



# RESPONDING TO AUDITS AND VERIFICATIONS

Masterclass

Presented by

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*YOUR KEY TO THE TAX COMMUNITY*

# Selection for audit

- Random
- Risk assessment
- Any consideration relevant for the proper administration of a Tax Act

# Selection for audit

- Selection for audit:
  - Reviewable
    - Carte Blanche (2021)

# Selection for audit

- Selection for audit:
  - Reviewable
    - Carte Blanche (2021)
- Still – audit itself must be procedurally fair
  - Notice of commencement
  - Progress reports
  - Audit findings
  - Opportunity to respond
  - Time frame?
- Remember audit vs verification
  - Audit – section 42 etc
  - Verification – PAJA?

# Responding to SARS audit/verification

- Purpose?
  - Discharge the onus of proof (first opportunity)
    - Burden of proof – pre-litigation
    - Burden of proof – post litigation
- Pretoria East motors:
  - SARS must have proper grounds
  - Failure to understand – “reduced burden”

# Responding to SARS audit/verification

- What determines evidence:
  - Substantive law
    - Exemption
    - Deduction
    - Tax credits
    - Rebates
    - Rate of tax
      - Etc...

# Responding to SARS audit/verification

- Suggested mindset:
  - Tax dodger
  - Everything will be questioned and second guessed
- Remember: audit is not the place where you implement strategies other than making SARS' life as easy as possible

# Responding to SARS audit/verification

- Most audit/verifications questions has some “agenda”
- Understand what that is
- Answer SARS’ questions

# Responding to SARS audit/verification

- Prepare a proper response ideally with a cover note
- Clearly mark annexures
- Think about what SARS/you are trying to achieve
  - Example: tax invoices not on hand
- Specific questions: answer “schoolboy style”?

# Responding to SARS audit/verification

- What if you identify an error whilst responding?
  - Clear it out
    - VDP relief???

# Audits, prescription and document retention

- Can SARS audit post prescription and document retention period
  - Yes:
  - <https://unicustax.co.za/sars-audit-how-far-back-can-they-go/>

# Responding to USP's

- Who carries the burden of proof on USP's?
  - Lance Dickson Construction Company

# Example

- Most prevalent at the moment:
  - SARS taxing deposits into bank account
    - Difference between declared and amounts received
  - Step 1: substantive law
    - Definition of gross income
      - Receipt
        - No beneficial receipt
          - Loans
          - Received on behalf of someone else
          - Donations/capital
          - Imply not received (inter account transfers)

# Example

- Step 2: evidence:
  - Bank statements
  - GL
  - Bank recons
  - Loan agreements
  - AFS
  - Affidavits
- Step 3: Presentation
  - Example presentation (in part)
    - Type of auditor – detail or not detail (always give the detail though but add extra layer).

# Thank you

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