

Is SARS really empowering the small business?

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The five key focus areas that were proposed in the 2005 year for empowering small businesses were as follows:

- (1) Streamlining taxes;
- (2) Streamlining entry;
- (3) Streamlining filing;
- (4) Advice and assistance;
- (5) Tax relief for small business (Minister of Finance, 2005:1).

These relief measures were expanded on in certain circumstances in the 2006 budget speech (Minister of Finance, 2006:22). The manner in which the South African Revenue Service (SARS) aims to achieve these results is briefly set out below. Authors' comments are provided in this regard.

(1) Streamlining taxes

The abolishment, the simplification of the calculation and the exemption of certain taxes were introduced to improve the economic environment for small business. These changes were and are being implemented as follows:

- From 1 August 2005, small employers with an annual payroll of R500 000 or less are exempted from the Skills Development Levy.

Comment: This proposal was communicated to employers firstly by means of the budget speech that was televised and then summarised in various newspapers as well as by newsletters that were sent out to employers with their monthly SDL returns. This measure appears to have been implemented successfully.

- A simplified basis for calculating Value Added Tax (VAT) on sales in terms of the small retailers VAT package was made available for tax periods commencing on or after 1 April 2006.

Comment: This package was communicated firstly in the Minister's budget speech and subsequently a separate section on the SARS website (SARS:2006a) called "Small Retailers VAT Package" has been dedicated to it. Should the small retailer qualify for this package, it means that the retailer can meet the requirements of the VAT Act without detailed recordkeeping or having to buy expensive cash registers to keep track of sales on the various types of products it sells. This package includes a free set of pre-printed books in which track of stock can be kept. The full technical detail of this

Background

The vital role small businesses play in stimulating the economic activity, job creation, poverty alleviation and the general upliftment of living standards has been recognized both internationally and in South Africa. In his State of Nation address, President Thabo Mbeki (2006) confirmed the need to expand the Small Medium and Micro Enterprise (SMME) sector. He committed his support to help generate the necessary resources for the development of the SMME sector. He continued by stating: "We will also speed up the consultative process to determine the measures we must take to improve the regulatory climate to facilitate the expansion of this sector".

The Minister of Finance, Trevor Manuel (2005:1), suggested that any effective approach to assist small business requires both policy and administration model adjustments in order to be effective. The 2005 year, therefore, saw the beginning of a process of structural change that was intended to:

- Build a positive tax compliance climate in South Africa,
- Assist small business in its start-up phase.
- Reduce compliance costs and red-tape, and
- Provide tax education and assistance (Minister of Finance, 2005:1).

Package is contained in a guide: SRVP 416 (SARS: 2006b). Small retailers wishing to make use of this package are required to complete a VAT SRVP1 form – Application for registration in terms of the Small Retailers VAT Package (SARS: 2006c) and deliver it to SARS. If the application is approved, the vendor will receive written notification on a form SRVP2, a set of pre-printed record books and a detailed guide that explains all the aspects of the package. Thus, the success of this package will depend on the approval process implemented by SARS.

- As from 1 July 2006, direct tax relief and the reduction of the administrative burden for small business will also be provided when the Regional Services Council (RSC) and Joint Services Board (JSB) levies will be repealed. This will effectively also lower the cost of job creation as one of the RSC levies is based on the payroll.

Comment: This proposal was communicated to employers firstly by means of the budget speech that was televised and then summarised in various newspapers as well as by newsletters that were sent out to employers with their monthly RSC levy returns. It is, however, envisaged that these levies will be replaced with "alternative tax instruments or funding arrangements to ensure the continued independence and financial viability of municipalities" (Deloitte: 2005). The South African Institute for Chartered Accountants (SAICA's) response to the call for comments by National Treasury on options to replace the RSC and JSB levies with another form of tax was that the abolition of the RSC and JSB levies should be permanent and the options mentioned in the National Treasury's discussion document should not be adopted (SAICA, 2006). No final decision has been reached regarding this issue.

(2) Streamlining filing

To effectively reduce the compliance burden and cash flow effect of VAT compliance for small VAT vendors the following was introduced:

- From 1 August 2005 small businesses with a turnover of less than R1 million (R1,2 million for tax periods commencing on or after 1 July 2006) have the option of submitting VAT returns every four months.

Comment: Whether or not this will be an advantage is debatable as the option to delay payment of VAT could merely lead to more severe cash flow problems for the small businesses that generally already have problems in managing their cash flows on a monthly or two-monthly basis. This measurement might encourage small businesses to use their VAT receipts to finance their businesses until they have to pay over VAT to SARS. The result for many businesses might be that they do not have funds available to pay the VAT due to SARS when each four-month tax period comes to an end since they would have used them as working capital. A much

better concession to small business would be the re-introduction of a cash- (as opposed to invoice-) based basis of accounting for VAT (Stein, 2006).

- The current e-filing service has been extended to cover tender clearance certificates.

