31 January 2011

Newsletter 1 of 2011

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Tax First

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Amended payment methods

The Receiver of Revenue announced further steps to simplify the process of Over -The –Counter and Electronic Funds Transfers made to the Bank of Namibia. Taxpayers will now be able to make direct deposits into the account of the Receiver of Revenue held at the Bank of Namibia (**Account No 165001, Branch Code 980172**).

Although Inland Revenue confirmed that this payment process is now in place, some of the commercial banks indicated that system changes are required to accommodate the new process. We advise that taxpayers confirm with their commercial banks in advance if this new process is in place prior to making payment. Payments can still be made via the NIS (Namibian Interbank Settlement System) if required.

In the communication, Inland Revenue indicated that a reference system consisting of 19 characters should be used when making payments.

The first 3 characters (position 1 to 3) of the reference refers to the Tax Payment Type and may only be one of the following:

- ***ITA*** – Income Tax (ITX) Account Payment;
- ***ITP*** – Income Tax (ITX) Provisional Payment
- ***ETA*** – Employee Tax (ETX) Account Payment
- ***ETP*** – Employee Tax (ETX) Period Payment
- ***VTA*** – Value Added Tax (VAT) Account Payment
- ***VTP*** – Value Added Tax (VAT) Period Payment
- ***VIA*** – VAT Import (VIA) Account Payment
- ***VIP*** – VAT Import (VIA) Period Payment
- ***WTA*** – Withholding Tax (WTX) Account Payment
- ***WTP*** – Withholding Tax (WTX) Period Payment

It should be noted that when a "Account Payment" (e.g. ITA, VTA, WTA above) is made,, the payment will be set off against the oldest liability due first which may be outstanding penalties or interest.

"Period Payment" refers to payments made for specific tax periods and such payments will be allocated as tax payments on the relevant account and period.

The next 10 characters (position 4 to 13 of the reference) refers to the File Identification Number (FIN)/Tax Number of the taxpayer.

The last character of this 10 digit sequence of the FIN/Tax number (position 13 of the reference) may only be one of the following:

- 1 for Income Tax (ITX)
- 4 for Employee Tax (ETX)
- 5 for Value Added Tax (VAT)
- 6 for Import Value-Added Tax on Goods (VIA)
- 7 for Withholding Tax (WTX)

The last 6 Characters (position 14 to 19 of the reference) refers to the Tax Period for which the payment is made.

The Tax Period consists of the Tax Year (YYYY) and Tax Month (MM) for which the payment is made.

NOTE: For Account Payments the Tax Period can be left BLANK or entered as 999999 or 000000.

Internet bank payments procedures differ from bank to bank and it is advised that taxpayers confirm this with their commercial bank prior to using the new method. This would include confirming the processing time to ensure that the payment reaches the Inland Revenue bank account on the submission date.

It is imperative that taxpayers attach proof of electronic payment when submitting returns and retain copies of the documents submitted.

An practical example of an electronic payment reference is included on page 4 of this newsletter.

Tax Legislative changes during 2010

The Income Tax, Transfer Duty and VAT amendments were announced during the 2009/2010 budget speech have been promulgated and gazetted on the 29th and 30th of April 2010 and the following provisions became applicable on the dates indicated:

Corporate Tax Rate
Company tax rate decreased from 35% to 34% for non-mining companies, effective for financial years beginning on or after 1 January 2009.

Lump sums from employers
The tax exempt portion of a lump sum payment due to retrenchment, ill health or retirement at the age of 55 has been increased from N$100,000 to N$300,000 and will be effective on payments made on or after 1 April 2010.

Pension fund lump sum
The tax exempt portion of a lump sum payment from a pension or retirement fund has increased from N$20,000 to N$50,000. If the full benefit is less than this amount, the full lump sum will be tax free. The amendment will be effective on payments made on or after 01 April 2010.

