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Tax evasion vs Tax Avoidance

What is it & the difference between the 2.

A thread

Tax evasion = Illegal ■ Criminal
Tax avoidance = legal ■ allowed

Tax evasion is an illegal & unlawful practice of not paying tax. A person or business structures their affairs in a way that they don't pay taxes due to SARS. This happens by not reporting their income, deducting frivolous expenses, inflating expenses, underpaying or understating

Tax avoidance on the other hand is a legal & allowed way of minimizing your tax liability. Our tax legislations allow us to structure our affairs in order to minimize your tax liability

E.g. in personal taxes, medical aid, out of pocket, RA deductions, TFSA etc. In VAT, output & input tax provisions allows for payment of lesser taxes. Business are also allowed to deduct allowable expenses, ring fence losses etc in order to minimize their tax liability

Businesses & individuals use the allowances afforded in our tax laws in order to minimize their tax liability & sars doesn't have a problem with that. In fact, it is encouraged. However, tax evasion is criminal. Sars can lay criminal charges against you & you'll be prosecuted.

It can also raise assessments to recoup all the monies you have defrauded add penalties & Interests. I won't go into the details of the TAA as I don't want to be too technical.

Here's an example if a tax evasion case. Many businesses are found in the wrong side as there's a very thin line between tax evasion & avoidance.

SARS WINS R1-BILLION TAX EVASION CASE

https://t.co/mjjAnu3gcG

Ok, now what was the noise about last night.
1. Employers have a duty to withhold employees tax & pay it over to SARS
2. Encouraging employees to rather register companies in order to aid you not to pay salaries has various consequences but I'll limit it to the following:

2.1 you don't want to fulfill your duty as an employer to withhold & pay tax to sars
2.2. The invoices will be deducted as expenses & thus reduce your business taxable income.
This is pure tax evasion

So what if they are independent contractors? You might have seen this word thrown around loosely on the TL. Sars realised that most businesses evade tax by paying their employees invoices instead of salaries. There's a lot of case law to this effect.

In order to minimize disputes, it issued interpretation notes to clarify the law dealing with this. The interpretation notes gets revised as an when theres a need. We have in note 17 that deals with employees tax for independent contractors & in note 35 that deals with psp

So what is the employees have other side hustles & the invoices is to allow them to get business elsewhere? Is the employer still liable to deduct tax? Yes, if 80% of their income comes from 1 employer.

So as an employer, the employee has to provide you with an affidavit that 80% of their income doesn't come from you.

Hope this clarifies the confusion. Please note I've not touched on other statutory obligations arising from this set up I.e. labour, uif, SDL. I've also not touched on how the set up can also disadvantage the employees re: a bigger tax liability than they would ordinarily not hav

Independent contracting, free lancing etc. is allowed & should be done within the prescripts of the law. They pay their own taxes & there are tax law provisions allowing them certain deductions in order to reduce their tax liability