

VAT News 1 - March 1995

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PERIOD FOR SUBMITTING RETURNS

VAT returns must be submitted within the period ending on the 25th day of the month following the month in which the tax period ends (or the 25th day of that month, if the tax period ends within the first 10 days of a month). VAT returns must therefore be received by the Receiver of Revenue by the 25th and not the first working day after the 25th where it falls on a Saturday, Sunday or a public holiday.

Where payments are made over the counter they must therefore be made on Friday the 23rd, if the 25th falls on a Sunday.

The above also applies where you have indicated payment by bank transfer on the VAT return, although your bank account will be debited only on the last working day of the month.

POSTING OF RETURNS

Always allow enough time for the return and any payment to reach the Receiver of Revenue when posting a return.

OFFICES TO WHICH RETURNS MUST BE SUBMITTED

VAT returns and payments may be submitted to any Receiver of Revenue, including Magisterial Receivers of Revenue in areas where there are not SARS offices. However, where a refund is due the return must be submitted to the Receiver where you are registered as a vendor to prevent refunds being delayed. Please note that if SARS is unable to carry out a VAT audit because it cannot gain access to your records, interest will not be payable for the period during which access could not be gained.

If you do not receive refunds by means of the electronic transfer facility, contact your Receiver of Revenue. You will benefit by making use of electronic transfers systems as postal delays and the theft of refund cheques are prevented.

TAX INVOICES NECESSARY FOR INPUT TAX

Input tax deductions may not be claimed unless you hold a valid tax invoice (or bill of entry in the case of imports) on the date your VAT return is submitted. Exceptions are made in the case of certain regular payments such as rental payments, provided there is proof that the supply is subject to VAT.

CLAIMING OF INPUT TAX IN LATER PERIODS AND OTHER ADJUSTMENTS

If an input tax deduction is not claimed in one period (for example because a tax invoice was not available) it may be claimed in a later tax period, provided it is not claimed twice! However, any error made in a VAT return, such as the underdeclaration of output tax or overclaiming of input tax, must be reported to the Receiver of Revenue and not merely rectified in a later return.

NOTIONAL INPUT TAX – SECOND-HAND GOODS

Where a notional input tax deduction is claimed in respect of second-hand goods acquired from a non-vendor, it may be claimed only to the extent that payment has been made. It may not be claimed in respect of –

- Animals
- Trading stock (unless used, e.g. scrap material)
- Goodwill
- Goods which have not been previously owned and used
- Gold coins
- Goods not situated in the Republic
- Goods not belonging to a resident of the Republic.

In the case of fixed property or a unit in a share block company, the input tax deduction is limited to the amount of transfer duty paid, or in the case of a share block unit, the stamp duty paid.

SALE OF BUSINESS ASSETS

Where business assets (e.g. farms, buildings, plants, equipment, motor vehicles or scrap material) are sold, VAT is payable on such sales. This also applies to assets acquired before VAT was introduced.

The only exceptions are assets acquired for making exempt supplies and goods in respect of which you are not permitted to claim an input tax deduction (e.g. motor cars and entertainment).

ADVERTISEMENTS AND QUOTATIONS

When placing adverts or giving quotations the VAT inclusive price must be given! You may, however, give the exclusive price, the amount of VAT and the inclusive price. Failure to give the VAT inclusive price will result in disputes with purchasers, complaints to the Consumer Council and could lead to prosecution.

EXAMPLES

INCORRECT

R50 + VAT

Price **R50**

VAT R 7

Inclusive R57

R50 (exclusive)

CORRECT

R57 (VAT included)

OR

Price R50

VAT R 7

Inclusive R57

SALES OF GOING CONCERNS

If you sell your business as a going concern the sale is subject to VAT but the zero rate will apply if –

- The agreement of sale is in writing and it is stated therein that it is a sale of a going concern.
- It is clear from the contract that it is intended that the business will be an income earning activity on the date of transfer.
- The whole enterprise or a part thereof which is capable of separate operation is being disposed of.
- The purchaser is a registered vendor and you have obtained a copy of his/her VAT registration certificate.

These rules have been laid down to prevent costly disputes between purchasers and sellers. VAT Practice Note No. 14 may be obtained from the Receiver of Revenue should more details be required.

SPOUSES MARRIED IN COMMUNITY OF PROPERTY

Spouses married in community of property are, for the purposes of the Value-Added Tax Act, treated as an unincorporated body of persons akin to a partnership. The joint estate created by the marriage is therefore treated as a person for VAT purposes, separate and distinct from the husband and wife. In practice, the registration as a vendor for VAT purposes will be in the name of either the husband or the wife, but this does not affect the principle that the registration and the normal VAT principles apply to the joint estate as a whole – for example, if the couple sell their farm, VAT is payable on the whole farm.

The above principles do not apply where the property is for some reason the sole property of the non-trading spouse – e.g. a farm bequeathed to the wife and excluded from community of property, unless for some or other reason the farm formed an asset of the partnership.

DEBT COLLECTION COMMISSIONS AND FEES ARRANGING FINANCIAL SERVICES

As from 1 April 1995 these services no longer constitute financial services. Commission and fees for these services are accordingly subject to VAT at the standard rate (e.g. commission earned for referring a client to a financial institution).

SHORT-TERM INSURANCE

Vendors have to account for output tax on indemnity payments received from short-term insurers, but as from 25 November 1994 they are no longer required to do so where an input tax deduction could not be claimed in respect of the asset which was insured. For example, where you were not allowed to claim an input tax deduction for a motor car or a staff canteen and you receive an insurance payment as a result of these items being destroyed, you will not have to declare output tax on the payment. Insuring for "double VAT" on motor cars is therefore no longer necessary.

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