

ATAF VAT WORKSHOP

CONSTRUCTION INDUSTRY AND MISSING TRADER FRAUD

VAT COMPLIANCE IN THE CONSTRUCTION INDUSTRY

Botswana Experience

By Itumeleng Kgosietsile
08/09/2021

Overview

Construction – includes building, assembling of infrastructure, design, architecture, engineering, civil works, management of projects...

- The main engines of growth in Botswana's economy
- Growth in the construction industry has been closely linked to and influenced by, Government's investment in physical infrastructure.

- Generally most prone to corruption

2018

- Total 16 corruption cases under investigation

- 13 valued at P1,437,096,050 = US\$ 143,709,605
- 1 project worth P152 million on hold pending investigation

2017

Construction tender under investigation

Valued at P285,684,000 = US\$ 28,568,400

Cont...

2016

685 companies out of 18,552

3.7% of Total

2017

2,708 companies out of 26,264

10.32% of Total

Total GDP:

2016: 7.5%

2017: 7.6%

5th largest contributor to economy and 3rd largest employer

6279 Registered for
Tax with BURS

588 VAT
Registered

554 Small / Medium

34 Large

General Requirements



Registration

- Taxable activity in Botswana
- Taxable turnover of P1million (US\$100,000) – compulsory
- Turnover of P500,000 (US\$50,000) voluntary
- No special registration requirements

Return Submission

- Monthly submissions – category C taxpayers
- Bi-monthly submissions – category A and B taxpayers

Payment

- Monthly or bi-monthly depending on the category
- 25 days after end of the tax period – Tax period can be monthly or bi-monthly

Risk Analysis

- Large companies involved in big projects are foreign
- Related party dealings
- Transfer Pricing issues

- Import materials from holding cos;
- use fake invoices;
- Invoices in foreign language;

Risk Areas

- Nil return filing;
- Non-declaration;
- Under-declaration;
- Missing trader

- Mgt fees, Tech fees, royalties paid without withholding tax deduction
- Income not declared or fees misclassified as admin expenses
- Claim guarantee fees but no tax declarations

Case 1 – XCo..

Background: Business of buying and selling Property Developer

- Developer buys land – signs development covenant stating that transfer will effect after property is developed, once developed, it is sold, sale agreement is signed between plot owner and buyer – developer not in the picture – missing trader and chooses which property to pay tax on or not declare.

Investigation: search, seizures of records, Input tax invoices

- Bank records not showing income from sale, income deposited into trust account of the attorneys. Attorneys instructed to transfer funds to separate accounts including outside Botswana. Records not properly maintained:
- Input tax records revealed some info – plot number, price..

Cont..

3rd Parties – Banks, Deeds Registry, buyers

- Information from Third Parties: Sale agreements and registered bonds with particulars of buyers; mortgage agreements between buyers and banks; Title Deeds;
- Values and dates of transactions, Development covenant, Financiers, sellers;

Findings

- Identified 69 plots: 21 declared, 25 undeclared, 13 claimed to be unknown and 10 belonging to sister companies;
- P30, 634,000 (US\$3,063,400) was declared;
- P29,376,000 (US\$2,937,600) under-declaration

Case 2 – YCo..

Background:

- YCo participated in local and foreign tenders, upon winning a tender, a local coy takes over the work and no recognition of income by YCo in Botswana.

Findings:

- YCo created and registered 13 bogus companies;
- Bogus companies did not have place of business; have common fake postal/physical address; some share telephone number;
- Issue fake tax invoices to YCo and in turn YCo claims input tax on non-supplied materials; YCo issues different fake invoices to these bogus companies using different fake letterheads;
- wrong claims of capital allowances;

Case 3 – ZCo..

Assessment:

VAT

- Additional assessment: P4,545,521.69
 - Penalty: P7,191,091.69
 - Total: P5,681,902.11 = US\$56,819,021
-

Income Tax:

- Additional assessment: P29,239,242.44
- Penalty: P7,191,091.69
- Total assessment: 36,430,334.13 = UD\$364,303,341

Conclusion

- Encourage sector voluntary compliance – continuous education and awareness? constant monitoring? Penalties?
- Enhance sector knowledge within the compliance team;
- Encourage whistleblowing, implement whistleblowing policies, strengthen witness protection measures for whistleblowers;
- Strengthen stakeholder partnerships – including system interface with relevant stakeholders;
- Develop a robust risk assessment system that can detect fraud;
- Think data matching tools or systems;

THANK YOU



Collecting for Progress
www.burs.org.bw