

# VATconnect

ISSUE No. 2 • January 2013

Welcome to VAT Connect – your electronic newsletter that will provide you with the latest news and information on VAT and related matters. We hope you enjoy the read and that you will find the information helpful in meeting your VAT obligations.

## Taxation Laws Amendment Act 24 of 2011

The proposed amendments to the VAT Act, which were mentioned in the previous issue of VAT Connect, have now been passed into law.

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## Tax Administration Act 28 of 2011 (the TA Act)

The TA Act was promulgated into law on 4 July 2012 under Government Gazette 35491, Notice 591 of 2012) and came into effect on 1 October 2012, except for a few provisions relating to interest as listed in the Schedule to Proclamation 51 dated 14 September 2012 (as per Government Gazette 35687).

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## Taxation Laws Amendment Bill, 2012 (the TLAB)

Various amendments to the VAT Act were proposed in terms of the TLAB which was released on 5 July 2012. The proposed amendments come into effect on the date of promulgation of the TLAB or as otherwise provided. For more details, refer to the following documents on the SARS website under "Legal & Policy":

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## New Draft Export Regulation

The Value-Added Tax Export Incentive Scheme published as Notice 2761 of 1998 in Government Gazette No. 19471 of 13 November 1998 (the new Draft Export Regulation) has been updated to include a number of proposed changes following the 2012 Budget announcement that the VAT treatment of indirect exports by road or rail will be reviewed.

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- **Taxation Laws Amendment Act 24 of 2011**
- **Tax Administration Act 28 of 2011 (the TA Act)**
- **Taxation Laws Amendment Bill, 2012 (the TLAB)**
- **New Draft Export Regulation**

**Disclaimer:** VAT Connect is an information guide and not a binding general ruling for purposes of the Value-Added Tax Act, 1991 (the VAT Act). Where a ruling is required in respect of any VAT matter, any SARS branch can be approached. For general enquiries regarding VAT you can also call the SARS Contact Centre on 0800 00 7277.

## Taxation Laws Amendment Act 24 of 2011

The proposed amendments to the VAT Act, which were mentioned in the previous issue of *VAT Connect*, have now been passed into law.

For more details, refer to the following documents on the SARS website under “Legal & Policy”:

- [The Taxation Laws Amendment Act, 2011](#) (Act 24 of 2011 came into effect on 10 January 2012. Refer to *Government Gazette* 34927, Notice 16 of 2012.)
- [Explanatory Memorandum on the Taxation Laws Amendment Bill, 2011](#)
- [The Taxation Laws Second Amendment Act, 2011](#) (Act 25 of 2011 came into effect on 14 December 2011 but does not contain any VAT amendments. Refer to *Government Gazette* 34867, Notice 1063 of 2011.)

Some of the VAT amendments were summarised in the previous issue of *VAT Connect* and are not repeated in this edition. Please check the Taxation Laws Amendment Act, 2011 for any differences between the proposed amendments and what was promulgated.

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## Tax Administration Act 28 of 2011 (the TA Act)

The TA Act was promulgated into law on 4 July 2012 under *Government Gazette* 35491, Notice 591 of 2012 and came into effect on 1 October 2012, except for a few provisions relating to interest as listed in the Schedule to Proclamation 51 dated 14 September 2012 (as per *Government Gazette* 35687).

The TA Act is intended to simplify and provide greater coherence in South African tax administration law. It eliminates duplication, removes redundant requirements and aligns disparate requirements that currently exist in different tax Acts ranging in age from 4 to 63 years old. It creates a single, modern framework for the common administrative provisions of the tax Acts. This means that when the TA Act came into effect, certain administrative provisions previously contained in the VAT Act were replaced by similar provisions contained in the TA Act.

