

## **TAX EVASION: THE WRONG ROUTE! By Jonathan Hore**

Welcome folks to today's article in which I will analyse in detail what tax evasion is, how it affects the tax evader and how the taxman can attack such practices. Don't take me for a taxman, I am just a tax consultant who wants to let you know what the laws stipulate so you do things right. Tax evasion is the wilful, calculated and illegal non-payment or underpayment of tax. At times, tax evaders seek not to pay anything at all, when they would otherwise have to pay tax. I must hasten to state that tax planning is the exactly the opposite as it is planning one's tax affairs so as to pay the least possible amount of tax through utilisation of tax breaks in the Tax Acts. On the other hand, tax evasion is an illegal act of defrauding the fiscus.

### **EXPLAIN SOME MORE**

Tax evasion manifests itself in various ways, depending on the scheme that the evader comes-up with. As it is not supported by the Tax Acts, there are various ways through which the evader can maliciously attack the fiscus. By the way, the Tax Acts prescribe how much tax should be paid in any given circumstance. Of course I know that Tax is instituted by the tax laws, so there may be divergent views in interpreting the tax laws. Tax evasion has nothing to do with that. It is simply an orchestrated attempt to dodge the taxman and then use the tax that was due for personal financial gain. Well, that does not sound good at all but the tax evader feels like he is scoring every time he evades tax. But maybe we should expand more on how tax evasion manifests itself.

### **UNDERSTATEMENT OF INCOME**

The most obvious way in which tax evasion is carried out is through the understatement of income. But why understate income in the first place? Well, the answer is easy. The more income you make, the more tax you pay. So, a tax evader's intention is to pay the least amount of tax or nothing at all. But remember this, all that is done in clear infringement of the tax laws. Corporate tax for example, is paid on the profits that a company makes. Therefore, the reduction of the income lowers the corporate tax that one pays. VAT is also paid on the income that one makes. Technically, the more income one generates translates into more VAT that one may have to pay, assuming all things constant. This concept therefore applies with almost all taxes, where more tax is paid when someone earns more income. Tax evaders will usually cut income, such as reducing sales from P20m to P15m. That basically wipes away the tax that would otherwise have been paid on the P5m.

### **OVERSTATEMENT OF EXPENSES**

Expenses incurred in the earning of taxable income are usually offset against income before tax is determined. Corporate tax for example, is determined after offsetting income against expenses incurred in the generation of that income. Where one has a tax loss, then no tax is payable. Tax evaders usually pump in fake or manufactured expenditures which then reduce the taxable amount.

### **NON-PAYMENT OF TAX**

One of the ugliest forms of tax evasion is when a taxpayer deducts tax as 'agent' of the taxman and pockets it instead of taking it to the rightful owner. All employers are tasked with the responsibility of deducting employees' tax and are obliged to take it to BURS within prescribed timelines. Further, a number of taxpayers deduct tax such withholding tax on rent, commission, etc. Instead of taking the tax to BURS, a tax evader decides to go the illegal route and uses the money for his own private purposes. That's simply tax evasion. Like I stated, it is impossible to exhaust the schemes that tax evaders employ to trick the taxman.

## **HOW THE TAXMAN COUNTERS THIS**

The taxman counters tax evasion through a number of actions, including tax audits. A tax audit is an exercise in which a taxpayer's affairs are audited with the intention of detecting any tax leakages. These audits can be full-scale audits where the taxman visits the taxpayer and goes through their tax records or it may be in the form of a desk-top audit. The latter is a form of audit where the taxman simply uses information availed to him to detect some tax leakages in his office. For example, the taxman can check your financial statements' sales against the sales you declared in your VAT return and actually determine tax due.

## **WHY A WRONG ROUTE?**

Evading tax is an illegal act that attracts penalties of a maximum of 200%. Well, if you thought that was small, assume having a bill of P 90m from a principal amount of P 30m you evaded. If you are a business, chances that you will close are so high. One can go bankrupt. That's when the bomb explodes into one's face and one discovers they took the wrong route.

Well, the taxman can change the matter from being one between a taxpayer and himself and make it a legal matter where he seeks the courts to convict the taxpayer of wrongdoing. Those cases are usually ugly and not at all enjoyable. You may then find taxpayers in the news, damaging their public image and in other countries, the taxpayers may be jailed. Well, it's better to pay your taxes as tax evasion is certainly the wrong route.

Well folks, I hope that was insightful. As yours truly says goodbye, remember again to give to Caesar what belongs to him.

*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.*