

VAT NEWS

Keeping Vendors Informed

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LAW AMENDMENTS

Further changes to the VAT law have been proposed in the Revenue Laws Amendment Bill (Bill No. 40 of 2005) and Revenue Laws Second Amendment Bill, 2005 (Bill No. 41 of 2005), which are presently awaiting promulgation.

For more information on the amendments, visit the SARS website www.sars.gov.za/legislation/.

INTERNET AND BANK PAYMENTS

SARS is making it easier for clients to pay taxes via internet banking and over the counter. In terms of this change, the SARS banking account numbers will be replaced with a simple naming convention (beneficiary ID) that will be standardised across all participating banks. Clients will be able to indicate the tax type they are paying by merely:

- using a drop-down listing of pre-loaded beneficiaries if paying electronically (via the internet); or
- by quoting the appropriate beneficiary ID if paid over the counter at the bank.

You therefore no longer need to supply the account number and bank code when making payment. All you need now is:

- your **19-digit payment reference number**; and
- the **beneficiary ID** (e.g. the beneficiary ID for VAT payments is: **SARS-VAT**),

both of which will be reflected on your VAT return.

Both First National Bank and Absa have already introduced the simplified payment method via their internet banking sites and over the counter at their branches. Standard Bank and Nedbank branches will also offer these payment facilities by the end of March 2006. Clients are encouraged to contact their respective banks to get more information on when they will be going live with this new offering.

It is important to remember that even if you have made your payments using internet banking or over the counter at a bank, you must still submit your returns to SARS on time.

For more information, visit our website www.sars.gov.za and select "SARS Payment Options" under the "Taxes" drop down menu, or contact your nearest SARS branch.

GAME VIEWING & PASSENGER TRANSPORT

Over the years, there has been some uncertainty as to whether the supply of a game viewing drive constitutes the supply of exempt passenger transport under section 12(g) of the VAT Act or not. The policy is that game viewing is not passenger transport, and should therefore not be exempt.

With this in mind, an amendment was made to the definition of "motor car" to unblock the input tax on the purchase of game viewing vehicles for vendors who offer game viewing drives as part of a *bona fide* business. An amendment was also made to section 12(g) to clarify that the exemption does not apply to game drives. Both amendments became effective from 24 January 2005.

An appeal was subsequently received from the tourism industry, which submitted that most game viewing operators have published brochures and/or entered into fixed price contracts up to 31 December 2006, on the basis that game viewing drives are exempt. After engaging with National Treasury on the matter, it was decided that the implementation of the relevant amendments would be postponed until 31 December 2006.

The effect of this is that vendors who have treated game drives as exempt, may continue on that basis until 31 December 2006, on the understanding that until then, no input tax would be allowed on the acquisition or conversion of game viewing vehicles (i.e. input tax will only be allowed where the acquisition or conversion is on or after 1 January 2007).

Vendors who wish to apply the law as originally amended to regard game viewing drives as taxable at 14% and to claim input tax on game viewing vehicles acquired from 24 January 2005, must make a written submission addressed to the Legal Manager at your local SARS office.

INPUT TAX ON MOTOR CARS & ENTERTAINMENT AWARDED AS COMPETITION PRIZES OR WINNINGS

When the recently **proposed amendments** to the VAT Act are promulgated, it will be possible for certain vendors to claim input tax on the acquisition of a "motor car" and/or "entertainment" as defined in the VAT Act.

In the case of a "**motor car**", it has been proposed that input tax be allowed under the following **conditions**:

- the motor car must be awarded to clients or customers in consequence of a competition, or where an amount was received as a bet on the outcome of a race or some other unpredictable event; or
- motor cars must be continuously or regularly supplied as competition prizes which are intended to promote the other products which are normally supplied by that vendor.

The input tax on the motor car in these cases will also be subject to the following **limitations**:

- no input tax may be claimed where the prize is awarded to any employee or office holder (or any connected person in relation to that employee, office holder or vendor);
- the input tax will be limited to the actual VAT incurred on the original cost of acquisition (i.e. not on the open market value or the advertised retail value); and
- the VAT may only be claimed in the tax period in which the prize or winnings is awarded, and not in the tax period when the "motor car" is originally acquired.

The proposal is that the same conditions and limitations above will apply where the prize or winnings constitutes "**entertainment**", with a further requirement that the **input tax will only be allowed for vendors who conduct betting businesses** (e.g. casinos).