For more details, refer to the following documents on the SARS website under “Legal & Policy”:

- [The TA Act](#)
- [Short Guide to the TA Act, 2011](#)
- [IN 68: Provisions of the TA Act that did not commence on 1 October 2012 under Proclamation No. 51 \(GG 35687\)](#)
- [Tax Administration Laws Amendment Act, 2012 \(Act 21 of 2012\)](#)

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## Taxation Laws Amendment Bill, 2012 (the TLAB)

Various amendments to the VAT Act were proposed in terms of the TLAB which was released on 5 July 2012. The proposed amendments come into effect on the date of promulgation of the TLAB or as otherwise provided. For more details, refer to the following documents on the SARS website under “Legal & Policy”:

- Draft Taxation Laws Amendment Bill
- Draft Explanatory Memorandum

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## New Draft Export Regulation

The Value-Added Tax Export Incentive Scheme published as Notice 2761 of 1998 in *Government Gazette* 19471 of 13 November 1998 (the new Draft Export Regulation) has been updated to include a number of proposed changes following the 2012 Budget announcement that the VAT treatment of indirect exports by road or rail will be reviewed.

The new Draft Export Regulation includes –

- provision for a vendor to elect to supply movable goods to a qualifying purchaser at the zero rate where the qualifying purchaser exports the goods by road or rail subject to certain requirements;
- a redraft of the content and layout of the Export Regulation to follow a more logical approach for easier reading and reference;
- an extension of the time period to export the movable goods, to obtain the documentary proof and to submit an application for a refund of tax in certain circumstances;
- the inclusion of new definitions and amendment of existing definitions to broaden the scope of persons who are able to obtain a VAT refund; and
- changes to the procedure for claiming a VAT refund on exported goods.

Corresponding changes have also been proposed to the rules published in Government Notice R.1874 of 8 December 1995 under sections 64D and 120 of the Customs and Excise Act, 1964 to accommodate the necessary changes regarding the packing and sealing under customs supervision of goods for export by road or rail.

All comments on the new Draft Export Regulation should be sent to [policycomments@sars.gov.za](mailto:policycomments@sars.gov.za) on or before 31 January 2013.

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## Amendments to Schedule 1 of the VAT Act

Various amendments were made in terms of section 74(3)(a) to the exemptions provided in paragraph 8 of Schedule 1 to the VAT Act as follows:

- *Item no. 470.00* – exemption when certain goods are temporarily imported into the Republic for –
  - processing, repair, cleaning, reconditioning; or
  - the manufacture of goods exclusively for export.

The wording of this rebate item was amended to overcome some practical difficulties which were experienced in applying the exemption in certain cases. Refer to Notice R.995 in *Government Gazette* 35943 dated 7 December 2012 and GN R. 506 in *Government Gazette* 35481 dated 6 July 2012 for more details.

- *Item No. 414.00* – a new item was inserted to provide for an exemption for imported goods admitted under rebate of duty for consumption or use at an international sporting event. The exemption only applies to certain events approved by the Minister (for example, the African Cup of Nations (AFCON 2013) and the African Nations Cup (CHAN 2014)) and is limited to certain goods imported for consumption or use in the Republic by the organisers or participants in the course of holding that event. Examples of the goods concerned are team doctor's medical supplies as allowed by the Department of Health for use by the teams; special foodstuffs and non-alcoholic beverages for consumption by the teams; and low value promotional materials which are not for sale to the public. It is a requirement that the goods must be imported and entered by the controlling body of a participating visiting team, a team doctor, an official sponsor of the event or the host of the event on behalf of a participating visiting team. The exemption applies with retrospective effect from 1 November 2012.

Refer to Notices R.1071 and R.1072 in *Government Gazette* 36002 dated 14 December 2012 for more details about the exemption and the various sub-items 414.01/00.00/01.00, 414.02/00.00/01.00 and 414.03/00.00/01.00 which apply in this regard.

## VAT class rulings and VAT rulings

Applications for VAT class rulings and VAT rulings (VAT ruling) as envisaged in section 41B must, with effect from 1 January 2013, be submitted to SARS using the following addresses, by email to [VATRulings@sars.gov.za](mailto:VATRulings@sars.gov.za) or facsimile on +27 86 540 9390. The application should be headed "Application for a VAT Class Ruling" or "Application for a VAT Ruling".

Section 78(5) of the TA Act provides that a senior SARS official must issue a VAT ruling. The authority to issue a ruling has been delegated to specific individuals employed within the Interpretation and Rulings Division in SARS. Any decision or communication from any other functional area within SARS is therefore not a binding ruling, but at most a non-binding opinion. A ruling application submitted to any SARS branch office will not be considered and SARS will not provide a response in respect of this application.

