TAX ADMINISTRATION

In most countries, tax administration has entered a new, but difficult era, with the enactment of the Tax Administration Act No 28 of 2011. The dispute between the revenue authority and the taxpayer is often a source of conflict in many countries. But South Africans have a reputation of producing a breakthrough when the odds are overwhelming.

The release of this book by Dr Beric Croome and Prof Olivier explains tax administration in a manner that is understandable, solution-seeking and less burdensome. Tax administration in South Africa will no longer be a nightmare for taxpayers. Taxpayers’ rights are eloquently articulated as are the rights of the revenue authorities. It brings the divergent parties to a common point – a daunting task when it relates to the field of tax administration.

The book is readable and interesting. While tax administration is complicated, confusing and arbitrary, the authors eliminate the usual perception of tax administration, offering in-depth narrative from persons that have practical exposure to the field, referring to recent court cases both locally and internationally, and referencing the practices of revenue authorities elsewhere in the world. Tax administration has not only become less burdensome but has become a refreshingly interesting discourse!

The book discusses information-gathering by the revenue authority, and mentions that the revenue authority regularly visits luxury car dealers to undertake VAT audit which indirectly (or directly) supplies information about individuals purchasing luxury vehicles from the registered vendor. The revenue authority uses such information to establish whether the purchasers of luxury cars have declared, for tax purposes, the income required to finance and maintain such expensive motor vehicles.

On the subject of whether the revenue authority may conduct an audit as per the Tax Administration Act of 2011 in another country, the book references about eight court cases – both local and international – to justify their conclusion. It also reminds us that in Canada where information is stored electronically on servers located outside of Canada, but to which the taxpayer in Canada has access, such information is not regarded as foreign-based information.

There are examples of administrative non-compliance penalties – a subject of considerable menace to taxpayers - with a wealth of practical numerical examples as well as remedies to taxpayers. An illuminating chapter on understatement penalty has examples describing the circumstances in which a taxpayer:

- Has not taken reasonable care when completing a tax return – it provides guidelines in determining what of actions the taxpayer will be regarded as having taken reasonable care in completing a tax return in the eyes of SARS; or
- Has no reasonable ground for a particular tax position – it provides steps that a taxpayer may take in order to demonstrate that the position taken by the taxpayer is reasonably arguable; or
- Has shown gross negligence – it provides examples of what constitutes gross negligence; or
- Has shown intentional tax evader - demonstrate how an evader is different from ‘gross negligence’. The discussion on this chapter offers taxpayers excellent ideas on how to structure valid arguments in order to table successful objections and appeals against a SARS decision.

The book is an authority on tax administration in South Africa, and embraces every section of the Tax Administration Act, being a valuable reference to large business corporations, individual taxpayers, and to any person undertaking studies in tax in order to graduate to a more senior level of professional tax qualification.