review of SARS’ decision as such decision is not subject to objection and appeal. The problem with this is it takes many months for a review to be heard and the taxpayer will need to get the consent of SARS to suspend payment of the assessment until after the judicial review. Should SARS not agree to this, the only avenue available to taxpayers is to apply for a court interdict to prevent Revenue from demanding or collecting the taxes in dispute (SARS have the right to appoint the bank to pay unpaid assessed taxes directly from the taxpayer’s bank account to SARS).

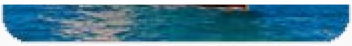
SARS interdicted

Media reports indicate that in August a taxpayer obtained such an interdict in the High Court. This is good news for taxpayers as it means the courts will independently review the powers granted to SARS and the rationale of its decision making. The precedent has now been set for other taxpayers to seek an interdict in appropriate cases to ensure that payment only follows once a court has verified the rationale for the decision not to suspend payment pending the outcome of the main dispute.

IS A WEALTH TAX ON THE CARDS? THOMAS PIKETTY AND INEQUALITY IN SOUTH AFRICA

“The inherent vice of capitalism is the unequal sharing of blessings; the inherent virtue of socialism is the equal sharing of miseries” (Winston Churchill)

Thomas Piketty has become a global “rock star” economist following the release of his



book “Capital in the Twenty First Century”. In the book he argued that the wealthy are getting wealthier, and to reduce this growing inequality he proposed a global wealth tax.

It is well known that South Africa is one of the most unequal societies in the world and thus there was widespread interest in his opinions on our local inequality.

Information on wealth in South Africa

In Western societies there is considerable data on wealth but in South Africa there is little information on wealth. This is because wealth taxes (estate duty, donations tax and transfer duty) account for only 1% of taxes collected. Also with our uneven past and present, much of the nation’s wealth is hidden.
Piketty has made his name as a researcher mainly on wealth and thus faced considerable obstacles when making expert recommendations to South Africans.

How should we reduce inequality in SA?

Piketty had plenty to say, beginning with stating that inequality had risen markedly since the new government came to power in 1994. A 2014 World Bank survey on South African inequality seems to contradict this. Social expenditure on the country’s disadvantaged communities (social grants, pensions, health care, education) had reduced inequality by nearly 25% - the Gini Coefficient (the globally accepted measurement on inequality in which 1 is completely unequal and the closer the index gets to zero, the more equal a society is) – had declined from 0.77 to 0.59 as a result of these interventions. Piketty appears to have overlooked this.

Some of his other statements did make sense – in South Africa the top 10% of earners receive nearly 65% of the income. In Brazil this is closer to 55% and it is 35% in Europe. What he did not say (but the World Bank Survey did) is that tax in South Africa is one of the largest redistributors of income – the top 10% of our earners pay 87% of personal income tax and 60% of VAT. One of his often-cited recommendations is to make tax more progressive but South Africa has already gone a long way down this road.

This implies that other initiatives such as **education reform** (to be fair Piketty did call for improved education), **improving job creation** and **access to the labour market** should be the ones to focus on to reduce inequality.

The proposed wealth tax

Finally, despite accepting that there is little data on wealth, Piketty is in favour of a low wealth tax which can then be evaluated and adjusted depending on the data that emerged from the proposed wealth tax. As taxes have many consequences, this is something that should be carefully weighed up if it is going to be implemented.

Interestingly there is one piece of research done on wealth in South Africa. It tracks the ratio of private to GDP (Gross Domestic Product) from the 1970s. The ratio is constant at 240-260% of GDP. One of Piketty’s best known pieces of research is that in first world countries this was 600-800% of GDP at the beginning of the last century and dropped to 200-300% in the 1970s but is now at 400-700%. This was used to justify his proposal for higher income taxes and a wealth tax. **It is difficult to justify a wealth tax when our ratio is approximately one third that of the first world**.

As wealth taxes only contribute 1% of the total tax collected, one would question how much impact a wealth tax would actually have. Even increasing current wealth taxes by 300% will only result in this tax contributing 4% of the tax take.

Inequality is a major issue and Piketty’s ideas may not be implemented here but he has nevertheless rekindled an important debate.

THE TAX OMBUD IS ON YOUR SIDE!

The Tax Ombud's Office came into effect in the second half of 2013. Recently the Ombud's first full year annual report was released.

What is the role of the Ombud?

The Ombud deals with service problems and administrative and procedural complaints **only**. Taxpayers need to have exhausted existing SARS dispute channels before contacting the Tax Ombudsman.

The annual report – what the stats show

The Ombud's Office had 6,003 communications with taxpayers of which 1,270 were complaints. 861 complaints were outside of the mandate of the Ombud or were premature for not having exhausted SARS' procedures first, with only 409 taken on. Only 16% of all complaints were lodged by registered tax practitioners on behalf of taxpayers. **More than 75% of accepted complaints were resolved in the taxpayer's favour**.

This is good news and bad news. The bad news is there is clearly ignorance by taxpayers as to the Ombud's role and the SARS internal complaints procedure. One can assume that in many of these cases, all dispute channels with SARS had not been used. Furthermore it is worrisome that many tax practitioners appear not to be using the Tax Ombud, whether out of ignorance or choice, both to the detriment of their clients. It will be interesting in future years to see if both these improve.

The 75% resolving of disputes in the taxpayer's favour underlines the importance of the Ombud and indicates the Ombud is operating independently of SARS.

The main areas of dispute

1. Withdrawal of assessment as the prescription period had lapsed. Taxpayers took too long to object to assessments and were not aware they could still reach an agreement with SARS.

2. Delayed refunds. These flowed from incorrect banking information held by SARS or given to SARS, verification audits and system problems at SARS.

3. Identity theft. The victim was a taxpayer whose tax account was used to generate a fraudulent claim which SARS paid out.

4. SARS officials not complying with the stipulated time periods with objections and appeals. The Ombud found there is frequent disregard of these time frames by SARS officials.

5. Outcomes of objections and appeals were not properly implemented.

6. SARS did not respond or help taxpayers.

The Ombud is performing a valuable service for taxpayers. Don't be afraid to use it.

YOUR PAIA MANUAL – TIME IS RUNNING OUT

If you were one of those small businesses given additional time to complete a PAIA manual, don't forget these need be finalised by 31 December 2015.

Speak to your accountants for assistance; they should have a template manual suitable for your business.

YOUR TAX DEADLINES FOR NOVEMBER

2015 Income Tax Return submissions are due on 27 November for non-provisional taxpayers filing on eFiling or non-provisional taxpayers filing electronically at a SARS branch.

Have a Great November!

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