Example 1

A supermarket holds a competition every month, where a motor car is awarded as a prize. Participants purchase a numbered ticket for R50 each to enter the competition. If the supermarket bought the car in July 2006 for R270 000 (advertised market value R300 000), and supplied the car as a prize in November 2006, input tax may be claimed on the VAT inclusive cost of the car (R270 000) in the November 2006 tax period. Output tax on the ticket sales must be accounted for in the tax period(s) in which they occur.

If the supermarket had chosen to allow customers to enter the competition by filling in their details for the draw on the back of the till slip of their purchases in that store, the input tax would still be allowed, notwithstanding the fact that no entrance fee was charged or any amount placed as a bet.

Example 2

A casino holds a competition where the jackpot prize on a certain slot machine constitutes a 2 week, all-expenses paid vacation at an exclusive hotel in Cape Town. The prize is advertised as being worth R50 000. A customer wins the prize in March 2006 and goes on the trip during April 2006. The casino subsequently receives a tax invoice from the hotel, and pays the full invoice amount of R32 000 during April 2006. In this example, the casino would only be allowed to claim input tax in the tax period which covers the month of April 2006, based on a consideration of R32 000 paid by the casino, and not on the advertised value of R50 000.

Had the prize in this example been applicable to Example 1, no input tax would be allowed to the supermarket as the nature of its business is not betting services.

- for other motor vehicles where an input tax credit is allowed to the employer - **0.6%* of the “determined value” per month** or part thereof.

**These valuation rules are presently under review.*

The “determined value” is defined in Regulation 2835 dated 22 November 1991, and basically refers to the original cost price of the goods (excluding VAT, interest and finance charges). The determined value is reduced in proportion to the extent to which the vehicle is used for making exempt supplies and to the extent that the employee pays for the benefit.

For example, consider a multi-purpose vehicle which is used 30% for passenger transport (exempt supplies), and 70% for taxable supplies, where the employee pays R300 per month to enjoy the benefit of using that vehicle. If the determined value is R100 000, the VAT on the fringe benefit is calculated as follows:

Step 1 Determine the consideration

$$\begin{array}{rcl} R100\,000 \times 0.6\% \times 70\% & = & R420 \text{ per month} \\ \text{Less payment} & & R300 \text{ per month} \\ \text{Equals consideration} & & R120 \text{ per month} \end{array}$$

Step 2 Calculate the VAT

$$R120 \times 14/114 = R14.74 \text{ per month.}$$

(Plus R36.84 VAT included in the R300 per month received from the employee. Therefore total VAT = R51.58).

In the above example, the consideration of R120 would be reduced further by R85 if the employee bears the full cost of repairs and maintenance of the vehicle.

FRINGE BENEFITS

It is often found that vendors do not account for output tax on certain benefits provided to employees. A taxable fringe benefit arises where business assets or services are supplied to employees for no charge (or a charge which is not market related), or where assets or services are made available for the private use of employees. Examples include the use of vehicles, aircraft, cellphones, computers, equipment and holiday homes.

However, no VAT is payable where the benefit is a zero-rated or exempt supply. For example, passenger transport, certain basic foodstuffs, cash payments such as a car or entertainment allowances, loans, etc. In addition, no VAT is payable where the benefit is a meal provided by the employer to the employee at the place of work.

Except in the case of vehicle use, the **consideration in money (including VAT)** for the benefit is the cash equivalent thereof as determined under the 7th Schedule to the Income Tax Act.

Where the fringe benefit is a motor vehicle, the **consideration (including VAT)** for the deemed supply is determined, as follows:

- for a motor car where the employer is denied an input tax credit - **0.3%* of the “determined value” per month** or part thereof; and

APPORTIONMENT, ADJUSTMENTS & PRIVATE USE

Closely associated with a fringe benefit is the concept of adjustments for “own use” or “self-supply”. This typically occurs where the vendor is a sole proprietor or close corporation with only one member. Where the business is conducted from the proprietor's residence, there may also be a tendency to use business assets for private purposes.

Example 1

A sole trader who works from home, buys a new computer for the business and uses the old computer for recreational purposes. Output tax must be declared on the open market value of the old computer on the day that it is applied for non-taxable use.

Example 2

If the vendor buys a delivery van for the business, but also allows his wife to use that vehicle for private purposes, a fair and reasonable apportionment of the input tax must be made by the vendor. Although the vehicle has not been removed totally from the business (as in example 1), it is nevertheless used partially for non-taxable purposes.

CONTACTING SARS: Where vendors have queries relating to VAT, including where to fax their returns, they should contact their local SARS branch office. Additional information can be obtained on the SARS website at: www.sars.gov.za