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BURS' 19.56% INTEREST CAN CRIPPLE YOU: By Jonathan Hore

We all know that interest is money that is paid for money borrowed or for an overdue debt. In other words, interest helps preserve the value of money that is not paid in time. I want to analyse the tax interest that the taxman charges for late payment of taxes and how this has the capacity of denting your financial position. But most importantly, I will give you hints on how to avoid such heavy interest in the first place. In this article, words importing the masculine shall be deemed to include the feminine.

HOW INTEREST IS CHARGED

Interest for late payment of tax is charged at the rate of 1.5% per month or part thereof. Different taxes have different payment deadlines. For example, VAT must be paid by the 25th day of the month following the end of a VAT registrant's tax period. If a taxpayer is preparing his VAT return for July 2019, the tax must be paid by the 25th of August 2019, to avoid any interest charges. If the tax is paid on 26 August 2019, the taxman still charges the full 1.5% interest as if the 1 day delay is a full month. This is based on the fact that the interest charging sections prescribe that the interest is charged 'per month' or 'part thereof.'

That 'part thereof' is the one which allows BURS to charge a full month's interest even for periods less than a full month.
Given the fact that interest is charged at 1.5% per month, the annual effective interest rate becomes 19.56%, which means that if you owe P1m and you do not pay it for a full year, you end up with an interest bill of P 195 600. So, the first tip regarding tax interest is to avoid it by always paying the taxes in time.

NO LIMIT TO INTEREST CHARGES

The in duplum rule which prescribes that no-one can charge interest in excess of the principal debt does not apply to tax debts. This is so as the in duplum rule only applies to contractual debts and by the way, tax is not contractual but statutory. Let me state that BURS can charge interest which is way above the principal tax and that is legal. I know cases where BURS has charged interest which is over 300% of the principal tax. When the interest reaches such levels, it then becomes very onerous. Like we stated above, the best way to avoid the interest is to pay tax in time.

INTEREST ON INTEREST

Before 1 July 2011, BURS used to charge simple interest, which meant that it could only charge interest on the principal tax only. As an example, if a taxpayer owed a principal tax debt of P1m, the interest that would be charged every month would remain at P15 000 regardless of the number of months involved. However, effective 1 July 2011, the VAT and Income Tax Acts were amended to allow BURS to charge compound interest. Using our P1m principal tax above, the 1st month interest would be P 15 000 but the 2nd month interest would be 1.5% of the summation of the principal of P1m plus P 1 5000, which brings the interest charge to P 15 225. Effectively, that is called compound interest or interest on interest. The shift from simple interest to compound interest or interest on interest makes the tax debts of taxpayers to rise faster than under the simple interest regime.

THE ESCAPE

Once interest has been charged, you need to know that BURS' hands are tied as it is not allowed to waive interest that it would have correctly charged. However, if interest was erroneously charged, BURS can reverse such interest. Given BURS' limited powers in as far as interest waivers are concerned, the only place where taxpayers can get interest waived is at the Ministry of Finance & Economic Development. However, the ministry only waives interest which it deems irrecoverable or where it is satisfied that it was justifiable to waive the same. In practice, where a taxpayer can prove that they do not have the capacity to clear their interest debt, then the waiver is usually considered. However, if a taxpayer has the means with which to extinguish the tax debt, waivers are difficult to obtain. Therefore, if ever one intends to get tax interest waived, they should be ready to prove their case.

INTEREST CAN CRIPPLE

As stated above, BURS charges interest until the principal tax is paid and in practice, there is no limit as to the amount that BURS charges. Let me make it clear that tax interest may grow to such astronomical levels that you may not be able to manage it. Even if you start to make arrangements to pay the interest in instalments, BURS continues to charge interest on the balance on your statement. This may result in you not being able to extinguish the interest debt at all, especially if it is significant. Further, if you are a corporate which pays income tax at 22%, the interest expense is not tax deductible, which means that your corporate tax bill goes up by 22% of the interest charge. Literally, tax interest not only drains you financially but it can cripple your operations, especially if it is significant. They say prevention is better that cure; so prevent the onerous interest by paying taxes in time.

Well folks, I hope that was insightful. As Yours Truly says goodbye, remember to pay to Caesar what belongs to him. If you want to join our Tax Whatsapp group, send me a text on the cell number below.