

Voluntary Disclosure Programme's finale ... an opportunity to repair your tax indiscretions

By Johan Kotze

The current Voluntary Disclosure Programme (VDP) has about four months to go before it expires.

While this amnesty is not as generous as its predecessors, it is certainly worth considering, because undeclared income has a way of coming to the surface and to SARS' attention. Given that element of discomfort, it may be worth one's while to buy some peace of mind.

What makes this VDP less attractive than those of the past is that it is not a waiver of the tax itself. One of the attractions is that it does not necessarily require immediate payment of the tax. In this context, the agreement which SARS and the taxpayer will sign must include details of the arrangements and dates for payment.

Bear in mind:

- the VDP only covers transgressions which occurred prior to 17 February 2010; and
- the disclosure should be made on or before 31 October 2011.

The VDP is, regrettably, problematic, because it is not immediately clear as to what is on offer if a taxpayer discloses to SARS.

From an Income Tax perspective, the VDP offers relief from:

- Additional tax in the event of a default or omission, which can be as much as 200%;
- Additional tax on the under-estimation of provisional tax and the late rendition of provisional tax returns
- Penalties if an employer fails to pay employees' tax
- Penalties on fringe benefit tax under-stated
- Interest on underpayment of provisional tax
- Interest on overdue provisional tax and employees' tax payments
- Interest on outstanding STC

The VDP does not offer relief in the following circumstances:

- Administrative penalties for -non-compliance
- Penalties for late filing of annual employees' tax certificates
- Penalty for late payment of provisional tax
- Penalty on late payment by employers of employees' tax
- Normal interest running from date of assessment

From a Value-Added Tax perspective the VDP offers relief from:

- Additional tax in case of evasion, which can also be as much as 200%; and
- Interest.

From a VAT perspective the VDP also does not offer relief from the 10% penalty.

The VDP also gives protection from criminally prosecution for any statutory offence under a tax act or a related common law offence.

Morally we can argue that amnesties and VDPs are wrong. Yet they are part of the current tax landscape, albeit only until the end of October. I accordingly advise that

one should seriously consider making use of this opportunity to repair your indiscretions.

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