The impact of technology on taxation
Is VAT the eTax Solution?

Technology has dramatically impacted taxation and the manner in which it is effectively imposed. At issue are rapidly increasing Electronic Commerce (eCommerce) transactions coupled with unconstrained growth and development of technology. The traditional world of tax, commerce and international trade is witnessing the radical evolution of taxation as it rises to meet the unprecedented challenges of eCommerce.

The development of the Internet has expedited the escalation of globalisation, which in turn has compounded taxation issues. Unprecedented tax issues in respect of eCommerce transactions on the Internet may be classified as pertaining to the next generation taxing regime. Because of this, it is imperative that the eCommerce environment itself and the laws relating to such an environment should be examined.

Indeed, ignorance of the virtual world and its modus operandi precludes reaching effective solutions in the field of eCommerce. If this ‘virtual world’ and the manner in which it operates is not understood, it may be difficult to develop viable solutions to the manifestation of new taxing problems. Technology is accompanied by principles and a broader way of thinking than taxation has embraced. Continuously applying restrictive tax principles within a limitless environment will result in revenue loss to government coffers.

eCommerce has not impacted VAT laws to the extent it has income tax laws, but has effectuated an exponential increase in cross-border transactions in respect of which tax laws, depending upon jurisdiction, zero-rate exports and tax imports. But what does this effectively mean for the average individual consumer purchasing goods, for instance buying a book from Amazon USA which is mailed to the consumer – or services, such as downloading music, movies, games and software over the Internet?

Essentially individual consumers may be subject to VAT on such transactions and,
furthermore, may be personally obliged to pay such VAT to our local revenue authority, but may not be aware of obligations resulting in unpaid tax on eCommerce transactions. It may also lead to situations where the individual consumer is taxed on the transaction, but by two separate countries, resulting in double taxation on the same purchase.

The imposition and collection of VAT on goods purchased over the Internet may, to a large extent, be controlled better than the purchasing of services. Goods usually have to go through Customs and VAT can generally be collected by the Post Office when the parcel is collected. While there are issues and concerns with respect to the purchasing of goods over the Internet, the more prevalent issues and complexities relate to the supply and purchasing of services over the Internet.

Unfortunately, while VAT jurisdictions apply similar principles and concepts with respect to VAT, differences do, nevertheless, exist which hinder the effective, fair and equitable application of VAT globally.

For example, application of the “place of supply rules” for purposes of providing clarity on where a supply is considered to have been supplied and, therefore, subject to VAT. South Africa, in this regard, lacks such “place of supply rules” often creating uncertainty as to when a supply is subject to VAT in South Africa and when a foreign supplier is considered to be carrying on an enterprise for VAT purposes in South Africa.

To place this matter in context for the average individual consumer, South Africa applies the “reverse charge mechanism” with respect to imported services; “imported services” being services acquired from a non-resident business where such services are consumed in South Africa and not acquired for purposes of making taxable supplies subject to VAT. In terms of the “reverse charge mechanism” the South African purchasing consumer is obligated to account for the VAT on the purchase.

Essentially this means that where an individual downloads software, music, movies, etc. from a foreign supplier, the individual consumer is required to account for the VAT on the supply. For example, if an individual South African consumer is able to download a song from the USA iTunes store, the individual consumer should go to the South African Revenue Service (SARS)) and pay the VAT in accordance with the general exemption which currently applies to imported services of up to R100 per transaction.

The broadened scope and obligation placed on non-registered consumers to account for output tax on imported services is generally not enforced as the administrative costs are both unrealistic and impractical. However, while no statistical studies have been found with respect to the revenue loss arising from such supplies and the non-collection of VAT for these, this may prove to be a large area of revenue loss not only for South Africa but jurisdictions globally. It is nevertheless evident that the SA government is aware of this problem in terms of the Finance Minister’s 2013 Budget Speech proposal to require non-resident eCommerce suppliers supplying goods or services in SA to register for VAT.
Furthermore, while I have focused on supplies between businesses to consumers, it is important to recognize that complexities also exist with respect to supplies between businesses, businesses and governments and a combination of all the above, which unaddressed must inevitably contribute either to loss of revenue for government coffers or imposition of double taxation. This hinders globalisation, and impacts on South Africa’s global economic position in this new ‘virtual world’.

Taking such issues into consideration governments should align their VAT principles, descriptively defined as harmonization of VAT, which will not only allow governments to ensure a more effective and efficient imposition and collection of VAT, but will reduce the possibility of double taxation from occurring. It will also create a more equitable playing field for suppliers by ensuring that foreign suppliers are not granted an economic advantage over local suppliers, thereby financially harming local enterprises.

It is imperative that taxing solutions should not be rigidly tailored to current technology operations and systems because technology is forever changing and such taxing solutions will attach to redundant and obsolete technology, thereby not resolving the issues at hand. It may be argued that the continuing changes and advancements in technology makes such an endeavour a futile exercise, and that the only tax that may possibly work within a “virtual world” may be the imposition of an indirect tax like VAT.

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