

VAT NEWS

Keeping Vendors Informed

SEPTEMBER 2007 No. 30

VAT News is 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, the local SARS branch office must be approached.

RULINGS

In VAT News 29, the application process for Advance Tax Rulings and the confirmation of rulings issued prior to 1 January 2007 were discussed. Please note that the last date for the confirmation of rulings was 30 June 2007. This in effect means that all rulings that were issued by SARS prior to 1 January 2007 and for which confirmation has not been requested, are not binding on SARS anymore.

Apart from rulings that are issued in terms of section 41A, generally known as Advance Tax Rulings, SARS branch offices can also issue VAT rulings in terms of section 41B of the VAT Act. Both types of rulings are binding on SARS, but the most important differences between them are that Advance Tax Rulings:

- Are dealt with at SARS Head Office; and
- Require the payment of prescribed fees.

Section 41A makes provision for a Regulation to be issued by the Minister of Finance to exclude certain applications from being considered in terms of section 41B. This Regulation is in the process of being drafted.

AMENDMENTS

The following are a few of the amendments to the VAT Act that have been introduced by the Taxation Laws Amendment Act, 2007 (Act No. 8 of 2007) and the Taxation Laws Second Amendment Act, 2007 (Act No. 9 of 2007) (the promulgation date for both Acts is 8 August 2007):

- **Commercial accommodation**
Clarification that the threshold of R60 000 in respect of the supply of commercial accommodation, is calculated for any 12-month period and not per calendar year.
- **Value of supply**
The **value** of a supply of goods or services is the VAT exclusive amount whereas the **consideration** for a supply of goods or services is the VAT inclusive amount. The use of the term "value" to describe the "value of consideration" causes some confusion from an interpretation point of view. The amendment replaces the phrase "value of the consideration" with the phrase "amount of the consideration" and "value of tax" with "amount of tax".
- **Apportionment method**
Where a vendor acquires goods or services or imports goods partly for consumption, use or supply in the course of making taxable supplies and partly for another intended use, the vendor may only claim input tax to the extent that

the goods or services will be used for taxable supplies. The apportionment method is determined by SARS in accordance with a general written ruling or a specific written ruling issued to the vendor. The amendment makes provision for SARS to prescribe the method by issuing a binding general ruling in terms of section 41A or a VAT ruling in terms of section 41B of the VAT Act. **In this regard, a ruling to use the turnover based method of apportionment as a default method was issued in the VAT 404 Guide for Vendors (refer to paragraph 7.4 of the guide).**

- **Penalty and interest**

Any person, who is dissatisfied with a decision by SARS regarding any penalty or interest levied, may now lodge an objection. The objection must comply with the normal rules and procedures for lodging an objection, e.g. proper grounds of objection must be provided in writing to SARS within 30 days from the date of the assessment.

ELECTRONIC PAYMENT VIA THE INTERNET

SARS has undertaken a project to improve its account validation rules by progressively replacing all SARS banking account numbers with unique Beneficiary Account ID's.

This change only affects persons who pay by electronic means. In terms hereof, taxpayers are no longer able to view/add SARS banking account numbers, but must make use of the bank's preconfigured Beneficiary Account ID listing to create SARS as a beneficiary.

This payment process is already in place and taxpayers who pay by means of electronic funds transfer must convert to this process. Any payment not made in terms of this process will be rejected.

For more information, kindly visit www.sars.gov.za and select "SARS payment options" under the taxes menu. Further enquiries should be directed to your personal banker.

LETTERHEAD SCAMS

Vendors are advised to be cautious of impersonation and letterhead scams by persons purporting to be employees of SARS.

SARS and the South African Police Service have been working hand-in-hand in identifying and stopping these persons over the past year.

Modus operandi

In the most recent version of the scam, a taxpayer is contacted telephonically or by fax by a person purporting to be a SARS employee. The communication will indicate that a tax refund has been paid to the taxpayer, and due to some error the refund

exceeded what was actually due.

Typically, at this stage the person would have deposited a cheque payment into the taxpayer's account for the "wrong amount". The taxpayer would then be asked to transfer or pay the difference back into a nominated account. However, the initial amount (the so-called refund) paid into the taxpayer's account would never materialise.

Some tips on how to spot the scam:

- The letters do not state any physical addresses, whereas SARS letters have real physical addresses. For a list of SARS offices, visit the SARS website at www.sars.gov.za;
- They only provide cellular telephone numbers on their letters, whereas SARS letters will always have landline numbers and fax numbers (this provides the option of telephoning that number on the spot to verify the existence of the office);
- Typically, faxes are sent instead of letters. In these faxes there are often spelling errors and refer to divisions in SARS that do not exist. Often stamps, reference numbers and codes are reflected all over the document to make it look authentic;
- SARS auditors are required to work in a team. If you are approached by a single "SARS auditor", something is wrong;
- SARS staff cannot make audits "go away" or "disappear". Auditors do not pick their own cases, and cases selected for audit are captured on a system;
- In the event of an audit or error with a refund, a SARS auditor would generally attempt to arrange a meeting with a taxpayer telephonically and then follow up with a meeting.
- As a rule, SARS will not pay a cheque directly into the account of a taxpayer, but will rather effect an electronic payment of the refund.

What to do if you suspect you are being targeted

Persons who suspect that they may have been a target of such a scam should contact the SARS toll-free line and report the incident. The number is 0800 0028 70.

INTERPRETATION NOTES

Interpretation note 39: VAT treatment of public authorities, grants and transfer payments

This interpretation note is in the process of being finalised.

Interpretation note 40: VAT treatment of the supply of goods or services by a municipality

This interpretation note is in the process of being finalised.

Interpretation note 41: Application of VAT to the gambling industry

This interpretation note provides for:

- The continued zero-rating of supplies by racehorse owners to a racing operator in respect of winnings received by the racehorse owners;
- Racing administrators, who have been appointed as representative vendors to account for the input tax and output tax of the various racehorse partnerships, to remit only the net amount of VAT to SARS; and
- Descriptive examples on the deduction of input tax on goods or services acquired for the purposes of being awarded as prizes.

Interpretation note 42: The supply of goods and/or services by the travel and tourism industry

This interpretation note provides for:

- Guidance in assisting travel agents, tour operators and travel brokers in applying and understanding the VAT legislation for the supply of tour packages to non-residents (foreign tourists); and
- Clarity on the VAT implications of the supply of game viewing in South Africa.

GUIDES

VAT 414 Guide for Associations not for Gain and Welfare Organisations

This guide is in the process of being finalised.

ADMINISTRATION

In order to ensure that the processes of registration and VAT refunds are not unnecessarily delayed, vendors are requested to adhere to the following:

- When applying for a VAT registration, ensure that all the requested information and documents are submitted together with the application form (VAT 101) to the local SARS branch office closest to where the business is located;
- VAT refunds will not be processed where a vendor has outstanding VAT returns, or has not updated its banking details;
- A request for a change in banking details must be submitted by post or be hand delivered and not submitted by means of fax or e-mail.

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