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International Institute for Tax & Finance (Mauritius) Ltd (Reg. # 2012 / 005791 / 07)

OUR METHODOLOGY

1. The route my team and I follow for all tax controversy matters works best when we can tackle issues from as early as the audit stage with current tax advisors, through the letter of findings process and then (if necessary) ultimately to the tax court.
2. Here are some details where we have been successful in resolving various tax disputes cases prior to them proceeding to court.
3. Our first Transfer Pricing (“TP”) matter about 6 -7 years ago was in Uganda, where, after mediation in the commercial court, we were substantially successful. The balance outstanding amount cannot be claimed by the Revenue Authority until a Double Tax Agreement MAP process is finalized – which has not yet been concluded after 6-7 years – a stalemate, with no payments by the client. We are confident the MAP outcome will exonerate the client.
4. That matter was followed by a TP case in Malawi where we were successful in bringing an application to interdict the MRA from demanding the deposit to be paid to proceed on appeal. The TP case was withdrawn in full a year later. 100% success.
5. One of our recent successes for another multinational in Malawi was as a result of the client involving us at the audit stage where I made 2 separate detailed presentations to the MRA (as if presenting evidence and arguments in tax court) in which I explained why their position was incorrect. Client has recently informed us that the MRA were persuaded by all my arguments and has conceded entirely on all issues. The result is a nil tax liability. In this instance, the MRA granted us an audience and our preparation stood us in good stead for a number of reasons:

Affiliations with: Professional tax firms in the USA, France, South Africa, Zimbabwe, Nigeria, Ghana, Mauritius, India, Brazil and Columbia
 Our associated litigation law firm in South Africa is Pieterse TRM Erasmus Inc

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- 5.1 Firstly, our opponents caught a glimpse of how we would handle a tax court appearance;
- 5.2 Secondly, the substance and procedural arguments were compelling;
- 5.3 Thirdly, we were (and aim to be) able to package and convey an oftentimes extremely complicated topic so that reason prevails, and our stance finds favor. As an added bonus, my Revenue Authority audience in Africa often includes former International Tax and TP students of mine, garnering the desired respect. This was the case in Malawi. I have also experienced this in Zimbabwe.
6. I must mention another recent success in Zambia where we also submitted detailed responses to the letter of findings on various complex TP issues. The Revenue Authorities conceded they were wrong in all areas but one, where the client knew they had a small exposure. This was paid in full and the matter was finalized without penalties.
7. A similar TP matter was settled in Kenya a few years ago, but again only after extensive detailed submissions explaining to the KRA why they were wrong.
8. With reference to tax disputes that are or have proceeded to trial, I share the following.
9. I recently argued 2 matters in Mauritius against the MRA for a multinational and their subsidiary on international tax-related matters. Both are completed, and we await judgments. We are involved in a third matter which will most likely go to the tax tribunal later this year, where we have engaged directly with the MRA on behalf of the client.
10. I have argued various tax matters, including a TP matter, for multinationals in Zimbabwe. We await 3 judgments. I am currently in the middle of a fourth management service fee tax court dispute for a conglomerate in Zimbabwe which has just been postponed to 9 March 2020 due to the court requiring 6 more days to hear evidence and further arguments. New tax judges have been introduced to assist with the backlog of judgments in Zimbabwe.
11. I have also been briefed to argue a substantial TP matter in Malawi, which will most likely proceed to tax court this year.
12. We have recently been retained by a major international consulting firm in a current TP audit in South Africa, where we are applying our methodology to divert the matter from ultimately landing up in tax court.
13. We have also just been informed in another South African TP dispute the matter will be proceeding to trial at the end of 2020, where we have represented the multinational since the audit stage. Over this period the tax claims of the Revenue Authority have decreased by about 80% since the letter of findings stage and the exchange of pleadings prepared by myself and my team.

14. Lastly, I have argued for a multinational and their local subsidiary on 3 separate occasions for 2 separate matters in Tanzania against the TRA in 2019 in the tax tribunal on international tax-related issues (bordering on TP issues), all of which have been concluded. We are awaiting judgment. We are also involved in a TP related audit with the TRA which we anticipate will be concluded this year. I have personally engaged with the TRA audit team on behalf of the client. In all the mentioned cases we have applied our standard methodology, which includes the use of state-of-the-art technology in the courtroom to explain and convey difficult tax issues. Furthermore, my interactions with the TRA legal team on all occasions was positive, with mutual respect that we are doing our professional work. They know me as a senior tax counsel, and as a teaching adjunct tax professor, with a doctorate in tax (The Constitutional Rights of Taxpayers during Tax Audits). Some of their senior management have approached me in the past about the online TP courses through Middlesex University in London I designed, convene and teach.
15. In summary, I have been involved, with my team, in many other tax dispute resolutions over the past 10 years for multinationals totally just under US\$4bn where the average pay-out to Revenue Authorities has been under 3%. Most matters were settled before going to court, and in all we did extensive preparation (as in the recent Malawi example) as if we were going to argue at a tax court hearing. This requires a particular skill set which we have, tried and tested with results.
16. In the cases which have proceeded to court, I have been exposed to the litigious landscape in Africa. My clients' matters have taken me to Uganda, Zimbabwe, Zambia, Tanzania, Malawi and Mauritius. Each jurisdiction presents interesting and new challenges which we have successfully overcome. I believe I am one of the few international tax-related and TP litigation experts and senior counsel who has had such first-hand experience preparing and arguing these matters in various courts and, as a result, can offer clients the peace of mind that our approach is tried and tested. My team has worked closely with me on all these engagements.
17. Many local tax experts have not run cases to tax court and therefore very few have had the experience my team and I have, especially in Africa. I have been fortunate to represent numerous multinational taxpayers in Africa in the following industries/sectors:
 - Telecommunications;
 - Mining;
 - Internet technology (digital economy tax issues);
 - Tobacco;
 - Packaging and procurement;
 - Agronomy; and
 - Consulting.
18. My team consists of myself as lead/senior counsel (although I am instructed to appear with other senior counsel from time to time), and a team of 3 tax qualified attorneys (my

associates, one of whom is also a CA), their support staff, and 3 qualified TP specialists (all CA's).

Yours faithfully,

TRM Daniel Erasmus
Tax Court Practitioners
Per:

DR DANIEL N ERASMUS
INDEPENDENT TAX COUNSEL