Mining rehabilitation Expenses
Effective 1 January 2010, rehabilitation expenses (actual and provision) will no longer be deductible in the calculation of income tax for mining companies. Accordingly it is envisaged that a mining company who previously had approval to claim these amounts :
- will not be able to claim tax deductions for rehabilitation expenses OR provisions after 31 December 2009; and
- will still be taxed in full on amounts previously claimed after it stops mining operations or when it utilises the allocated amounts for any purpose other than rehabilitation.

Withholding tax on interest – negotiable instruments
Withholding tax will not be payable on interest received on negotiable instruments.

Withholding tax on interest – Partnerships
Interest earned by a partnership of which a Namibian company is a partner is subject to withholding tax at 10%. The interest should still be included in the company's taxable income, while the pro rata share of withholding tax paid by the partnership may be deducted from taxes payable by the company.

Where a taxpayer (excluding a Namibian company), receives interest from a partnership that was already subject to withholding tax, the interest should be excluded in the partner's tax calculations, effective in the year of assessment commencing 01 March 2009.

Withholding tax on interest – undisclosed unit trust holders
Interest from a unit trust scheme registered in Namibia should be subject to withholding tax at 10%, where the interest accrues to or is in favour of an undisclosed principle represented by an agent (excluding a stockbroker), even if the undisclosed principle may be a Namibian company.

Withholding tax on interest – Interest not distributed by unit trusts
Interest earned by a Unit Trust Scheme should be subject to withholding tax where the interest is not distributed by the unit trust to its unit holders before the end of its financial year.

The effect of this will be that the return earned from non distributing unit trusts will be reduced by the withholding tax cost.

Withholding tax on interest – exempted persons
The following persons are exempted from withholding tax on interest:

- Persons (excluding Namibian companies) receiving interest from a trust or partnership which received interest on which tax was already withheld.
- Persons who are exempted from Income tax by some form of legislation.
- Foreign banking institutions which control and manage accounts of Namibian banking institutions.

Withholding tax on interest – filing and disclosure requirements for unit trust schemes
Unit trust schemes should submit a return to Inland Revenue within 2 months after their financial year in respect of the total amount of net interest accrued to the unit trust scheme, and not distributed to its unit holders by the end of the financial year. It should also show the amount of withholding tax on the net interest deemed to be distributed.

Withholding tax on interest – new definitions
Section 34A now specifically provides definitions for "negotiable instruments", "stock broker", "net interest" and "allocated permitted expenses"

Withholding tax on interest – liability of stockbrokers
If banking institutions and unit trust schemes fail to pay over any amount of withholding tax as a result of incorrect information provided by a stock broker, the Minister may recover the tax, interest and penalties directly from the stock broker.

Withholding tax on interest – deadline for issuing of certificates
Banking institutions and Unit Trust schemes must issue their interest payment certificate to every person, partnership and agent or representative persons of undisclosed principles, within 60 days after the last day of February each year in respect of tax withheld exceeding N$100.

Individual tax
The individual tax rates have been promulgated in line with the new tax tables previously approved.

Transfer duties
The new transfer duty table is effective since 1 May 2010. Property transactions for which agreements are concluded on or after this date will be subject to the new transfer duties.

Value-Added Tax— sugar and milk
Fresh milk and sugar (brown and white) have been added to the list of zero-rated foodstuffs. The zero-rating will be effective 01 May 2010.

Value-Added Tax— medical services
Services provided by medical and paramedical professionals will now be zero-rated.

This means medical service providers listed in the Amendment Act will be able to claim back input tax (VAT paid on purchases or imports of equipment, machinery, instruments, etc. and services provided to them in their professional capacities), provided they have been registered for VAT at Inland Revenue.

Value-Added Tax—funeral services
The supply of funeral undertaking services will now be zero-rated.

Value-Added Tax— agency principle
Amendments to the agency/principal relationship for VAT purposes have also been made to make it clear that local agents importing goods on behalf of non-resident principals will be allowed to on-supply the goods to the customers of such principals and the value of the on supplies will be the import value of the goods at the time of importation into Namibia.

