Adjusting corporate income tax returns (2/7/19)

Corporate income tax (CIT) returns for 2018 have been filed with the State Revenue Service (SRS) as required by the CIT Act. In practice, however, a company may need to adjust a tax return it has already filed or to file an outstanding one. This article explores some of the rules to consider in adjusting a CIT return.

A tax return for the period

Section 17 of the CIT Act provides that a taxpayer should file a tax return with the SRS on or before the 20th day of the following tax period. The taxpayer is not required to file a tax return for any period in which he had no taxable items.

So a tax return filed after the 20th day of the next month is considered an adjustment to the tax return for the period.

Where filing an adjustment results in more CIT to pay, the SRS will charge a late fee under the Taxes and Duties Act.[1] But special rules apply to the tax return for the last month of the year.

The CIT return for the last month of the year

The CIT Act provides that the tax return for the last month of the year should be filed on or before the 20th day of the next month. Section 17 of the CIT Act lays down special rules for adjusting this tax return: subsection 8 provides that a late fee that may be levied under the Taxes and Duties Act is not applicable to any additional tax payable after the tax return for the last month of the year was adjusted on the basis of a change that arose during the process of preparing financial statements that have been filed by the statutory deadline.

So, if a company adjusts its last tax return for the year before the deadline for filing financial statements and reports more CIT payments, the SRS will not charge a late fee. If an adjustment to the tax return is filed after that deadline, the SRS will charge a late fee under the Taxes and Duties Act.

And our analysis of this rule finds that the lawmaker has not determined that the taxpayer may file adjustments to the CIT return based on any changes arising in the financial reporting process only once. So there is no cap under the CIT Act on how many times a company may file adjustments to its last tax return for the year before the deadline for filing financial statements.

Since it might have been difficult to gather all the information for the year by 20 January and the financial reporting process might have shown up some errors that are unlikely to escape the auditor’s notice, this rule is very favourable to taxpayers.

The time limit for adjusting tax returns

In adjusting CIT returns, section 16(6) of the Taxes and Duties Act provides that the taxpayer may file adjustments to tax returns within three years (or within five years for a transfer pricing adjustment) after the statutory due date for payment (CIT is due on or before the 20th day of the next month). No adjustment may be made if during this time an audit of particular taxes and relevant tax periods has been started or completed, the deadline set by the SRS for adjusting the tax return during the taxpayer's data compliance check has expired, or a decision has been made to adjust the tax charge (i.e. the SRS has adjusted the amount of tax due after completing a customs check or after issuing a tax ruling on an administrative offence).

[1] Section 29 of the Taxes and Duties Act provides for a late fee of 0.05% of the outstanding principal debt for each day overdue.