

VAT News 13 - December 1999

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VAT LEGISLATION CHANGES

Vendors, please note the following changes to the VAT Act.

INCREASE IN THE REGISTRATION THRESHOLD TO R300 000

The R150 000 annual turnover (VAT exclusive) threshold for compulsory VAT registration has been increased to R300 000.

Vendors with annual turnovers of less than R300 000 may wish to deregister. Where your sales are mainly to final consumers (and not to other registered vendors) it may be better not to be registered for VAT. The reason for this is that the value added by your business (the difference between the VAT you pay on inputs and VAT you charge on outputs) is not taxed. This is especially so for vendors with a high labour content or high mark-up.

if you decide to deregister, VAT is payable on assets retained at the lower of cost or market value. As a concession to vendors that deregister, VAT will not be charged on fixed property retained if it was bought before 30 September 1991, if the application to deregister is received by SARS before 1 July 2000. Enquiries in this regard should be made to your Receiver of Revenue - ask for VAT. deregistration.

INTRODUCTION OF A MINIMUM TURNOVER OF R20 000

Businesses with annual turnovers of less than R20 000 will not be allowed to register. Those vendors who are already registered and do not generate a turnover of more than R20 000 will be deregistered and notified accordingly.

COMMERCIAL RENTAL ESTABLISHMENTS THRESHOLD INCREASED TO R48 000

The threshold for Commercial Rental Establishments (e.g. holiday accommodation), for the letting of accommodation, where the letting period is less than 45 days, has now been increased to R48 000 per year. If you are affected by this amendment, please contact your Receiver of Revenue.

GOING CONCERNS - ADDITIONAL REQUIREMENTS

in order for the sale of a business to be seen as that of a going concern, the seller and the buyer must agree in writing, that the business will be an income-earning one at the time of sale. Assets necessary to continue the business must be transferred and the seller and buyer must now also agree in writing that the price agreed upon is inclusive of VAT at the rate of zero percent.

PAYMENT OF VAT ON IMPORTS

To claim input tax in respect of VAT paid on imports, vendors or their agents must be in possession of valid Customs documentation as well as a receipt that is issued by Customs proving that VAT was paid.

SECURITY

Where the vendor is a dose corporation, company or trust, SARS can require any or all of the members, shareholders or trustees involved in the management to enter into a contract of suretyship in respect of the tax liability of the vendor. Members, shareholders or trustees will be held liable if the vendor defaults on VAT payments.

REPRESENTATIVE VENDORS AND CHANGE OF STATUS

A representative vendor is the person responsible for performing the duties imposed on the vendor by the VAT Act. In terms of this amendment, each representative vendor will remain responsible until he notifies the Receiver that he no longer acts as such, and furnishes the name and address of his successor. Such notification must be made within 21 days.

AGENTS AND AUCTIONEERS

Agents and auctioneers must, at all times, keep sufficient records to enable the name and address and VAT number of the principal to be ascertained. The agent or auctioneer must now also inform his principal in writing, within 21 days of the end of each calendar month, of the description, quantity and value of the goods supplied by him as agent, or received by him on behalf of his principal. Agents and auctioneers are now required to retain all documentation and records relating to the sale of livestock in order for the principal to be ascertained, whether they are registered or not. Where sales are made on behalf of non-vendors, you must record his identity number and retain a copy of his ID document if the sale exceeded R1 000.

FINES AND IMPRISONMENT

Penalties in respect of VAT offences have been increased. Fines, for example, for failing to file VAT returns have been increased to R40 000, while fines and jail terms for VAT evasion including fraudulent refund claims have been increased to R100 000 and/or 5 years imprisonment. If you are aware of businesses evading VAT you can give information anonymously by phoning SARS fraud hotline 0800 002870. Tax evaders are cheating us all!

EXPORTS

During 1998 new VAT requirements regarding the export of goods were introduced. Many vendors, however, are still applying the incorrect rates of VAT in respect of sales to foreign clients. VAT at the standard rate with interest and penalties is payable where a zero-rate or refund of VAT has been incorrectly applied.

The basic rule is that -

- Direct export - where the seller controls the export: the zero-rate applies; and
- indirect export - where the purchaser controls the export: the standard rate applies and is regulated by the Export Incentive Scheme.

These issues are dealt with in Government Gazettes No. 18738 (notice No. 18738 - March 1998) and No. 19471 (November 1998). Practice Note 2 as well as in VAT NEWS 11 and 12.

Remember:

- Your cartage contractor (foreign or South African) must be registered for VAT in South Africa.
- If the zero-rate is levied, in terms of part two of the Export Incentive Scheme, the purchaser must be a qualifying purchaser.
- If you are supplying second-hand goods, special rules apply.
- Botswana, Lesotho, Namibia and Swaziland are also export countries and no distinction is made between exports to these countries and other export countries.
- The seller may not effect a refund, but the foreign buyer can claim a refund only through the VAT Refund Administrator.

Obtain your copy of Government Gazette No. 19471 dated 13 november 1998 which contains the Practice Note and the Scheme from the SARS website -www.sars.gov.za

EXPORT OF VODACOM, MTN AND TELKOM PRE-PAID CARDS

Pre-paid phone cards and recharge vouchers Cannot be exported at the zero-rate. These cards can only be used in South Africa, and as such the service cannot be exported. Customs and Excise will not stamp any tax invoices, CCAI or DA550 forms presented. The VAT Refund Administrator can also not effect a refund.

THE MEAT AND LIVESTOCK INDUSTRIES

As from 1 July 1999, all ruling and concessions relating to the industry have been withdrawn and replaced with the following regulations:

The supply of livestock reverts to the standard rate.

The importation of livestock is also subject to VAT at the standard rate.

This is now collected at the border posts.

Permission granted to vendors in the meat and livestock industry to utilise self-invoicing procedures has been withdrawn. Producers or their agents who are registered for VAT must issue a tax invoice for supplies to a third party. Refusing to issue a tax invoice for a supply to a purchaser is an offence in terms of the VAT Act and you can be prosecuted for such refusal.

LABOUR BROKERS

Where a labour broker supplies the services of his employees to a client, the full consideration is subject to VAT. Output tax therefore payable by the labour broker will include both his fee (commission) as well as the remuneration component paid to the employee by the labour broker. The labour broker must issue a tax invoice showing VAT charged on the full consideration.

ROYALTY, FRANCHISE AND AGENCY AGREEMENTS

The granting of the use in South Africa of any trade mark or intellectual property by a foreign enterprise over a period of time is regarded as the carrying on of an enterprise partly in South Africa for VAT purposes. Foreign enterprises that regularly receive royalties, franchise or agency fees are therefore required to register as vendors and levy VAT if their annual receipts in this regard exceed R300 000.

Y2K

SARS would like to inform vendors that our computer systems are Y2K compliant. Please ensure that your computer systems will not be affected by the Y2K bug. It is SARS policy not to accept a Y2K computer problem as the reason for penalty and interest considerations.

SEASONS GREETINGS

The Commissioner and his staff wish our vendors a joyous festive season and prosperous new year.