

## **AVOID ASTRONOMICAL 200% TAX PENALTIES IN BOTSWANA**

The taxman is empowered by the Tax Acts to charge penalties for a number of reasons. We will focus on instances where he charges 200% penalties. This sounds incredibly high it really is. Unfortunately, the same astronomical levels of penalties apply both under the Income Tax Act as well as the VAT Act. The purpose of a penalty is to punish the tax defaulter as well as to deter other would-be defaulters. To make matters worse, interest is then charged on the aggregate of the principal tax, penalties as well as previous interest charges. That is called compounded interest and it technically makes some taxpayers insolvent. So, what is the taxman's motivation in charging these penalties? We will analyse that below. In this article, words importing the masculine shall be deemed to include the feminine.

### **The law**

Well, the taxman charges penalties simply because the Tax Acts require him to do so. Further, all tax authorities rely on what is called voluntary compliance, meaning that taxpayers should pay the right amount of tax without compulsion from the taxman. When the 200% penalty is charged, it will be like the taxman will be saying, 'I am too busy to monitor the affairs of every taxpayer, so pay the correct amount of tax. If I have to check your affairs and discover that you underpaid or did not pay tax, then I will punish you by charging 200% penalties. The 200% compensates my efforts for having to force you to comply.' The Tax Acts set out instances where the taxman charges these high 200% penalties in the scenarios discussed below.

### **Negligence**

Where a taxpayer shows negligence and carelessness, the taxman's wrath boils. A good example is when VAT is not charged by a person who is registered for VAT. Another example is when VAT is not charged on mobilization fees received for services not yet rendered simply because accountants treat such income as not yet earned. However, the taxman treats such amount as subject to VAT on the basis that VAT is accounted for on the earlier of receipt of payment or issuance of an invoice. The fact that the services may be rendered in a subsequent tax year does not vary the VAT treatment.

### **Wilful default**

Where a taxpayer underpays tax due to a fraudulent scheme and wilful default, then the penalties come crushing down on that taxpayer. This is a planned and known default in paying taxes, such as understating sales. In the above cases, it is up to the taxpayer to prove that their actions did not amount to negligence, carelessness, fraud or wilful default. So, if you were still shocked that the taxman charges 200% penalties, you better believe it because it is real.

**Any waivers?**

The answer is yes, but we must hasten to state that you need a good rebuttal or submission to counter the tax penalties. The taxman wants to maximise the collections he makes from you whilst you want to pay the least possible amount as permitted by the law. Therefore, a 200% penalty is the maximum that the taxman can charge but it is not the final amount. You may actually, depending on your circumstances and provided you obtain professional tax advice, get up to 200% of the penalties waived. Note however, that waiving penalties is the prerogative of BURS.

Well folks, we hope that was insightful. As us the two Yours Truly say goodbye, remember to pay to Caesar what belongs to him. If you want to consult, join our free Tax WhatsApp group or to know about our 9 Tax e-books, send us a text to +267 7181 5836. You can read more tax articles on our website, [www.aupracontax.co.bw](http://www.aupracontax.co.bw) under the 'Tax articles' tab.