KPMG South Africa ETRA & ETI podcast

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Introduction

Mel: Hello to all joining us today. I am Melissa Duffy, a tax partner at KPMG in Johannesburg and I specialise in the cross-border movements of persons and/or their capital from the perspectives of individuals' tax, employees' tax and exchange control for natural persons. I am also excited to be the National lead partner for the KPMG Family Office & Private Client service offering. Today, I am joined by Sarika Rautenbach and Natasha Rohhamlal. Sarika and Natasha, please introduce yourselves to our listeners today.

Sarika: Hi everyone. I am Sarika Rautenbach, a Partner at KPMG and my greatest area of interest is employees' taxes and especially the power of data & analytics in identifying risks and opportunities in this space.

Natasha: Hi everyone. I am Natasha Rohhamlal, an Associate Director at KPMG in Johannesburg. I specialise in expatriate tax, employees' tax and the Employment Tax Incentive and work on other employee related matters.

Mel: So today, we are covering certain considerations in relation to the employment tax space, as my colleagues has said but this will specifically in relation to South Africa especially as relates to monthly employees' tax withholding known as Pay-As-You-Earn. Let me get started with you Sarika, what trends have you noticed in relation to the remuneration landscape in South Africa and the data analytics capabilities of the South African Revenue Service (also known as SARS)?

Sarika: Mel, what is very clear is that SARS is becoming more capable of extracting value from the data submitted by employers through their EMP501 reconciliation and IRP5 reporting. An IRP5 is the employees' tax certificate and The EMP501 process is followed by employers bi-annually and annually and is the employer remuneration reporting process with the revenue service. The information submitted enables SARS to determine what they expect to receive in terms of employees' tax and compare that to the PAYE actually withheld. Discrepancies in the information may lead to SARS initiating an employees' tax audit. These audits can be very targeted as SARS may be already aware (based on the information the employer has previously provided) of areas with the biggest risk of PAYE non-compliance.

Mel: That's very interesting Sarika. It sounds like the Revenue Authority is really gaining traction in data and analytics, So what could employers be doing in anticipation of a employees' tax audit from Revenue and what are the penalties and interest risks of not getting one's payroll 100% correct?

Sarika: Well, the first and most important thing for an employer in preparation of a potential SARS audit is knowing where to find the information that SARS may request. For example, supporting documentation in respect of non-taxable bursaries that should be disclosed on the employee's IRP5 may lie with different people or departments in the organisation other than the payroll department. Whilst the payroll information will be on-hand to the payroll team, details and proof of payments made to the educational institution may be with the finance team and copies of the bursary agreement may be with the HR team. Therefore, it is usually very difficult to try to collate all the information requested by SARS on short notice if the person responsible for the audit does not know where to find it.

The next thing an employer should do is ensure that the 501 reconciliation process is completed diligently and with due care. It is no longer sufficient to merely match up the PAYE paid monthly per the payroll reports to the EMP201 returns submitted. The employer should actually critically review what has transpired in payroll during the reconciliation period and ensure that any adjustment which may need to be made through this process. When we assist employers with this process, we use our KPMG bespoke Employment Tax Risk Analysis tool which is able to reconcile the payroll line by line, person by person, to what is reflected on the certificate to be submitted to SARS. And, this is the level of detail required for the reconciliation to have standing. Interesting to note here is that it was indicated in the South African budget speech that National Treasury are considering introducing penalties for the submission of an incorrect return and this will actually result in a greater responsibility on the employer to make sure that everything they have in that reconciliation is correct We have seen instances where employers submit their reconciliation (though incomplete) in order to avoid the late submission penalty (which, might I say, is enormous as it equates to 1% of the total value of value of the PAYE for the reconciliation period per month for up to 10 months). This potential new penalty will therefore make it even more important for the employer to get the reconciliation done right and within the right timeframe. So it's not only about only getting it in on time but also what gets submitted must be accurate.

Mel: So,that's useful to know. I am sure that many South African employers have challenges in the payroll space.Let's say we have an employer whose records with SARS are not accurate. What is regularisation process as relates to employees' tax errors or defaults? And what can we, based on experience, say about turnaround times as relates to SARS?

