



Tax First

Namibia Newsletter

November 2013

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Zero Tolerance for defaulting taxpayers

According to the 20 September 2013 “**Notice to all taxpayers**” issued by Inland Revenue, around 3000 Import VAT accounts have been suspended due to non-compliance.

The Press Release stated “*consequently, taxpayers whose accounts were suspended will no longer be allowed to defer the VAT payable on imports [Taxpayers] ..will be required to pay at the point of entry before their goods are released into the country*”.

On approaching Inland Revenue for clarification of this statement we were informed that an application for re-activation of a suspended import VAT account would not be considered favourably. The only exception is if a taxpayer made arrangements to be in good standing before **30 June 2013**.

It seems therefore if a taxpayer’s made arrangements **after** 30 June 2013 to get into good standing at Inland Revenue, the Import VAT account will remain closed.

Importers with suspended import VAT accounts, should still file NIL returns to avoid the N\$100/day penalty (unless Inland Revenue deregistered the import VAT account, through application by the taxpayer).

Currently, the options for importers with suspended Import VAT accounts, is to pay the import VAT either:

- in cash;
- with a Namibian bank guaranteed cheque at Namibian Customs; or
- via EFT payment to the Bank of Namibia with the Customs Asycuda registration number of the declaration as reference.

EFT payments must be cleared at the Bank of Namibia before Customs Namibia will issue a receipt. Clearing take up to 48 hours or longer.

The Press Release issued by Inland Revenue ends with the stern warning that taxpayers who remain in default will face enforcement of provisions, such as civil judgment, collection of tax by a debt collector, seizure of goods or recovery of tax from third parties.

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Permanent Establishment....are you exposed?

Very often, foreign companies do business in Namibia and are exposed to unexpected tax risks.

Services rendered in Namibia are considered to be from a Namibian source and accordingly taxable. Double Taxation Agreement relief may be available where a Namibian Permanent Establishment is not created.

Unlike in some other African jurisdictions, the term “permanent establishment” (“PE”) is not defined in the Namibian Income Tax Act. The term “permanent establishment” is however defined in Namibia’s Double Taxation Agreements (“DTA”)[#].

Namibia applies source rules to determine the taxability of a project in Namibia.

The Namibian DTA with specific countries stipulates that business profits of an enterprise would only be taxable in Namibia, to the extent that the foreign supplier operates from a permanent establishment in Namibia. Where the foreign supplier does not have a permanent establishment in Namibia, Namibia will not have a taxing right on the fees charged by the foreign supplier to the Namibian resident.

It is therefore important to determine whether you have a PE in order to ensure that you are paying your taxes due.

The term “fixed place of business” is often relevant in determining whether a company has a PE.

The following three elements would normally constitute a “fixed place of business” and may therefore result in potential tax liability in Namibia:

- the existence of a “place of business”, i.e. a facility such as premises or, in certain instances, machinery or equipment;
- this place of business must be “fixed”, i.e. it must be established at a distinct place with a degree of permanence for more than 6 months;
- The enterprise must carry on business at this fixed place. This means usually that persons who, in one way or another, are dependent on the enterprise (personnel) conduct the business of the enterprise in Namibia.

Where all 3 conditions are met, it is possible that a PE exists. Income from a PE will be taxable in Namibia and the entity will have to register and file tax returns with Inland Revenue.

[#]Namibia has DTA’s with South Africa, Russia, Sweden, Mauritius, Romania, India, United Kingdom, Germany, France, Botswana, Malaysia.

^{*}Guidelines on the term “fixed place of business” can be found in the OECD commentary.

Common Pitfalls - Employee Allowances

Employers are sometimes very creative with allowances granted to employees. In the majority of cases employees will be taxable on these allowances. The tax on the allowances vary depending on specific circumstances. Employees that receive allowances should be aware of the benefits and drawbacks of these ‘benefits’.

Allowances can be granted for employees’ to claim actual business related expenses. Business expenses paid by the employee may be claimed against the allowance provided up to the total amount of the allowance. Expenses in excess of the allowance will not be deductible.

Individuals receiving allowances, which are not fully subject to PAYE, should keep in mind that they will be taxed on any unexpended portion of the allowance with submission of their annual tax return. Proper records should be kept to substantiate business claims.



Government Gazettes

Government Gazettes for the period for October 2013 is included in this edition. This is not an exhaustive list of Acts/Notices/Proclamations published.

- No. 401 - 2013** Bank of Namibia published their Statement of Assets and Liabilities as at close of business, 31 August 2013
- No. 408 - 2013** Municipal Council of Windhoek announced determined administration fee for private infrastructure development projects at N\$16,800 per services erf.
- No. 276 - 2013** Publication of list in terms of Prevention and Combating of Terrorist Activities Act, 2012

Tax Calendar - November 2013

Monday	Tuesday	Wednesday	Thursday	Friday
18	19	20 <ul style="list-style-type: none">• Import VAT return• PAYE return• Withholding Tax on Services return	21 <i>Personal Tax Bitesize session at the Coast (invitation attached)</i>	22
25 <ul style="list-style-type: none">• VAT return (Category B)	26	27	28	29 <ul style="list-style-type: none">• Social Security payment• Tax return - companies with 30 April 2013 Year-End;• 2nd provisional returns - companies with 30 November Year-End

2013 PwC Business Investment e-Guide

We are pleased to announce the launch of our 2013 Business and Investment e-Guide. The 2013 guide will only be available as an e-book .

Download your copy after 1 November 2013 from
www.pwc.com/na/namibia-business-guide
or contact our partners to talk about your business needs.



2013 Namibian
Business and
Investment e-book

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

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Namibian Personal Taxation

Business Bitesize



PwC Business School offers a session to interact with our experts for a high level overview of how Namibians are taxed based on relevant Namibian tax legislation in a personal capacity.

Details of session:

Walvis Bay:

Date: 21 November 2013

Venue: Talent Development Centre, Othithiya Building
3rd Street East, No. 60, Walvis bay

RSVP: With Andra Moolman at
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(Fax) 064 217 800 or
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Space is limited so please book your seat now.

Agenda:

07H30 to 08H00
Registration & welcome

08H00 to 09H30
Namibian Personal Taxation Session

09H30 to 10H00
Coffee and networking



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