

COVID-19 CORPORATE TAX RELIEF LAW ENACTED: By Jonathan Hore

The Minister of Finance & Economic Development, Hon Dr T Matsheka, enacted the anticipated COVID-19 corporate tax relief law on 4 May 2020, cited as Income Tax (COVID-19) (Deferment of Self Assessment Tax) Order 2020. This was preceded by a pronouncement he made on the 31st of March 2020, which was followed by his ministry's press release of 2 April 2020. Although the law was enacted on 4 May 2020, it shall be deemed to be effective as from 1 March 2020. According to the law, the deferment of the corporate tax, 'is to provide temporary relief from payment of tax to taxpayers adversely affected by the COVID-19 pandemic.'

The relief

The relief comes in the form of deferment of part of self-assessed corporate tax (SATs), which companies are required to pay quarterly, in advance. For example, a company trading in its 30 June 2020 financial year is expected to pay a quarter of its total estimated tax by 30 September 2019, 31 December 2019, 31 March 2020 and 30 June 2020. Any balance of such tax is required to be paid within 4 months from the end of the financial year. Taxpayers who have annual tax not exceeding P 50 000 are not required to pay tax in advance but make one lump-sum payment by the time of filing returns.

Instead of paying the tax as normal, the Minister allows corporates to defer tax payments to anytime between 1 March 2021 and 31 December 2021, as follows:

- Deferment of 75% of any two quarterly SAT payments for any quarters falling between 1 March 2020 and 30 September 2020. The balance after the deferment must be paid to BURS.
- Where applicable, defer 75% of the balance of the final tax due by time of filing a return, i.e. final SAT due to BURS between 1 March 2020 and 30 September 2020. The amount not deferred must be paid.
- Taxpayers with total annual tax below P50 000 may defer 75% of any two quarters or 75% of the total tax due.
- Taxpayers who would have already paid tax for 3 quarters can only defer 75% of their last/forth SAT as well as 75% of any balance due at time of submission of their returns.

Eligible taxpayers

Taxpayers who are in possession of a valid tax clearance certificate and whose annual revenue does not exceed P250m may apply electronically to BURS within 60days from 4 May 2020 (i.e. by 3 July 2020), for the deferment. Taxpayers whose turnover is above P250m who hold valid tax clearance certificates should electronically apply to the Minister within 30 days (i.e. by 3 June 2020). The law does not state how long BURS shall take to consider applications but the Minister shall do so within 14days.

It appears that the tax clearance certificates should be on hand at the time of applying for the deferment and not necessarily on the date of enactment of the law. Taxpayers must in all instances state which quarters they chose to defer tax on. The law does not state that BURS shall assess applicants but that condition is put on the Minister, giving an impression that large entities may have to justify tax deferments.

The benefits

The deferment gives back some taxpayers part of the cash they would have paid in taxes, improving their cashflow positions. Further, the deferment will come with automatic interest waivers as SAT payments will fall below the levels ordinarily required by the Income Tax Act. It also follows that the relief only applies to taxpayers who will be in a tax-paying position as those are the ones required to pay SATs.

Technicalities

The law does not specify how taxpayers must split the deferred amount when they resume payments in 2021 and as such, it can be inferred that no interest is chargeable as long as the full deferred amount is paid by 31 December 2021. Secondly, it is not yet clear whether BURS will simultaneously extend the due date of submission of affected returns to 31 December 2021, to match with the last date of extended payment. If that is not done, then most assessments issued before then may be incorrect as they will not capture total tax payments made, which may generate undue interest.

It also appears that taxpayers who submit returns electronically before 31 December 2021 will have to rigorously engage BURS as the returns submitted automatically become assessments. This may instantly conjure undue interest as the SATs have until end of next year to be cleared. Unless BURS issues guidance to the contrary, it appears reasonable to presume that issuance of assessments for manual returns will also be suspended after 31 December 2021.