TAX PAYMENTS AND REFUNDS: BANK OF NAMIBIA INTRODUCES CHEQUE CAPPING

In the Government Gazette of the Republic of Namibia dated 23 October 2009 a general notice was given for the "determination on reduction of the limit for domestic cheque payments within the National Payment system" which become effective **10 June 2010**.

The current policy has the following implications, among others:

- A cheque shall not be issued, accepted or processed for an amount greater than N$500, 000 (Five hundred thousand Namibia dollars) in settlement of a Namibian account;
- No person shall be allowed to split cheque payments into units of N$500,000 or less, where such multiple cheques are issued for the settlement of the same transaction.
- Businesses and individuals in Namibia should consult with their Namibian banking institutions in order to determine how payments above N$500,000 should be transacted.

Refunds

- Effective 10 June 2010, Inland Revenue will not issue refund cheques in excess of N$500 000;
- In the event of a tax refund exceeding N$500 000, Inland Revenue will effect an electronic transfer to the taxpayer's bank account;
- The refund process is currently an internal manual processes which requires signatories up to the Permanent Secretary level;
- This may lead to delays in the process leading up to the electronic transfer of funds.

Tax Calendar—February 2011

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21 PAYE payment (Due 20 Feb 2011) Import VAT returns	22	23	24	25 VAT returns (Category A)	26
27	28 Second Provisional tax payment (Individuals) Social Security payment					

Government Gazettes during January 2011

Please note that Government Gazettes up until and including 21 January 2011 was included in this edition.

There were no legislation promulgated during January 2011.

Amended payment procedure: A practical example

A company with VAT Number 1111111-015, wishes to make a direct payment into the Inland Revenue account held at the Bank of Namibia. The amount to be deposited is the Value-Added Tax due for the tax period ended January 2011. The reference will thus look as follows:

A								B						C				
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
V	T	P	1	1	1	1	1	1	1	0	1	5	2	0	1	1	0	1

A= Tax Type and indication of "period payment"
B= Tax number of taxpayer and reference to tax type
C= Year and Tax period

An account payment made by a taxpayer on its VAT account will look as follows:

A							B							C				
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
V	T	A	1	1	1	1	1	1	1	0	1	5	9	9	9	9	9	9

A= Tax Type and indication of "account payment"
B= Tax number of taxpayer and reference to tax type
C= NO Year and Tax period

It should be noted that with regard to VAT payable on Imported Services, the Receiver of Revenue has not made reference to any Imported Services payments.

PwC Direct tax services

Corporate Tax Consulting

- Technical opinions on taxes in Namibia
- Tax considerations for setting up business in Namibia
- Optimal tax planning
- Business restructuring
- Reducing tax compliance risks
- Transfer Pricing policy documentation
- Transfer Pricing compliance reviews
- Tax Accounting Services - Income and deferred tax calculations

Compliance

- Calculation and submission of provisional tax returns
- Completion & submission of returns of income
- Record keeping and comparison of assessments by Receiver of Revenue
- Notification of discrepancies on assessments of income tax returns
- Application for extension for the submission of income tax returns

Tax Function Effectiveness Reviews

- Tax strategy
- Tax policies
- Tax Risk assessment
- Internal controls in the tax cycle
- Tax Process documentation and operation Manuals

Remuneration, benefits and reward consulting

- Salary structuring
- Benchmarking and salary survey
- Job structuring
- Total Cost To Company implementation

International Assignee Services

- Immigration
- Tax equalization calculations for expatriates
- Payroll administration

Receiver of Revenue liaison on all PAYE related matters

Trust and Estate Services

Estate Planning

- Drafting and implementation of estate plans
- Formation of inter vivos or testamentary trusts
- Administration of estates as executors or as agents of nominated executors

Trust administration

- Advise individuals on the formation of trusts including tax and legal consequences of such an arrangement
- Registration of trusts
- Advise on the administrative requirements of trusts
- Day-to-day administration of trusts. including the keeping of minutes of meetings

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VAT Practice Note 1 of 2010: Inland Revenue on claiming of input tax paid on goods imported

Inland Revenue on the 11 October 2010 issued a Practice Note (No. 1 of 2010) setting out when input tax paid on goods imported into Namibia by a registered person in the furtherance of a taxable activity, may be claimed and included in a VAT return.

