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IS THE 4% TAX ONLY FOR CATTLE? By Jonathan Hore

Welcome folks to this week's instalment of tax articles. The much talked about 4% tax which took effect in 2016 caused a lot of noise and arguments in both the tax and farming sectors. It is believed that the tax was targeted at cattle farmers, but the wording used in the Income Tax Act ('Act') expanded the tax to all livestock, which is causing challenges for some taxpayers. And of course, the Botswana National Beef Producers Union has made it clear to the taxman that they did not welcome the tax at all. But before I get into too much detail, let me do the right thing; being to expand on the basic principles of the tax.

THE BASICS

The 4% livestock tax was introduced such that any buyer of livestock intended for slaughter or for feeding for slaughter should deduct the tax from payments due to a seller of the livestock. Notice that there two instances where the tax can be deducted; being where livestock is sold for slaughter or where it is fed before being slaughtered. BMC buys livestock for feeding for slaughter and it is one of the entities that deducts the 4% tax. A butchery which also buys livestock for slaughter is also required to deduct the tax from any seller of livestock.

To make things a little bit clearer, if one Thato sells cattle to BMC for P 100 000, BMC is required to deduct the 4% tax and pay Thato P 96 000. The P 4 000 tax is then paid over to BURS. In other words, Thato suffers the tax at source and BMC is BURS' agent for the collection of the tax. The tax deducted at source from individual farmers who rear not more than 300 cattle or 1800 goats or sheep becomes a final tax, i.e. once deducted, the farmers should not declare the farming income in their tax returns and neither can they recover the tax from BURS.

WHAT IS LIVESTOCK THEN?

The Act clearly states that the 4% tax shall be deducted on the sale of livestock. The said Act defines livestock as including, 'cattle, sheep, goats, horses, donkeys, mules, pigs and poultry.' As can be seen from the above definition, the term livestock as envisaged in the Act encompasses almost all animals that are kept by a farmer for sale. The use of the word 'includes' simply means that the term is not restricted to the types of livestock mentioned in the definition but those that were mentioned were in addition to any other livestock that one may think of.

In other words, livestock includes zebras, fish, crocodiles, ostriches etc, as long as they are kept as stock. So, that being the case, one then asks themselves whether the 4% tax is restricted to cattle only and the answer is a big no. The term livestock is so broad. Well, having established that any farmer who sells livestock for slaughter or for feeding for slaughter should pay the tax, the question that follows is what are the implications of having this tax applying to other types of livestock other than cattle? I will analyse this below.

THE OTHER AFFECTED TRANSACTIONS

I have demonstrated above that the tax is not restricted to cattle and that is not in doubt. That being the case, then the 4% tax is also applicable on the sale of the following animals (among others), provided they are sold for slaughter or for feeding for slaughter:

- Poultry: A farmer who buys day-old chicks, feeds them and then slaughters them is also required to deduct the 4% tax from the day-old chicks sellers. Imagine a client walks into your day-old chicks shop and you quote them a price of P10 000 and they then tell you that they are only paying you P 9 600 as the other P 400 is the 4% livestock tax. That appears very weird but in as far as the Act is worded, that person will be correct. The tax also applies to anyone who sells ostriches for slaughter or for feeding for slaughter.

- Donkeys: Donkeys are usually sold for slaughter by crocodile farmers. Since donkeys fit in the definition of livestock, the buyer should deduct the 4% tax.
- Fish: A fish farmer who sells fish for slaughter or for feeding for slaughter should also suffer the tax at source. This is on the basis that fish also fit in the definition of livestock.
- Wild animals: Those who sell wild animals for slaughter or for feeding for slaughter should also suffer the tax as wild animals are livestock.

THE CONCLUSION

I hope I have managed to make it clear that the 4% livestock tax is applicable to all livestock, regardless of its type. Whilst the tax was earmarked for cattle farmers, it is applicable to anyone who sells other livestock as long as the animals are sold for slaughter or for feeding for slaughter.

Well folks, I hope that was insightful. As Yours Truly says goodbye, remember to pay to Caesar what belongs to him.