The requirements which must be met before a ruling application can be accepted are set out in section 79 of the TA Act. You can also find the requirements set out in a simplified form in [VAT News 32 - August 2008](#). Recent amendments to the TA Act now also require that the ruling application includes a statement that the applicant has –

- registered for all the applicable taxes for which that person is liable, unless the application itself is about the liability to register; and
- submitted all the required returns for the taxes concerned and paid all outstanding taxes. Alternatively, that an arrangement acceptable to SARS has already been made in that regard.

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## Tax invoices

Section 29 of the Tax Administration Laws Amendment Act, 2012 amended section 20(5) of the VAT Act to increase the threshold relating to abridged tax invoices. From 20 December 2012, where the consideration in money for a supply does not exceed R5 000 an abridged tax invoice may be issued. Where the consideration exceeds R5 000 a full tax invoice must be issued. The previous threshold was R3 000.

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## Due date for returns and payments on eFiling

A perception has recently been created as a result of the implementation of the TA Act that the due date for filing a VAT return on eFiling is now the 25th of the month, although payment could still be made on the last business day of the month.

On 19 October 2012, SARS clarified in a [notice](#) that vendors who use eFiling may continue to submit their VAT returns on the 25th of the month. The benefit of no interest, penalties, or prosecution will remain effective if the return and payment are submitted via eFiling (or EFT) on or before the last business day of the month.

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## Prices, charged, advertised or quoted to include VAT

Many vendors are still advertising VAT-exclusive prices, despite the requirement in section 65(1) that prices must be advertised or quoted including VAT, and that it is a criminal offence, punishable by law, to advertise VAT-exclusive prices.

A vendor may also not state or imply that any form of trade, cash or any other form of discount or refund is *in lieu* of the VAT that is chargeable on a supply, as such statements mislead the public into believing that it is possible to escape paying the VAT on a transaction. In addition to it being illegal, a business will be exposed to commercial risks if advertised or quoted prices do not include VAT. For example, if you give a customer a quote and subsequently include an additional charge of 14% on your invoice after the supply has been made, your customer can challenge you on the final price. This is because you would have contracted with your customer on the basis of the price which you advertised or quoted. Section 64 of the VAT Act deems any prices charged by a vendor to include VAT whether it has been included in the price or not.

The approved methods for reflecting the consideration and VAT for taxable supplies are set out together with examples in the [VAT404 – Guide for Vendors](#).

It is also misleading and illegal for a vendor who is in the business of selling fixed property (for example, a developer or speculator) to advertise that “no transfer costs” are payable on fixed property purchases, especially where the advert does not contain a specific statement indicating that VAT is included in the price.

For more details on fixed property transactions, refer to the [VAT 409 – Guide for Fixed Property and Construction](#).

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## Publications

The following VAT Guides, Interpretation Notes and Binding General Rulings (BGRs) have been finalised, updated or issued for public comment since the last issue of *VAT Connect*:

### *Guides*

- [VAT 201 – Payment Allocation Guide](#)
- [VAT404 – Guide for Vendors](#) (updated)
- [VAT 412 – Guide for Share Block Schemes](#)
- [Transfer Duty Guide](#)
- [VAT 421 – Guide for Short-Term Insurance](#)

### *Interpretation Notes*

- Leasehold Improvements
- IN 31 (Issue 2): Documentary Proof Required for the Zero-Rating of Goods and Services
- IN 40: VAT Treatment of the Supply of Goods or Services to and/or from a Customs Controlled Area of an Industrial Development Zone (Issue 2)
- IN 49: Documentary Proof Required in terms of Section 16(2) to Substantiate a Vendor's Entitlement to "Input Tax" or a Deduction as Contemplated in Section 16(3) (Issue 2)

### *BGRs*

- BGR 6: Discounts, Rebates and Incentives in the Fast Moving Consumable Goods Industry
- BGR 10: Apportionment Methodology to be Applied by Category B Municipalities
- BGR 11: Use of an Exchange Rate

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