

TAX PENALTIES CAN BE WAIVED: By Jonathan Hore

It is very common for taxpayers to find themselves with tax penalties, which arise in different scenarios. BURS is empowered to charge tax penalties for among other reasons, late submission of tax returns and under-declaration of taxes. The penalties vary with the circumstances but the heaviest ones are those for under-declaration of taxes, i.e. they can be as heavy as 200%. Whilst tax penalties are chargeable by law, taxpayers should always know that the Tax Acts allow them to seek for waivers of such penalties. I will discuss this matter in detail in today's instalment of my articles. In this article, words importing the masculine shall be deemed to include the feminine.

SEEKING WAIVERS

Let me start by directing your attention to a tax concept called the Pay-Now-Argue-Later principle. This concept basically prescribes that once a tax authority has assessed taxes and penalties, the taxpayer is bound to pay and later argue about such assessment. It is not expected that the taxpayer argues before making payment. I am very aware of that principle but then, the tax laws allow taxpayers to seek for BURS' lenience in cases where penalties are levied. So, negotiating penalties becomes an act of tact in which you balance the Pay-Now-Argue-Later principle with the waiver. Given this technicality, the taxpayer who has a knowledgeable tax advisor will always be way ahead of the one who doesn't. As tax advisors, we know what the tax laws provide and we make use of the avenues availed.

CREDIBLE SUBMISSIONS

There is nowhere in the tax laws where you will find what constitutes a credible tax waiver submission. However, an experienced tax advisor will know that such submission must contain some or all of the following:

- **Just cause:** In order for BURS to waive penalties, just cause must be shown. In other words, you must advance good and sound reasons why the penalties must be waived. Good reasons include but are not limited to an unexpected lapse in the system (a once-off mishap), lack of skilled manpower, a key person falling ill, theft of equipment or documents. The reasons must then be expanded so as to show how they impacted the tax compliance which led to the imposition of the tax penalties.
- **Cite the law:** A good tax waiver submission should remind the taxman that he is given powers by the law to waive penalties. The appropriate section must be quoted and presented to the taxman to motivate the waiver.
- **Corrective measures:** It pleases the taxman to hear that whilst you stumbled and attracted a tax penalty, you have put in place corrective measures to ensure tax compliance in the future. Technically, you will be telling him that what happened was a mistake and you are serious with your dealings with him. The taxman is not pleased when it is apparent that the tax penalty arose due to negligence. Believe you me, I once was a taxman in my old life. Taxpayers' attitudes towards tax mean a lot to a taxman.
- **Compliance history:** The taxman usually does not become harsh with taxpayers who show that their previous tax compliance is clean and that what would have happened was a genuine mistake. If a taxpayer's previous tax compliance is impressive, then the taxman will certainly be pleased to attend to an application for tax penalty waivers. However, if one shows that they are a sworn tax defaulter and they try to seek the taxman's attention, the result is usually not so pleasant.

- **Offer to pay:** If a taxpayer tells the taxman that he will settle his account on receipt of a response to the waiver of penalties, that is a demonstration of seriousness. Such commitments usually trigger lenience and consequently lead to waiver of tax penalties.

CONCLUSION

The best way of dealing with tax penalties is to avoid them. They say prevention is better than cure. So, ensure that your tax affairs are clean and always get a tax consultant to assist you with checking whether you are doing things right before the taxman knocks on the door. However, should you find a tax penalty bill in front of you, then think of a waiver.

As Yours Truly says goodbye, remember to pay to Caesar what belongs to him. If you want to join our Tax whatsapp group, please send me a text on the number below.