Comment: E-filing is currently available for tax clearance certificates. These certificates can be used for tenders and as proof of good standing. To make use of this facility, however, the taxpayer must first register for e-filing. To register, the taxpayer must go to SARS' webpage: www.sarsefiling.co.za and click on 'register'. The taxpayer will then be presented with a list of instructions which need to be followed to ensure the registration is successfully activated. According to a SARS-official, in an e-mail dated 8 May 2006, this should take place within approximately 24 hours. Once notified of activation, the taxpayer can login to the e-Filing website and apply for a tax clearance certificate. The taxpayer will then be notified of the outcome of his application.

(3) Streamlining entry

To ensure that all taxpayers that are required to register have registered and to simplify the process of registering as a taxpayer, SARS proposed the following:

- Tax amnesty for small businesses

It was proposed in 2005 that a voluntary disclosure dispensation will be made available to enable taxpayers to enter the tax system voluntarily without fear of penalties or additional tax and interest on the underlying taxes due. This proposal was elaborated on in the 2006 Budget Speech (Minister of Finance, 2006:23) in which it was stipulated that the proposed amnesty will allow SARS to waive taxes due by small businesses for years of assessment ending on or before 31 March 2004, where the turnover for the 2005 year of assessment does not exceed R5 million.

The waiver by SARS will require submission of an income tax return for 2005 as well as a non-disclosure penalty of 10% based on taxable income for 2005. It will not be available to taxpayers who have already discussed the amounts concerned, or who have been formally notified that they are under investigation before applying for amnesty.

As from 1 August 2006 until 31 May 2007 the first beneficiaries of the amnesty, will be the taxi industry. It is proposed that other small businesses will be able to utilize this amnesty later in 2006.

SARS warns that those taxpayers not applying for the amnesty will face the full brunt of the law.

The first batch of the draft Small Business Tax Amnesty

and Amendment of Taxation Laws Bill, 2006 was released but did not contain the provisions relating to the small business tax amnesty. These provisions were dealt with in the second batch of draft legislation (SARS, 2006d) that was published on SARS's website.

Comment: Various concerns have, however, been expressed regarding these provisions. A few of the concerns are as follows:

- o It is unclear why the amnesty will apply to the taxi industry first and thereafter extended to other small businesses
- o The scope of the amnesty is not clear – will it include sole proprietors and partnerships
- o Which taxes qualify for the amnesty It is not clear that prior year assessed losses should be taken into account in determining the taxable income on which the penalty is based
- o The implications of the Financial Intelligence Centre Act (FICA) should still be considered and an exemption from FICA should be granted as one of the provisions in the Amnesty legislation
- o Sufficient time should be allowed from date legislation is promulgated, for affected businesses to apply for the amnesty (SAICA,2006b).
- Single registration form

It was also proposed in the 2005 budget speech that a single registration form for the taxes administered by SARS will be introduced.

Comment: An email, dated 28 April 2006, was sent to SARS to enquire about the above. The response from the SARS National Call Centre was obtained (via email) on 11 May 2006. In this response it was stated that this single registration form has not yet been implemented and a time frame for implementation is as yet not available.

(4) Advice and assistance

SARS has mentioned their commitment in the “Easy Guide to Empowering Small Business” (SARS, 2006e) to focus on VAT education, but requires small businesses to contact their nearest SARS office for more details in this regard.

In this same “Easy Guide” SARS also mentions three ways in which it can assist small businesses with their businesses:

- Community tax helpers – SARS will deploy staff to visit small businesses to help and educate them about registration, return completion and business tax obligations

- Small business help desks – trained SARS helpers available for small businesses in its call centre branches
- Accounting and payroll packages for small business - in the form of computer software as well as web-based systems on the SARS website. All these facilities will be

Comment: Enquiries were made (on 24 March 2006) to the SARS national call centre regarding the above services at our local SARS office (Pretoria) but no satisfactory assistance or information in this regard was obtained.

An email, dated 28 April 2006, was then sent to SARS to enquire about the above. The response from the SARS National Call Centre was obtained (via email) on 11 May 2006. In this response it was stated that accounting and payroll packages have not yet been implemented and a time frame for implementation is as yet not available.

As far as taxpayer education is concerned, it was communicated in this email that SARS staff at the major service centres is available for assistance. Furthermore, the tax education department at the various centres will also visit clients and small business.

(5) Tax relief for small business

To encourage small business to incorporate so that they can reap the benefits of a more formal approach to business, section 12E was inserted into the Income Tax Act. With effect from years of assessment commencing on or after 1 April 2000, section 12E provides for a special dispensation applicable to small business corporations.

Comment: The details and concerns regarding this section will be discussed in the next issue.

Conclusion

The introduction of proposals initiated by SARS to assist small business is to be applauded. However, it appears that the implementation thereof appears to be slow in certain instances. Furthermore the effectiveness of certain of the proposals do not appear to meet the requirement of striving to make things simpler for entrepreneurs and in certain cases even appears to be biased.

