

PENALTIES: DON'T KILL MY COW, MR TAXMAN! By Jonathan Hore

Have you ever been slapped with a heavy tax penalty bill by the taxman such that you can't find sleep? Yes, if you didn't know, the taxman is empowered to charge penalties of up to 200% of the tax payable. If you owe P10m, you may find yourself with a P30m tax bill! That is when you may be tempted to plead with the taxman not to kill the cow that he milks. But then you need the expert advice of a competent tax consultant, otherwise that cow of yours may be gone. But why would the taxman want to hammer the cow that he milks with tax penalties?

LATE-SUBMISSION OF RETURN

Most taxpayers suffer tax penalties due to the late-submission of tax returns. Tax Acts prescribe the due dates that tax returns are to be submitted to BURS and if these dates are missed, then the taxman pounces on you with a penalty. The penalty varies depending on the type of tax that one is dealing with.

One of the heaviest tax penalties is levied for late-submission of VAT returns, especially where there is tax payable. Those penalties are still chargeable even when one has paid the tax due to the taxman on time. One is penalised for submitting a VAT return late; period.

The VAT Act prescribes that VAT returns must be submitted to BURS not later than the 25th day of the month following the end of one's tax period. If one is registered under a category which obliges him to submit a VAT return on bi-monthly intervals such as June- July 2017, then that VAT return becomes due by 25 August 2017. Should the taxpayer submit the VAT return on 28 August 2017, then he faces the vengeance of the taxman. The VAT penalty is 10% of the tax payable and it is charged on a monthly basis. And if you did not know, part of a month is regarded as a full month. That is to say, if you delay by 2 days, the full 10% of the tax payable is charged and is not pro-rated.

To put things into perspective, if you submit a VAT return 2 days late and the return shows tax payable of P10m, you are charged a penalty of P1m. OMG! That's massive. Where do you get that P1m from? If you think the taxman worries about that, then you haven't suffered such a tax penalty. The source of the funds is your baby. The taxman also charges penalties of P100 per day for late-submission of income tax returns, mainly corporate returns, provided there is tax payable. If one delays to submit his income tax return by 2 years, they should expect a tax penalty bill of P 73 000. I should be quick to state that income tax penalties are bearable and not as steep as VAT penalties. Further, the tax penalties cannot exceed tax payable.

UNDER-DECLARATION OF INCOME

If one under-declares income, then the taxman can also pounce on them. Usually, a penalty of 100% is charged for such an act. If you think that's a joke, wait a minute and I will show you that your cow can actually choke from such a penalty. Let's assume that you make an annual profit of P 4m and the taxman audits you for 4 years, coming up with under-declared income of P4.5m; that means your tax bill will be P9m. So, where on earth will you get that amount? But hold your breath and let me finish. If the taxman is of the view that you intended to evade tax, then he charges penalties of up to 200%. That means a business which makes P4m in profits may find itself with a tax bill of P4.5m plus 200% of P4.5m, which is P13.5m. OMG! That's when you will plead with the taxman not to kill the cow he milks. But don't think he budges easily. He usually stands firm!

DON'T KILL MY COW, PLEASE!!

So, you might as well find yourself with such onerous tax penalty bills which threaten to shut down your business or hurt you cashflow-wise but that is not the end of the road. In such instances, you then need to engage the services of a competent tax consultant, to plead for lenience with the taxman, other-wise you are gone! The tax consultant understands the technical jargon that is used by the taxman and also has various means that he can employ to buy the taxman's mercy. He knows the tax treatment of most, if not all tax transactions and is able to even challenge the taxman where there is a technical flaw in the penalty; but I guarantee you may never be able to detect this on your own. Further, a tax consultant has the weaponry with which to quench the hot darts of the taxman, being the tax legislation and decided tax cases.

So, instead of watching your cow collapse, seek a tax consultant's guidance and you will be able to say: Don't kill my cow, Mr Taxman!

Disclaimer: Jonathan Hore is a practicing Tax Consultant with over 17 years in Tax and Customs matters and writes on behalf of Aupracon Tax Specialists. The information contained in this article is of a general nature and is not meant to address particular circumstances of any person.