

# ZAMBIA REVENUE AUTHORITY

**CASE NAME: ABUSE OF APC 462**  
INVESTIGATIONS DEPARTMENT

**OECD – Conducting Financial Investigations**

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# OUTLINE

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# MANDATE AND STRUCTURE OF THE INVESTIGATIONS DEPARTMENT

The mandate of the Investigations Department is to deal with deliberate evasion activities related to Zambia Revenue Authority statutes whether they result from the legitimate economy or illegal economy in order to enhance compliance. This mandate is fulfilled through the provision of the Criminal Investigations program and the Leads and Assistance Program.

## Criminal Investigations Program

The program aims to conduct investigations into suspected cases of non-compliance with the various acts being administered by ZRA and to prosecute each case where sufficient evidence is obtained to support a conviction and/or to take necessary civil actions where warranted. The major Acts being administered include the Customs & Excise, The Income Tax and the Value added Tax Acts.

- ❖ All offences under the Customs & Excise Act, Income Tax Act and the Vat Act are investigated by the Investigations Unit of the Zambia Revenue Authority.

## Leads and Assistance Program

To coordinate third party leads received by the Authority and to provide assistance, upon request, to other programs, domestic and foreign Tax and Customs authorities, and other Enforcement Agencies.

The Unit comprises of;

- ❖ Investigations Teams (North and South)
- ❖ Information Unit Team
- ❖ Digital Forensics Team (DFU)
- ❖ Tax Refund Fraud Investigation Unit (TRFIU)

# INTRODUCTION

- This is a case on alleged Fraudulent clearance of a Motor Vehicle using Additional Procedure Code (APC) 462.
- It was alleged that a syndicate comprising Zambia Revenue Authority officers, clearing Agents and importers – tax payers were fraudulently clearing motor vehicles under APC 462. APC 462 is an Additional Procedure code that provides for the remission of duty on motor vehicles solely imported by the differently abled (physically challenged individuals).
- Importation of the motor vehicles was done by physically fit individuals who illegally acquired disability cards or had manipulated the authorisation letters from the Zambia Agency of Persons with disabilities(ZAPD) to enjoy the remission of duties and taxes on the imported motor vehicles into the country.
- The Database for the differently abled is managed by an organisation known as Zambia Agency for Persons with Disabilities and this is the organisation that verifies the authenticity of the disability cards..

# Background of the case

The case was a referral from the Zambia Revenue Authority -Internal Affairs Unit. A motor vehicle – Toyota \*\*\*\* was allegedly imported into the country by Mr. S – differently abled on entry number C\*\*\* of 31<sup>st</sup> August, 2018 under Mwami Border Post. The Motor Vehicle was cleared under APC 462 and the duty paid amounted to ZMW 2,877.60 - \$60. APC 462 falls under Regulation 87A of the Customs and Excise General Regulations and it is a remission or rebate of duty on importation of a non-conventional motor vehicle, imported by Persons with disabilities. The motor vehicle should be modified prior to importation, to suit disability of the importer and the modifications include; special gears, hand controls, lifts for getting on to the Vehicle, ramps and any other features to aid the importers disabilities. It is therefore alleged that Mr. S's vehicle was found to be a conventional vehicle with no special gadgets which led to its detention by our Customs officials at Mwami Border in Eastern Province.



# APC PROCEDURE ON IMPORTATION OF MOTOR VEHICLES

The Importer of the motor vehicle should have a valid disability card and recommendation letter from the Zambia Agency of Persons with Disabilities (ZAPD).

They then send an application letter to the Zambia Revenue Authority requesting for configuration of the their Tpin – Attached will be documentation from the Agency and the importation documents of the motor vehicle (invoices, bill of lading and export documents)

The documentation will be verified, motor vehicle inspected, the applicant interviewed and once satisfied the officers at the port of entry will request the Business Support Unit in the Customs Department to proceed with configuration of the Tpin so as to waive off the applicable taxes on the motor vehicle.

Once the configuration is done, the agent representing the taxpayer proceeds to register the Customs Entry under the procedure code APC 462.