According to Divaris, (2006), if you really wanted to help small businesses, the following inconsistencies still need to be addressed:

“If you sell goods or services on credit, you must pay provisional tax, income tax and VAT before you collect the cash. If you import goods, you must pay the VAT before you even sell the stuff. If you dispose of a capital asset, you must pay Capital Gains Tax (CGT) even if you must wait for payment. And if you cannot afford to pay someone's salary in full, you must still pay Pay As You Earn (PAYE) and other

payroll taxes. In other words, the government expects you to have sufficient working capital to pay your taxes ahead of your collections from your customers. And if you are due a VAT refund, SARS will fight to the death to delay payment or might even steal the money outright. But if you are a (usually wealthy) property investor or developer, you get a VAT break, and if you are selling shares to a (soon-to-be wealthy) Black Economic Empowerment (BEE) partner, you get a tax or CGT break. Screw the little guy”.

Despite the entire above-mentioned policy and administration model adjustments devised by the Government, there is still a long bumpy road ahead for small business before it can assist with sustainable growth, job creation and the alleviation of poverty within the South Africa society. ■

References

- Deloitte (2005). Tax Grapevine – Budget 2005 Edition (Online)
Available:(<http://www.deloitte.com/dtt/cda/doc/content/Tax%20Grapevine%281%29.pdf>)
Date accessed: 25 February 2005
- Mbeki, T. (2006). State of the Nation Address of the President of South Africa, Thabo Mbeki: Joint Sitting of Parliament. (Online)
Available: (<http://www.info.gov.za/speeches/2006/06020310531001.htm>)
- Date accessed: 11 April 2006
- South Africa. Minister of Finance. (2005). 2005 Budget Speech
Background briefing for journalists: Empowering small businesses. (Online) Available: ([http://www.sars.gov.za/media/media budget 2005](http://www.sars.gov.za/media/media%20budget%202005))
Date accessed: 15 February 2006
- South Africa. Minister of Finance. (2006). 2006 Budget Speech 2006 Budget Speech (Online)
Available:(<http://www.sars.gov.za/budget/documents/budget/2006/speech/speech.pdf>)
Date accessed: 15 February 2006
- South African Institute of Chartered Accountants (2006a). Call for comment (Online)
Call for comment: Options for the replacement of regional service councils (RSC) and Joint Services Board (JSB) levies
Available at:[https://www.saica.co.za/documents/Submission_LegislationTax_Call for comment on options for the replacement of regional service councils \(RSC\) and Joint Services Board \(JSB\) levies](https://www.saica.co.za/documents/Submission_LegislationTax_Call%20for%20comment%20on%20options%20for%20the%20replacement%20of%20regional%20service%20councils%20(RSC)%20and%20Joint%20Services%20Board%20(JSB)%20levies)
Date accessed: 11 May 2006
- South African Institute of Chartered Accountants (2006b). Small Business Tax Amnesty (Online)
Available at: (<https://www.saica.co.za/documents>)

Submission_LegislationTax_Small%20Business%20Tax_Amnesty_and_amendment_of_Taxation_Laws_Bill_2006.pdf

Date accessed: 11 May 2006

South African Revenue Services. (2006a). Small Retailers VAT Package (Online)
Available: ([http:// www.sars.gov.za/v_a_t/Small Retailers VAT Package/ Small Retailers VAT Package.htm](http://www.sars.gov.za/v_a_t/Small_Retailers_VAT_Package/Small_Retailers_VAT_Package.htm))
Date accessed: 24 April 2006

South African Revenue Services. (2006b). VAT SRVP 416 (Online)
Guide for the Small Retailers VAT Package
Available: ([http:// www.sars.gov.za](http://www.sars.gov.za))
Date accessed: 24 April 2006

South African Revenue Services. (2006c). VAT SRVP1 (Online)
Application for registration in terms of the Small Retailers VAT Package
Available: ([http:// www.sars.gov.za](http://www.sars.gov.za))
Date accessed: 24 April 2006

South African Revenue Services. (2006d). Draft Small Business Tax Amnesty and Amendment of Taxation Laws Bill, 2006 (Online)
Available: ([http://www.sars.gov.za/legislation/ Policy/2006/SmallBusinessTaxAmnesty and](http://www.sars.gov.za/legislation/Policy/2006/SmallBusinessTaxAmnesty_and)

Amendment of Taxation Laws Bill 2006-31 May 2006. pdf).

Date accessed: 4 May 2006

South African Revenue Services. (2006e). Easy Guide – Empowering Small Business, 2006 (Online)
Available:([http://www.sars.gov.za/khanyi/small business - english.pdf](http://www.sars.gov.za/khanyi/small_business_-_english.pdf)).
Date accessed: 24 April 2006

Stein, M. (2006). VAT on small business – New category, a mixed blessing. *Tax Planning* 20, 23-24.

Legislation

Income Tax Act 58 of 1962

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