Divisions over 'aggressive' tax planning

By Amanda Visser

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Tax authorities are being more aggressive in challenging companies' tax practices, but this is leading to a disparity over what tax practitioners and politicians consider aggressive tax planning.

Governments are now co-operating far more with each other to rein in non-taxation and tax authorities are quickly moving to automatically share information with each other.

SA has concluded tax information exchange agreements with countries such as Bermuda and the Cayman Islands and all tax treaties are being reviewed in light of the global drive to share more information.

Tax experts warned at the recent Africa Tax and Business Symposium, hosted by PwC in Mauritius, that unilateral action by countries to stop tax evasion and aggressive tax planning has led to double taxation in Africa.

PwC partner Eelco van der Enden says the view of people outside Africa is that many multinationals that have set up operations on the continent are primarily trying to avoid their tax obligations. Ordinary taxpayers are of the opinion that they are no longer prepared to pay their fair share of taxes if big business is not doing so.

Greater transparency needed

"The transparency debate was fuelled by that and of course politicians took it up and that is why we are where we are today," says Van der Enden.

PwC global head of tax policy and regulation John Preston says the main reason behind the unprecedented political interest in tax is that governments are in desperate need of cash. "We are seeing some of the world's economies starting to climb out of the recession but I don't think the problems are going to disappear any time soon."

Preston says there is a mismatch between what tax practitioners and politicians consider "aggressive" tax planning.

Practitioners see aggressive tax avoidance as highly artificial structures but politicians are taking aim at large corporations such as Starbucks and Amazon, where they operate and where they pay their tax.

Starbucks, for example, has been in the limelight in the UK because it has a large presence there, but seems to pay very little tax. According to newspaper reports, Starbucks pays a royalty for the use of the name in the UK, it pays a 4.7% premium to the Netherlands division and another 20% premium to Switzerland. The fact that the company has been claiming deductions on these payments has been described as "unacceptable and aggressive tax planning".

Foreign direct investment

Preston says countries compete with each other for foreign direct investment, and their tax systems are a very important part of their competitive armour. So it is unfair to criticise companies for taking advantage of tax regimes that governments deliberately created to encourage companies to behave in certain ways.

"But it is not really relevant, as this is not a rational debate, but an emotional and political debate," he says.

PwC senior manager in Johannesburg Marcus Botha says country-by-country reporting is going to force tax practitioners to start looking at the operational side of tax and how to report on it. In the US, country-by-country reporting is already a requirement for the extraction industry.

"Companies in Africa, which seems to be the hub in terms of investment and expansion, will have to formalise a process on how to manage the risks and the information they have to report on. Civil society pressure is not going to disappear - it will only increase," he says.

Preston believes every company should have a very clear tax policy that has been discussed and is understood by the board. "They must be able to defend it in public if necessary and understand the ramifications of the policy," he adds.

The Treasury has said, via Deputy Finance Minister Nhlanhla Nene, that multinational companies in SA make billions of rand in revenue, but pay "almost no tax".

Tax collection remains a major challenge for South Africa. Currently the South African Revenue Service is expected to collect R898bn for the 2013/14 fiscal year, nearly 10%, or R84bn, more than the previous year. This despite the fact that the economy is expected to grow by only 2.7%.

Source: Business Day via I-Net Bridge