# INVESTIGATIONS WORK DONE

- ☐ A Visit to the Zambia Agency for Persons with Disabilities to establish the disability status of Mr. S.
- ☐ A visit to the Resource Centre that supports the physically challenged to establish the membership status of Mr. S. - Chipata
- ☐ Physical Inspection of the Motor Vehicle - Eastern Province Mwami Border
- ☐ Check the records of the physical inspection reports at Eastern Province - Mwami Border.
- ☐ Locate the Clearing Agents at Mwami Border who facilitated the Clearance of the motor vehicle .
- ☐ Interview the customs officers at the border , the Agents and customs officials from Mwami Border in Malawi.
- ☐ Interview Mr. S and the clearing Agents that cleared the motor vehicle on behalf of Mr. S
- ☐ Probe the Asycuda World system for the bills of entry, attachments and audit trails.
- ☐ Further verifications from the Car Dealer in Japan.
- ☐ Further checks on the Taxonline system for Tax Payer Profile of the clearing Agents and the Car Dealers.
- ☐ Customs Legislation and Income Tax Legislation administered by the Authority.
- ☐ Interviews, Interrogations and warn and caution statements
- ☐ Arrest of the clearing agent

# FINDINGS

Mr. S was an active member of the Zambia Agency for Persons with Disabilities.

The motor vehicle did not have any modifications or special gadgets to indicate that it was for a differently abled person.

Mr. S was interviewed and denied being the owner of the motor vehicle and further indicated that he was approached by named people who promised to give him agriculture supplies in exchange for his Disability card and National Registration Card.

The registered entry on the Asycuda World System and all the supporting documents indicated that Mr. S was the importer of the motor vehicle.



# FINDINGS – CONT'D

Mr. S denied having written any application letter, he did not know how to write.

Checks with the Exporter – a Japanese Car Dealer indicated that actual owner of the motor vehicle was not Mr. S and this then was proof that all the documents that were presented to Customs for clearance of the motor vehicle were forged.

The owner of the clearing company indicated on the customs entry was given the business of registering the vehicle by another agent who gave him the approved documentation from Customs. This Agent was apprehended and when asked to sign on the warn and caution statement. The handwriting matched the writing on the application letter purported to have been written by Mr. S. This was also confirmed by the handwriting experts.

# FINDINGS – CONT'D

The Agent was not working alone but worked together with the Customs Officials and other named people.

The actual car dealer who was the mastermind of these criminal activities is still at large.

This facility was abused and there are still a number of vehicles that are not fully cleared. Verification of imported motor vehicles using the APC 462 and other rebate facilities illegally is still being done.

A number of Clearing Agents did not declare the income from the import clearances and this was handed over to the Indirect taxes team who assessed and penalised them accordingly.



# OFFENCES

- ☐ The Evidence obtained supported a conviction in the courts of Law.
- ☐ The vehicle in issue was forfeited and placed under the custody of the ZRA Commissioner General.
- ☐ The accused was successfully convicted in the courts of Law.
- ☐ Legislation – The Customs and Excise Act, The Penal Code and The Criminal Procedure Code; The Persons with Disabilities Act No 6 of 2012.
- ☐ Offences – Forgery and False Representation, Smuggling,

# CHALLENGES

- The actual owner of the motor vehicle is still at large. (Lack of GPS tracking equipment).
- A number of motor vehicles imported into the country were fraudulently cleared using the APC 462 and other rebate facilities (Issues of human rights arise when requesting to probe the ZAPD database)
- There are still a number of cases being investigated. (high case to officer ratio)



# OPPORTUNITIES

- Collaboration with Revenue Authorities –Customs to Customs Data Exchange.
- Collaboration with law enforcement agencies.
- Cooperation from Exporters of Motor Vehicles – Japan
- Asycuda World System and the Taxonline Systems.



# CONCLUSION

- As at December 9, 2016, a total of 72,842 vehicles were smuggled into the country representing 19.1 percent of the vehicles that were not accounted for.
- A joint motor vehicle amnesty campaign exercise with the Road Transport and Safety Agency was undertaken in 2016 and 1.4 million was collected in taxes.

THANK YOU.



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