The practice note took effect on the 1st of November 2010.

Inland Revenue confirmed that the date the goods were imported does not trigger the entitlement to claim input tax on such goods imported. The date the input tax was paid as provided for in section 18(1)(a)(ii) of the VAT Act, 2000 will trigger the entitlement to claim the input tax. Inland Revenue, however, further qualified the entitlement in the Practice Note by stating that a registered person may only claim input tax incurred during a tax period on the importation of goods and explained that by the following examples:

(i) If goods were imported during, for example, tax period August 2010, but the import tax on such imports were paid only on 20 September 2010, the input tax may only be included and claimed in the following VAT return for tax period, September to October 2010, as the input tax was not paid during the tax period July-August 2010.

(ii) If goods were imported during the same period, July –August 2010 and the input tax on such imports was paid during the same VAT period, including the input tax on imports up to and including 31 August 2010, the input tax so paid may be included and claimed in the VAT return for the tax period July - August 2010.

It is therefore clear that only input tax paid during a specific tax period may be included and claimed in the VAT return for that period. If the input tax on goods imported was paid on a date which falls after the end of the tax period, the input tax may not be claimed in the VAT return that relates to that period and may only be claimed in the subsequent VAT return.

In the example of imports for tax period August was duly paid on 20 September as provided for in section 14(1)(c) payment may not be claimed in the VAT return due 25 September 2010 and may only be claimed in the VAT return due 25 November 2010.

Should the claiming of input tax lead to a refund in excess of N$15 000, the VAT return must be
audited in terms of current practice by Inland Revenue, which will further delay the refund to the taxpayer.

Although in theory it will be possible to import goods on 31 August 2010, pay the VAT on importation on the same day and claim back the input tax still on the VAT return for the period July –August, in practice this will be impossible.

Most importers regularly make use of the import VAT account facility and will only become aware of input tax due when the goods arrived at the premises of the importer in Namibia or by obtaining regular reports from Customs Namibia on the import VAT account facility. Such importers will not be in the position to pay Inland Revenue the input tax due on the same day the customs declaration related to the import of the goods was assessed by the border customs office.

The claiming of input tax will in most, if not all, cases, delayed with a minimum period of another two months. This implies serious cash flow implications for regular importers who are registered at Inland Revenue and make use of the import VAT account facility.

The Practice Note, however, confirmed that input tax paid may be claimed for a period of 3 years from the date it was paid. The claiming of input tax paid is not related to a three year period prior to date of importation but three years after payment of input tax was made to Inland Revenue.

Is your house in order?

One of the great advantages of living in our beautiful country is that our private living expenses are creating a tax benefit to us, where else in the world would you find such generosity?

This privilege should however not be taken for granted, as it may create a greater burden than benefit. How will you ensure that your house is in order?

Below is a basic checklist to ensure you comply with legislation:

- Is your employer's housing scheme registered with the authorities?
- Can your tax benefit be verified by a rental contract or bond agreement?
- Is the combined allowance for you and your spouse limited to your expense?
- Is the allowance limited to only one rental or bond agreement?
- Does this agreement relate to the house you live in?

The application of the one-third tax benefit is as follows:

- Limited to 1/3 of the actual rental agreement; or
- Limited to 1/3 of the minimum bond instalment calculated over 20-years; or
- Limited to 1/3 of the subsidised interest received from your employer.

Remember that the tax benefit is limited to the lesser of your allowance or actual expense. Only the taxable portion of the allowance should show on your PAYE 5 certificate, therefore no further claims is required when submitting your tax return.

This is interpreted from section 16A of the Income Tax Act 24 of 1981, as amended.

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