

VAT News 7 - August 1996

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INTRODUCTION

On 3 July 1996 the amendments to the Value-Added Tax Act were promulgated in Government Gazette No. 17311, rendering them effective as from midnight the previous day, namely Tuesday 2 July 1996. Where an effective date is, however, specifically mentioned in an amendment, the promulgation date does not alter this. Examples of these are amendments to section 2 and 12 (financial services), which will come into effect on 1 October 1996, as well as section 16 (supply of fixed property) which came into effect on 6 June 1996.

FINANCIAL SERVICES

In terms of the amendments to sections 2 and 12(a) of the VAT Act, most of the financial services that previously were exempt from VAT, will now be taxable at the standard rate (14%) as from 1 October 1996 (except where the zero rate applies). These changes, which were recommended in the report issued by the Katz Commission, are that all fee-based financial services, including those in respect of life insurance and superannuation funds, should be brought into the VAT net.

As a result of these amendments all services for which any fee, consideration or similar charge is payable will be subject to VAT from 1 October 1996. This does not include any discounting costs or interest. A bank statement will, therefore, reflect that VAT is levied on most bank service charges, including the issue of new cheque books, ATM charges or fees for bank guaranteed cheques, but excluding interest on loans, overdrafts, etc.

The VAT on these costs will qualify as input tax in the hands of a vendor if the service was acquired in the course or furtherance of the enterprise. The items subject to VAT will normally be indicated by means of an asterisk or some other means enabling vendors to identify their input tax, and may be claimed when a bank statement is issued (this applies to both vendors who are on the invoice and payments basis).

Some bank services would not be indicated on the bank statement, for example treasury fees, but a separate tax invoice will be issued if these services are subject to VAT and an input tax deduction may be claimed on the strength of such document.

An amendment to section 67A was also introduced in terms of section 67A financial services **performed before 1 October 1996** will still be exempt from VAT (even where charged in October), whereas those **performed after** that date will be subject to VAT. The normal time of supply rules are not taken into account during the transitional period. An appointment will therefore be made on your bank statement if it covers the period beginning before and ending after 1 October 1996.

FIXED PROPERTY [SECTION 16(3)]

Due to the fact that serious cash flow problems may occur where a vendor who accounts for VAT on the invoice basis disposes of fixed property (for example land, improvements or any real right therein), and to prevent abuses, the VAT Act has been amended to require vendors on the invoice basis to account for output tax and input tax in respect of fixed property transactions entered into **on or after 6 June 1996** only to the extent that payment (excluding a deposit) has been received or paid, as the case may be.

The amendment benefits those vendors on the invoice basis who sell properties with payment over extended periods. It also prevents buyers from claiming large input tax deductions where only a small portion of the purchase price has been paid.

GOING CONCERN ADJUSTMENT

(SECTION 18A)

Where a going concern is acquired by a vendor, the zero rate is applicable if all the requirements of section 11(1)(e) are met. If the going concern was acquired for purposes other than using it to make taxable supplies (for instance as a private residence or to make exempt supplies) the buying vendor must make an adjustment in his VAT return in terms of section 18A and pay over an amount of output tax. Where the going concern was acquired from a connected person

(relative, member of a close corporation, etc), at a price which is **less** than the open market value thereof, the adjustment must be made by deeming the cost of the supply to be the open market value thereof.

IRRECOVERABLE DEBTS

(SECTION 22)

A supplier who accounts for VAT on the invoice basis and writes off a bad debt is entitled to an input tax deduction equal to the tax fraction of the irrecoverable amount which has become bad and which has been written off. Before the amendment, the recipient of the supply of goods or services, i.e. the debtor, was not required to make any adjustment in his return where his debt has been written off, unless the creditor issued a credit note. The amendment to section 22 rectifies the above position. A recipient on the invoice basis who has claimed an input tax deduction in respect of such supply and who has not paid the full consideration charged in respect thereof after a period of 36 months has lapsed, must now account for output tax equal to the tax fraction (14/114) of the amount still outstanding.

The period of 36 months commences at the end of the tax period during which the input tax deduction was claimed. The supply is deemed to take place during the tax period that immediately follows upon the expiry of the 36 month period and the recipient must declare the VAT as an adjustment in his VAT return. Where a payment for the goods and services is, in terms of the agreement, payable in installments the adjustment for each unpaid installment must be made 36 months after the installment fell due.

Where the recipient does in fact settle any portion of the debt at a later stage, he may make an input tax deduction equal to the tax fraction of the amount paid. The amendment does not affect vendors on the payments basis where they only account for output tax or input tax on payments received or made for supplies, respectively.

BETTING AND GAMBLING

As from 1 October 1996 betting and gambling services in the territories of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei will, as is already the case in the rest of South Africa, become subject to VAT at the standard rate instead of the zero rate.

VAT 201

The VAT 201 return has been adapted to make provision for the calculation of VAT on the sale of capital goods and/or services which must be reflected separately in fields 1A and 4A. Notes 1A and 4 + 4A on the reverse side of the VAT 201 clearly explain the purpose of these fields.