Sarika: So the employer has a number of options to "fix" mistakes they might have made. The first, and certainly the best, is for the corrections to be made through the reconciliation process. This requires the deep dive reconciliation to be completed during the last month of the tax year to ensure that payment of any undercalculated PAYE is made to SARS before the last payment of the tax year is due. This would minimise penalties and interest for late payment. However, to the extent that the employer detects a default which stretch across multiple tax years, they may consider voluntary disclosure programme application. This process can provide relief from penalties and criminal prosecution and we are well placed to assist with the VDP applications. It should be noted though that a VDP application can take a number of months to be finalised so strap yourself in for a long ride there.

Mel: Thank you Sarika. I would like to bring Natasha into this conversation at this point in time. As the leading KPMG expert on ETI what can you tell us about ETI? What is it?? And is it truly a PAYE savings vehicle for employers?

Natasha: Thanks Mel. The ETI stands for the Employment Tax Incentive which was implemented with effect from 1 January 2014 (approximately 8 years ago). The aim of the ETI is one of the responses to Government's commitment to tackling unemployment in South Africa – particularly youth unemployment. At this point in time, the ETI will be available until 28 February 2029 (so for another 7 years). The benefit of ETI is two-fold, it encourages employers to employ young people (with young people being between the ages of 18 to 29 years) and the employer secures an immediate monthly PAYE reduction as well as an indirect corporate tax benefit. So yes, it is definitely a PAYE savings vehicle for employers.

Mel: Conceptually is sounds like a great idea. Our President announced during the State of the Nation address in February this year that Government will expand the parameters of ETI. There has already been a 50% increase in the maximum monthly value of the ETI that can be claimed with other changes still to be proposed. Government has also encouraged small and medium firms to take up this incentive.

Claiming ETI sounds very simple as a concept. What are the pitfalls or real challenges employers experience with claiming ETI?

Natasha: Yes Mel, that is the misconception of the ETI. People assume that because payroll systems calculate the ETI that it is correct and that nothing further is required from them.

Where the complexity arises, is based on the information that enters the payroll software system as well as the arrangement that gives rise to the ETI being claimed.

Some of the challenges experienced with claiming the ETI are the incorrect payroll parameters which are set up and also where employers have never claimed the ETI before and rely solely on the payroll software system to calculate the ETI. In these scenarios, we have seen errors and overclaims of the ETI as the qualifying month count is usually incorrect. Interpretation of the constant changing legislation and practical implementation can be challenging for a lot of employers and often results in errors being made.

Another pitfall that we often see is with refunds as result of an ETI claim. As you can imagine, employers experience difficulty with obtaining refunds from SARS in relation to the ETI especially when there is a SARS ETI audit in progress.

Some try to abuse the ETI by developing complicated arrangements and schemes which do not necessarily meet the intention of the ETI legislation. These schemes are viewed as tax abusive schemes which at times can catch unsuspecting corporates.

Mel: Thank you so much. There seems to be an enormous amount of things to consider when managing a payroll. Thank you Natasha for your comments on the ETI. So ladies Are there any closing comments? I will start with you Sarika.

Sarika: Mel, as the saying goes, "knowledge is power" and it is certainly the knowledge you get from a critical analysis of your payroll and the related data which gives an employer the power to be able to submit accurate reports to SARS and to quickly and thoroughly respond to SARS audit queries.

Natasha: Mel, as with most things in life although the ETI is appealing to claim in order to reduce your PAYE burden, doing so incorrectly may come at a great cost if you get it wrong as the penalties and interest that could be levied could defeat the point of having claimed the incentive, not forgetting the potential reputational risk. Where the ETI claim is material, we would recommend engaging with a tax professional to assist with ensuring the accuracy of the ETI, maximising the ETI claim and being able to respond to any SARS queries. KPMG is well placed to assist with any SARS audit queries, reviews of your ETI claims and to guide you through the claims process. To allow us to be efficient and to add the most value, KPMG has developed an ETI technology solution to improve the accuracy and reliability of the ETI.

Mel – Wow, that's fantastic thank you Sarika and Natasha for your insights. Thanks to you our listeners for joining us today. We hope that this has been food for thought. Should you have any queries in this regard, please drop KPMG an email or contact me at melissa.duffy@kpmg.co.za

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