

Tax First Namibia Newsletter

November 2014



A monthly newsletter published by PwC Namibia providing informed commentary on current developments in the local tax arena.

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PwC Business School:
13 Nov : Company Director's Training
19 Nov: Tax for non-financial managers

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Transfer pricing in Namibia

Now is the time to get your affairs in order

At the recent tax update of ICAN (Institute of Chartered Accountants in Namibia), the Commissioner for Inland Revenue, Mr. Sam Shivute, confirmed that enforcing transfer pricing ("TP") laws are high on their agenda. The Commissioner indicated that currently approximately 9 officials at Inland Revenue are being trained on Transfer Pricing. Expectations are that TP reviews will start in 2015.

Namibia introduced transfer pricing legislation on 14 May 2005. The legislation (Section 95A of the Namibian Income Tax Act) is aimed at enforcing the arm's length principle in cross-border transactions between connected persons. On 5 September 2006, the Directorate Inland Revenue issued a Practice Note (PN 2/2006) containing guidance on the application of the transfer pricing legislation.

Section 95A is aimed at ensuring that cross-border transactions between connected entities are fairly priced. This will ensure that tax profits are not stripped out of Namibia and moved to lower tax jurisdictions. Section 95A achieves this by giving the Minister of Finance the power to adjust tax returns and to tax Namibian entities as if these transactions were done at market-related prices.

Documentation required

A taxpayer is required to:

- keep documentation to support *how it determines arm's length prices* for TP transactions (the format of documentation is not prescribed)
- evidence that supports the *actual arm's length amounts charged* between connected parties

The documentation should generally contain a functional analysis which take into account i.e. the risks, functions and assets that each party brings to the transaction.

It should also include information gathered on comparable transactions between unconnected parties, to prove that the prices are set at arm's length.

If such information is not documented, it will be difficult for a taxpayer to defend himself against any TP tax adjustments made by Inland Revenue.

Remember, transfer pricing has been in Namibia since 2005 and therefore Inland Revenue can go back to the date of introduction to challenge taxpayers on transfer pricing matters.

A good start to tackling your transfer pricing risk includes:

- list all your cross-border transactions with connected entities
- understand how the prices charged for these were determined
- review the documents that you can give to Inland Revenue to support that amounts charged were at arm's length.

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Inland Revenue recently indicated that it is considering a proposed reduction in the debt: equity ratio used to determine whether financial assistance given to a Namibian company by foreign connected entities are excessive (in relation to its equity). Interest charges on the 'excessive portion' will not be deductible.

Currently a ratio of 3:1 is acceptable. It is proposed for the rate be reduced to 2:1. Neither of these rates have been officially published.

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VAT rules for connected party transactions

There are VAT questions that any business need to ask before concluding a transaction with a connected party. This includes when VAT is payable to Inland Revenue as well as the value on which VAT should be paid.

To determine if entities are regarded as connected parties for VAT purposes, one should consult the definition in the VAT Act.

One of the inclusions in this definition, states that where a person or any person connected to the 1st mentioned person controls 10% or more of the voting power/dividend rights/capital/profits, it will be regarded as a connected party.

It is thus important to determine the percentage of controlling power one entity has in another to determine if the rules relating to connected parties are applicable.

When is VAT payable to ROR?

The general rule for declaring output VAT to Inland Revenue is the earliest of issuing an invoice or when any payment has been received.

If you, for example, received a payment in advance from your customer and you have not yet issued any invoice to that customer for the supply, you will have to declare output VAT in the tax period you've received the payment.

Or where you have issued an invoice to the customer, but you have not yet rendered the supply OR you have rendered the supply but you have not yet received any payment, you will have to account for your output VAT in the tax period you have issued the invoice.

This general rule however does not apply when the parties are regarded as connected parties as per the VAT Act.

The time of supply rules for connected parties (i.e. when output VAT should be declared to Inland Revenue) are:

- with regards to a supply of goods—the time the goods are removed OR when the goods are made available to the recipient (customer);
- with regards to a supply of services—at the time the services are performed; and
- in the case of management or other similar services—at the end of each calendar month.

However, should an invoice be issued or any payment is received before any of the above occurs, the general rule on when output VAT should be declared will apply, also between connected parties.

What amount will be regarded as consideration?

When a supply of goods and/or services are made by connected parties for no consideration OR for consideration that is less than the market value, the value on which output VAT shall be calculated are as follows:

- If the supplier and the recipient is BOTH VAT registered persons, the value shall be the amount charged by the supplier (consideration);
- If the supplier is registered for VAT, but not the recipient, the value shall be regarded as the open market value of that supply (what the value of same supply would be if the parties are not connected parties).

