

VAT News 10 - March 1998

VATNEWS No. 10 - March 1998

ZERO-RATING OF EXPORTS

As a result of unacceptable levels of evasion involving the application of the zero rate of VAT to exports it has become necessary to introduce the following measures:

Where goods are sold to a customer and he exports the goods in terms of the Export Incentive Scheme.

The Export Incentive Scheme in terms of paragraph (d) of the definition of "exported" in section 1 of the VAT Act has been amended as from 11 March 1998.

A definition of "movable goods" has now been added which, briefly, comprises corporeal, movable things, but excludes money, stamps, forms or cards having a money value as well as *any alcoholic beverage and tobacco or tobacco containing substances*, including unmanufactured tobacco, cigars, cheroots, tobacco substitutes, pipe tobacco, cigarette tobacco and snuff.

The zero rate of VAT may not be levied under the Export Incentive Scheme in the case of goods excluded from the definition, nor may any refund of VAT be made in respect thereof.

Where the goods are consigned or delivered by the RSA vendor he must obtain documentary proof of export.

The following definitions in VAT Practice Note No. 1, of 1998 are extremely important:

"consigned or delivered" means –

- physically delivered by the RSA vendor to the recipient at an address in the export country; or
- where the RSA vendor uses a cartage contractor to deliver the goods on his (the RSA vendor's) behalf to the recipient at an address in an export country, only if the cartage contractor is contractually liable to the vendor to effect delivery of the goods and the RSA vendor is liable for the full cost relating to such delivery.

"cartage contractor" means a person who is registered under the Act as a vendor, transport being its main activity, and who has been engaged by the RSA vendor to transport and deliver the goods to the recipient at an address in an export country. For the purposes of this Practice Note, cartage contractor includes couriers, the Post Office Limited and freight forwarders if so registered.

The supply of moveable goods may be taxed at the zero rate only in compliance with the above definitions and if the following documentation is retained by the RSA vendor:

Physical delivery by the RSA vendor:

- His copy of the zero-rated tax invoice;
- either the recipient's order or the contract between him and the RSA vendor;
- a copy of the export documentation prescribed under the Customs and Excise Act, 1964 bearing an original RSA Customs and Excise stamp;
- proof that the goods have been received by the recipient in the export country; and
- proof of payment.

Goods conveyed by cartage contractor by road, rail, ship or air:

- His copy of the zero-rated tax invoice;
- either the recipient's order or the contract between him and the RSA vendor;
- proof that the goods have been received by the recipient in the export country (export by road only);
- a copy of the freight transit order issued by Spoornet (export by rail only);
- a copy of the combined consignment note and invoice issued by Spoornet (export by rail only);

- a copy of the bill of landing which must contain a full description of the goods to be exported (export by ship only);
- a copy of the air waybill as well as the flight number and the date and place of departure (export by air only);
- a copy of the export documentation prescribed under the Customs and Excise Act, 1964 bearing an original RSA Customs and Excise stamp (not applicable if exported by rail); and
- proof of payment.

By post

- His copy of the zero-rated tax invoice;
- either the recipient's order or the contract between him and the RSA vendor;
- proof that the RSA vendor paid for the postage costs;
- proof of receipt of the goods by the postal service; and
- proof of payment.

Note: Special rules apply to the charging of VAT on second-hand goods.

General

As set out in paragraph 5 of VAT Practice Note No. 1 of 1998 goods must be exported within one month of the date of the tax invoice. If the vendor has not obtained the required documentation as set out therein within two months from the date of the tax invoice, output tax must be calculated at the standard rate. Should documentation be obtained at a later stage, provided it is within one year of the date of transaction, an input tax credit may be claimed. The rate applicable is the rate in force when the tax invoice was issued.

ENTERTAINMENT

The term entertainment is defined as the provision of any food, beverages, accommodation, entertainment, amusement, recreation or hospitality of any kind by a vendor whether directly or indirectly to anyone in connection with an enterprise carried by him.

If a vendor purchases goods or services for purposes of entertainment he may not deduct input tax in respect of those supplies unless:

- his charge for that entertainment covers all direct and indirect costs thereof; or
- he supplies the entertainment for *bona fide* promotion purposes to customers and the entertainment is in all respects similar to the entertainment he normally supplies to customers for a consideration, e.g. one free meal for every two meals for which a charge is paid; or
- the goods and services were acquired for purposes of providing meals or refreshments to customers and any excess food not consumed by the customers is subsequently given to any employee of the vendor or to any welfare organisation; or
- the goods or services were acquired by the vendor for purposes of the personal subsistence of that vendor, a partner, an employee or office holder of such vendor who is by reason of his duties obliged to spend any night away from his usual place of residence and his usual working place; or
- such goods or services are acquired by a welfare organisation for the purpose of making supplies in the furtherance of its aims and objects; or
- the costs of the meals or refreshments are included in the charge for and air, bus or train ticket or the charge for a seminar where the supplier of the service is engaged in a transport business or the business of presenting seminars.

Where meals, refreshments or any other form of entertainment are supplied to employees at below cost, an input tax deduction may not be made. In such case any charge to the employee is not subject to VAT.

If goods or services are purchased for purposes of making taxable supplies by an enterprise which continuously and regularly supplies entertainment for a consideration (e.g. a restaurant), and these goods or services are subsequently applied for another purpose (e.g. staff meals), an output tax adjustment must be made. This will cancel out that portion of input tax claimed which relates to the goods or services not used for the purpose of making taxable supplies.

VENDORS ON THE PAYMENT BASIS

As from 5 June 1997 vendors who account for VAT on the payments basis must account for VAT on the invoice basis in respect of any specific supply made on or after that date where the consideration for that supply exceed R100 000.

An exception is the sale by a vendor of fixed property, which must be accounted for on the payment basis, irrespective of whether the vendor is registered on the payments or invoice basis. Likewise, input tax may be claimed only to the extent payment of the purchase price has been made.

DISCOUNTING OF DEBTS

Where a vendor cedes his trade debtors to, say, a bank, he will normally incur factoring costs (being the difference between the face value of the trade debtors and the amount received from the bank). In terms of a specific amendment to the provisions relating to the writing-off of bad debts, the vendor may not deduct input tax in respect of such factoring costs as they constitute consideration for exempt financial services.

SECOND-HAND GOODS

Vendors may claim a notional input tax deduction where second-hand goods are acquired under a non-taxable supply from a South African resident e.g. cars bought by a second-hand car dealer or scrap bought by a scrap metal dealer. Please note that an input tax deduction may not be claimed unless the following records are maintained:

- The name and address of the person who sold the goods.
- His identity number, or if the purchase price is R1 000 or more, a photocopy of his identity document. Where the seller is not a natural person, the company's or close corporation's registration number and the identity number of its representative. If the purchase price is R1 000 or more, a photocopy of its representative's identity document must be retained.
- The date of purchase.
- A description of the goods.
- The quantity, mass or volume of the goods.
- The purchase price.
- Proof of payment of the purchase price.

RECENT PUBLICATIONS

Industry specific guides entitled "VAT Guide On Share Block Schemes" (VAT 412) and "VAT Guide: Deceased Estates" (VAT 413) are available from Receiver of Revenue. The latter guide will be of assistance to executors of estates.