THE PROBLEM WITH TAX EXTENSIONS

INTRODUCTION

For the 2021 tax year the basis for determination of extension date on individual tax returns was based on the individual taxpayers provisional tax status did not work for various reasons as indicated below. It did not work well for February companies as this happens during the busiest time of the year as tax practices during January and February are preparing provisional tax returns for all February companies, trusts and individuals as well as doing financial statements and completing audits and dealing with issues in tax.

Based on the requirements of the extension dates and the way that they have been configured the system will never work. Depending on the size of the practice, where all accounting services are offered especially by larger practices the set deadlines will not be reached for the reasons indicated below. A limited survey conducted by me indicates this.

I believe that there is a tax community crises taking place which is going to worsen as the work load becomes greater as SARS demands more. This document discusses some very important issues about the tax community crises and some suggestions for the future.

WE NEED TO UNDERSTAND THE FOLLOWING

- Setting high levels for taxpayers to submit returns in a fashion which is not achievable and SARS not undertaking their own deadlines in regard to their own charter destroys trust and is detrimental to SARS and the profession.
- Using provisional tax status for extension purposes which status is almost determined a year in advance and then finalised on assessment has no certainty when making the determination of provisional tax status, owing to the poor economy and load shedding. The provisional tax status which could change from month to month is just not a workable option in the tax community and all the ramifications have not been thought through. Provisional taxpayer returns are more complicated and generally linked to companies and trusts.
- For a taxpayer to believe that they are a provisional taxpayer only to find new rules in place that make them not a provisional taxpayer, with penalties in place is not acceptable and goes towards practitioners losing faith in SARS. There is a certain level of ethics that are required on both sides of the fence.

- A bigger issue is the unworkable extension dates for tax returns in a time when everyone has fallen far behind owing to the pandemic so why punish the tax community even further where the desired result is just not going to be achieved. Taxpayers have also taken tremendous punishment through the pandemic and now with admin penalties the non-compliance factor will increase substantially.
- It is not feasible to do directors and members tax returns without having the groups of all their interests in companies and trusts prepared at the same time when the companies and trusts are completed so that the correct information from the source can be collated for the individuals tax return. The way we are doing it now is making tax compliance status of tax returns very difficult as individual tax returns cannot be completed with total accuracy and without having all the information on hand and in many cases estimates have to be paid.
- There are many individuals linked to trusts and companies who may not be provisional taxpayers and therefore at the time of having to file may not be able to complete the tax return accurately in regard to the statement of assets and liabilities.
- The extension requirements as currently stipulated is just not workable owing to the heavy workload required in December and January, for tax return and provisional tax production where the 2nd provisional tax becomes very onerous and requires a lot more effort than just selecting a basic amount figure and where the pandemic ravaged income.
- The time after February is catch up time to try and complete all returns before the next season starts and that's what many tax practitioners are going to be doing right up to June.
- I call for engagement on the points discussed and a way to make the extension process easier.

THE PROBLEM WITH GROUPS

Most important of all is that many of the directors and members of CC's and beneficiaries of trusts are connected to companies and CC's and trusts whose results come out well after the year end. It's always a good idea to do all the tax returns in a group, the company, the shareholders the CC members and directors together to ensure that every aspect of income is accounted for including the balance on loan accounts for statement of assets and liabilities that need to be entered on tax returns. It is also a good idea to ensure that intercompany loan accounts are balanced which will ensure accuracy of income declared on tax returns.

It is always a good idea to lead with the sources of income for individuals from the businesses they direct from a risk point of view to ensure that nothing is unaccounted. Based on the current system of extensions because of the fact that groups and individuals tax return submission dates are not aligned make tax production more difficult. In this situation individuals may have to be done a long time before the companies are done necessitating estimates to be made potentially leaving out additional income and interest. Incorrect statements of assets may cause such tax returns to be misstated which opens up another risk element for the taxpayer and for SARS. Any information missed on a tax return will not allow the assessment to prescribe.

The situation as it stands is just not workable especially with s234 of the TAA hanging over the taxpayers head for inadvertent errors which are bound to happen in these circumstances as not everything can be done together.

The bigger issue here is that tax returns for both companies and individuals are not going to meet the set deadlines for the next two years. Now add to this the current penalty situation created by lack of capacity in the profession and SARS. We have all lost an inordinate amount of time owing to pandemic, lockdown, load shedding and state capture which won't be caught up quickly. Most of the taxpayers who have more complex financial circumstances are in the hands of tax practitioners who will continue to struggle with deadlines.

SUGGESTION

I would suggest that before the 2023 tax return season commences or as soon as possible that there should be a serious engagement between SARS and the RCB's and that something is agreed upon that will allow the tax industry to comply with the dates agreed upon and actually catch up. If there is no off ramp to help the profession catch up then non tax compliance is just going to gain ground.

I call for engagement on the points discussed and a way to make the extension process easier.

We need to look at the past where returns were done on a percentage basis. E.g. 30% by November 50% by December etc. based on the size of the firm. This will give firms time to sort tax returns appropriately and do them more accurately. It's a fact that returns are going to take longer than 12 months when one is looking at all the tax return types.

The industry wants to comply and complete returns accurately and of course catch up.