Therefore it is important that your tax controls are set up to flag transactions with connected parties, and that these special rules are considered before you issue invoices or sign contracts

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Tax Calendar - November 2014

Mon	Tue	Wed	Thu	Fri
10	11	12	13 *Business School: Company Director's Training Contact liretha.jordaan@na.pwc.com	14
17	18	19 *Business School: Tax for Non-tax managers Contact liretha.jordaan@na.pwc.com	20 • PAYE Returns; • Import VAT return; • Withholding Tax on Services return; • VET Levy.	21
24	25 • VAT return (Category B)	26	27	28 • Social Security payment; • Tax return - companies with 30 April 2014 year-end; • 2nd provisional returns - companies with November year- ends

EFT payments made to Inland Revenue—avoid penalties



With the convenience of internet banking, and Inland Revenue accepting EFT payments, paying taxes definitely become easier. However, a new problem has come to light. Payment are received late by Inland Revenue, despite the taxpayers making payments at least one day before the due date.



Inland Revenue records tax payments on the date that the payment reflects on their bank statement. Therefore if the taxpayer made a payment on the 19th, but due to technical issues or bank delays, the payment only reflects on Inland Revenue's bank statement on the 22nd, the tax system will levy a 10% late payment penalty.



Taxpayers then need to approach Inland Revenue to contest the penalties levied on late payments. Although Inland Revenue may be lenient to waive penalties for so called 'first time offenders', this becomes more difficult with subsequent late payments.



To avoid the frustration and administrative costs of a penalty waivers, we advise that EFT payments are made **3 working days** in advance of the payment deadline.

For assistance or advice please contact one of our tax specialists.

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PwC Business School

Directors Training

Duties and liabilities of Company Directors (Basic)



Being appointed as a company director does not only bring a nice title.

The Companies Act expect directors to meet a large number of legal requirements, and sets out fines and prison terms for directors who do not.

In this session we give directors an overview of:

- what you are responsible for
- what will happen if you do not perform these duties
- basic guidelines on what to do to manage your company well and stay out of trouble

The course material will include a practical checklist of items you need to think about annually, monthly or as they happen.

Join us for this 3 hour session, designed with the busy business person in mind.

Target Audience

Private and public company directors.

Details of Session:

Date:

13 November 2014

Venue:

PwC Business School
344 Independence Avenue,
Windhoek, Namibia

RSVP:

By Tuesday, 11 November 2014

Contact Liretha Jordaan

Tel: 061 284 1041

Fax: 061 284 1541

liretha.jordaan@na.pwc.com

Space is limited so please book your seat now.

Agenda

07:30 for 08:00

Coffee, networking & welcome

08:00 to 09:30

Director's Responsibilities:

Administration of Companies

09:30 to 09:45

Coffee break

09:45 to 11:00

Director's Responsibilities: Finances

Cost

N\$ 860.00 (excl VAT) per participant.



Stéfan Hugo

Partner

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Dip Tax



Estelle Walters

Senior Manager

B.Com (Law), LLB,
H Dip Tax

PwC Business School

Tax Training for Non-finance managers



Many entrepreneurs and business managers end up, by default, with the responsibility to ensure that their businesses pay taxes and comply with tax laws.

However, most do not have the basic understanding of taxes required to manage this.

Our Tax for Non-finance Managers course is a to-the-point 3 hour session that will empower managers and entrepreneurs to understand:

- which taxes apply to your business;
- what you need to do to comply with the law;
- what will happen if you don't; and
- common mistakes and pitfalls to look out for.

Details of Session:

Date:

19 November 2014

Venue:

PwC Business School
344 Independence Avenue,
Windhoek, Namibia

RSVP:

By Monday, 17 November 2014

Contact Liretha Jordaan

Tel: 061 284 1041

Fax: 061 284 1541

liretha.jordaan@na.pwc.com

Space is limited so please book your seat now.

Agenda

07:30 for 08:00

Coffee, networking & welcome

08:00 to 11:00

Income Tax, Withholding Taxes, VAT, Customs, PAYE, Individual Taxes, Stamp Duty, Social Security and the VET levy

Cost

N\$ 860.00 (excl VAT) per participant.



Stéfan Hugo
Partner



**Chantell
Husselmann**
Partner

PwC Business School

Training Courses

November 2014



November

- 11 & 12** Basic Accounting: Finance for Non-Finance Managers
- 13** Director's Training: Duties and liabilities of Company Directors (Basic)
- 18** Organising Workflow and Time Mastery
- 19** Tax for Non-Finance Managers
- 19 - 20** People Skills for Managers
- 21** Bitesize Session: WvB: Managing VAT in the Construction Industry

For more details:

Liretha Jordaan at 061-284 1041 or
liretha.jordaan@na.pwc.com

Investment: Register three (3) delegates and one delegate may attend for 50% of the fee per participant.

Fee includes comprehensive hand out, facilitator's fee and certificate. All public courses allow it to be customised for client specific training. Cut-off date for registrations is 5 working days prior to workshop date.