

VAT News 12 - February 1999

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IS VATNEWS REACHING THE RIGHT PEOPLE?

VATNEWS is drawn up in simple language to help vendors and to keep them informed of changes. To save costs it is generally posted with VAT returns. VATNEWS, however, has the status of a general ruling and SARS has relied on articles in VATNEWS in court cases. It should be read by the person in your enterprise responsible for completing VAT returns and by financial managers. It should also be kept for later reference. Should you require a back issue, contact your local Receiver of Revenue for a copy.

EXPORTS AND IMPORTS OF GOODS

On 16 November 1998, controls were set up on the borders with Botswana, Lesotho, Namibia and Swaziland to ensure proper control over exports to these countries. Vendors are reminded that the new VAT Export Incentive Scheme relating to exports to all countries **where the purchaser takes delivery in South Africa** came into effect on that date. Vendors **must** levy VAT at the standard rate in these circumstances, although there are some exceptions in terms of Part 2 of the Scheme (export by air or sea).

On 4 January 1999, SARS began collecting VAT at the BLNS borders on imports from those countries.

TAX INVOICES

Tax Invoices issued exceeding R500,00 are **invalid** unless they contain, in addition to the normal requirements, the name and address of the purchaser, as well as a full description and quantity of the goods or services supplied. Vendors who fail to meet this requirement do purchasers a disservice – if the purchaser is another vendor he cannot claim an input tax deduction on a defective tax invoice and tourists are denied refunds on their purchases they export. Your co-operation is essential.

VAT FRAUD

VAT fraud and evasion harms South Africa and its honest traders. SARS's duty is to combat this crime. The introduction of the new border control measures and limiting the use the payments basis are but some of these steps.

In addition, SARS is embarking on an increased campaign to convict tax evaders. In a recent case, Mr Hamied Palekar was convicted for Excise Duty and VAT evasion in excess of R2 million. He was sentenced to 25 years imprisonment or a fine of R 500 000, plus a further 25 years imprisonment suspended for 5 years. In addition to this fine, assessments have been raised with penalties to collect the taxes evaded. In another case the Cape High Court has confirmed VAT and Excise duties totaling R125 million (including penalties) levied on Ring Shipping. Details of convictions for VAT evasion will appear in future issues of VATNEWS.

MERCHANTS DISCOUNTS

As from 1 March 1999, the discount charged by banks and buying associations for credit and debit card payments for goods and services will become a taxable service. The banks will have to charge VAT on the discount charged to the merchant, but the merchant may claim the VAT charged as an Input Tax credit, if the original supply was subject to VAT.

Example: A merchant sells goods for R1100,00 (VAT inclusive). The bank pays the merchant R95,00, its fee for the discounting being R5,00. This discount will be subject to 70 cents VAT in future – so the merchant will receive R94.30, but may claim 70 cents input tax if the sale was a standard or zero-rated supply.

NEW GUIDE FOR VENDORS

A new simplified Guide for Vendors is being prepared for print. This guide will be easier to understand. The scheduled time for distribution is May 1999. Copies of this guide will be available on request from your Receiver of Revenue. Features of the New Guide will be the latest changes to the export procedures, second-hand goods, zero-rated supplies and exempt supplies.

HOTELS AND RESIDENTIAL HOTELS

The VAT Act has special provisions relating to the calculation of VAT by hotels and residential hotels. These provisions attempt to put persons **living** in hotels, boarding houses and old age homes on an equal footing with persons **living** in flats and houses because the rental of residential accommodation and mortgage bond interest are exempt from VAT. **As the rules are fairly complicated the following article should only be studied by persons operating such businesses.**

Non-Residential Hotels:

To calculate the amount of VAT payable on the supply of accommodation, you will firstly need to determine the duration of the client's stay. If the client's stay does not exceed 45 days, all charges are subject to VAT. However, if the client stays for more than 45 days, you will need to determine whether the tariff includes any meals (e.g. bed and breakfast) or not. Where the tariff includes meals and any other services, e.g. laundry, you must determine:

- the cost of the accommodation; and
- the cost of the meal(s) and/or other services,

in order to calculate the VAT for the period exceeding 45 days correctly.

VAT is calculated on the full tariff for the first 45 days' occupation – see example 1. However, for the period of occupation exceeding 45 days, only 60% of the actual accommodation charge will be taxable. Where meals are included in the tariff, the amount apportioned to meals must not be less than 20% of the total amount – see example 2.

Example 1: Mr Smith spends his annual holiday of 20 days in the Drakensberg. He stays at Karl's Mountain Inn, a hotel run for holidaymakers. The daily tariff is R200 (before VAT is calculated) bed and breakfast. As meals are not charged separately, 20% of the charge, i.e. R40, represents the cost of meals. At the end of the holiday, Mr Smith is presented with an account which reflects the following:

| | |
|---------------------------------------|--------------|
| Accommodation: 20 days @ R200 per day | R4000 |
| VAT @ 14% | <u>560</u> |
| Total payable – VAT inclusive | <u>R4560</u> |

On the VAT return, the VAT exclusive amount of R4000 is shown at block 7 and the VAT of R560 is shown at block 9.

Example 2: Should Mr Smith extend his holiday by 30 days, his account would be as follows:

| | |
|---|------------------|
| Accommodation: Day 1-45: 45 days @ R200 per day | R 9000.00 |
| | <u>1260.00</u> |
| VAT @ 14% | <u>R10260.00</u> |
| Accommodation: Day 46-50: 5 days @ R200 per day | R 1000.00 |
| | 28.00 |
| VAT: Meals: R40 x 5 days x 14% | <u>67.20</u> |
| VAT: Accommodation: R160 x 5 days x 60% x 14% | <u>R 1095.20</u> |
| Amount payable: | R10260.00 |
| | <u>1095.20</u> |

On the VAT return, the amount relating to the accommodation for the 5 days exceeding 45 days (i.e. $R160 \times 5 = R800$), is inserted at block 5 and multiplied at block 6 by 60%. The amount relating to the first 45 days (i.e. R9000) is inserted at block 7. These are then added together at block 8 and then multiplied by the tax rate (14%). The result is then inserted in block 9.

The charge for the breakfasts, R228 (i.e. $R40 \times 5 \text{ days} \times 14\% \text{ VAT}$), is added to your normal taxable supplies at block 1.

Residential Hotels:

Where at least 70 per cent of the occupants stay for periods of 45 days or longer or for successive periods which in total exceed 45 days, then the 60% rule applies from the first day. Where the rate includes meals, a distinction must also be made between the cost of the accommodation and that of the meals. See example 3.

Example 3

Mr Motsepe resides at Elsa's Residential Hotel for 6 months. The tariff of R800.00 per month includes 2 meals (before VAT is calculated). At the end of the month, the account will be as follows:

| | |
|----------------------------|-----------------|
| Accommodation: | R 640.00 |
| VAT at R640.00 x 60% x 14% | R 53.76 |
| Meals: | R 160.00 |
| VAT @ 14% | <u>R 22.40</u> |
| Total payable | <u>R 876.16</u> |

VAT HEAD OFFICE NEW ADDRESS

During November 1998, the SARS head office moved into new premises. The new street address is: 299 Bronkhorst Street Nieuw Muckleneuk PRETORIA 0181

The telephone number has changed to (012) 422-4000. The Commissioner's postal address has not changed and the website remains <http://www.sars.gov.za/>. Vendors, should, however, address their enquiries to the Receivers of Revenue where they are registered as vendors.