Sars to clamp down on profit shifting by multinationals

The South African Revenue Service (Sars) has beefed up its transfer fund division to stop multinational companies shifting their profits out of the country to more tax-friendly jurisdictions.

123rf.com

Base erosion and profit shifting

So now medium and large businesses with multinational ties will have to supply the revenue service with more detailed reports of their relationships and transactions with entities residing in other countries. This is part of an the international initiative to stop base erosion and profit shifting by multinational companies.

“Not only does SARS want to stop this from happening in South Africa, it also wants to stop South African companies from doing the same in other countries," says Di Seccombe, Mazars SA head of national tax training.

“A very common way that multinational companies are doing this, is by having their subsidiaries pay them a substantial 'management fee'. The subsidiary can of course deduct this fee from its own income tax, and that money is effectively taken out of the country before there is a chance to tax that profit,” she says.

New requirements for SA companies

The Davis Tax Committee has stated that this is one of the main issues of lost tax revenue in South Africa, and has estimated that the amount of money being bled out of the country totals billions of rand each year. Seccombe points out that South African companies will need to take note of a number of new requirements this year, if their tax returns are to remain compliant.

Firstly, the South African Tax Administration Act requires that a master file, which contains high level information of the entire multinational groups operations in a single document available to all tax authorities where the multinational group has operations, and a local file, which contains information regarding the jurisdictional activities of the multinational entities available to local tax authorities within the jurisdiction, is submitted with corporate tax returns.

Transfer pricing audit

Secondly, in the event of a Sars transfer pricing audit additional mandatory transfer pricing documentation has to be kept in terms of the record keeping provisions as set out in the Act and the regulations issued on 28 October 2016. The regulation requires that specific information is kept where the cross-border related party transactions are in excess of R100m or reasonably expected to exceed the R100m for a transfer pricing audit. “Other transaction specific information should also be kept for cross-border transactions in excess of R5m that are included in the R100m,” Seccombe adds.

Multinational companies, trusts and individuals in South Africa should consider all transactions whether transacted at arm’s length or not, she says.

Seccombe adds that companies that are part of a multinational group may have their transactions within the group scrutinised by Sars.

Country by country reporting

Another thing to take note of is that the South African regulation for CbCR (country by country reporting) requires multinational groups with a consolidated revenue in excess of R10bn to submit a report as set out in the regulation to Sars on an annual basis for years of assessment 1 January 2016 going forward Seccombe says. “The parent entity usually files the report in the parent country, but South African subsidiaries with parent companies in other jurisdictions are still obligated to notify Sars in writing which entity would be filing the CbCR and in which jurisdiction.”

“South African companies that form part of a multinational group will need to make sure to understand its group structure and its CbCR reporting obligations and get the new paperwork in order by 31 December 2017,” concludes Seccombe.