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THE DICEY TAXATION OF LOCAL & FOREIGN DIVIDENDS: By Jonathan Hore
There are primarily two types of dividends for tax purposes, local company dividends and foreign company dividends and these have different tax treatment. It is very rare to bump into discussions on the tax treatment of foreign dividends and I know those of you in the investment fraternity or those looking to broaden their investment portfolios may like the song I will be singing today. By the way, I am such a bad singer; let me stick to tax. In this article, words importing the masculine shall be deemed to include the feminine.

Local company dividends
When a local company declares dividends to a shareholder, it deducts withholding tax (WHT) at 7.5% of the gross amount and pays the 92.5%, if the dividend or the recipient is not exempt from tax. The WHT is paid to BURS and the shareholder gets a tax certificate, being a ITW 17 form. No tax is deducted from pension funds, the government and other parastatals which are exempted from income tax. This is on the basis that WHT is income tax and exempt persons cannot suffer a tax which they don't pay. The government is exonerated from the WHT by the Interpretation Act and not the Income Tax Act. Companies or businesses include the gross dividend as part of their gross income earned for the year.

When a local shareholder from whom tax is deducted prepares an income tax computation for BURS purposes, they deduct the gross amount of dividends from their tax computation. This is premised on the provisions of section 59(3) of the Income Tax Act which prescribes that WHT on local company dividends is a final tax. What that means is that whilst the gross dividend amount forms part of gross income, it must not be taxed again as the 7.5% applied by the payer of the dividends is enough to please the legislature.
The fact that the dividends are not taxed in the hands of the receiving shareholder means that that shareholder must not be allowed expenses directly allocable to the dividends such as salaries, audit fees, rent etc. This mainly applies to holding companies.
The declaration of dividends falls outside the scope of VAT, meaning that no VAT is applicable. It is referred to as a non-supply. However, a 'dividend in specie' which is paid through the provision of goods or services to the shareholders such as cars and land may have VAT and WHT implications.

Foreign dividends
The gross amount of a foreign dividend is subject to income tax at 15%. This means that expenses incurred in earning the dividends are not tax deductible. A foreign tax may have been deducted in the source country where the dividend is earned, which entitles the local shareholder a foreign tax credit. The credit is however limited to the Botswana tax on such income. This sounds gibberish but let me mesmerise you as I simplify it. If a local shareholder earns dividends of P 1m from a Namibian company and tax of P160 000 was deducted, it means that the shareholder is taxed at 15% on the P1m, yielding P150 000 in tax. But as WHT of P160 000 was already suffered in Namibia, only P150 000 of the tax is netted off against the Botswana tax, resulting in nothing payable to BURS.

Conclusion
An earner of both local and foreign company dividends must separately show local company dividends from foreign dividends for tax purposes. However, no expenses are deductible in both instances. Unit trusts which earn such dividends as conduit pipes for their investors mustn't suffer the WHT and that can be avoided by getting a variation letter from BURS.

Well folks, I hope that was insightful. As Yours Truly says goodbye, remember to pay to Caesar what belongs to him. If you want to join our Tax whatsapp group or know more about our 9 Tax e-books, send me a text on the number below.