

## **BINDING GENERAL RULING (VAT) 72**

DATE: 21 May 2024

**ACT : VALUE-ADDED TAX ACT 89 OF 1991**  
**SECTIONS : SECTIONS 21(1)(f), 16(2)(a) and 16(3)(a)(v)**  
**SUBJECT : PARTICULARS TO BE CONTAINED IN A CREDIT NOTE FOR A VALID DEDUCTION UNDER SECTION 16(3)(a)(v) FOR PREPAID VOUCHERS**

### ***Preamble***

For the purposes of this ruling –

- **“BGR”** means binding general ruling issued under section 89 of the Tax Administration Act 28 of 2011;
- **“SMS”** means Short Message Service;
- **“section”** means a section of the VAT Act;
- **“telecommunications company”** means an “electronic communications service licensee” as defined in section 1 of the Electronic Communications Act 36 of 2005;
- **“VAT”** means value-added tax;
- **“VAT Act”** means the Value-Added Tax Act 89 of 1991; and
- any other word or expression bears the meaning ascribed to it in the VAT Act.

### **1. Purpose**

This BGR sets out the particulars that are acceptable in a credit note that the telecommunications company is required to issue to the prepaid subscriber in the circumstances contemplated in section 21(1)(f) for the purposes of sections 16(2)(a) and 16(3)(a)(v).

### **2. Background**

In the early years of the mobile telecommunications industry in South Africa, prepaid subscribers to mobile telecommunication services could use prepaid vouchers only to purchase the services offered by that mobile telecommunications company such as calls and SMS. The prepaid vouchers are generally sold to retailers and distributors who sell prepaid vouchers to the subscribers. The evolution and technological advances in the telecommunications industry have made it possible for subscribers to utilise the prescribed services purchased from the telecommunications company to acquire other services from third-party service-providers. Examples include, the supply of financial services (long-term and short-term insurance), as well as downloads of music or movies, and mobile money services supplied by third-party service providers.

Should the subscriber acquire other services, the telecommunications company cannot issue a credit note, as the telecommunications company cannot meet the requirements of paragraph (i) to section 21(1). This is because it was not the supplier

that provided the tax invoice to the subscriber as these vouchers are sold to subscribers via various intermediaries.

If the prepaid subscriber acquires services from a third-party supplier, the third-party supplier is required to account for output tax on that supply, provided it is a taxable supply.

The implication, therefore, is that both the telecommunications company and the third-party supplier account for output tax to SARS; the telecommunications company at the point that the prepaid voucher is sold, and the third-party to the extent that services are supplied by the third-party. In such instances, the telecommunications supplier transfers the money collected in respect of the supply by the third-party supplier to such supplier, with no remedy for the telecommunications company to issue a credit note under section 21 or write off irrecoverable debts under section 22.

### **3. Discussion**

Due to the difficulty described above, section 21(1) was amended with effect from 1 April 2024 to provide for instances that prepaid vouchers contemplated in section 10(19) have been issued by any registered vendor that is an "electronic communications service licensee", and the nature of the supply specified on such voucher has been fundamentally varied or altered. In this instance, the telecommunications company would have furnished a return in which an incorrect amount of output tax was declared as contemplated in paragraph (ii) to section 21(1). As a consequence, the telecommunications company is allowed to make an adjustment under section 21(2).

Section 21(3)(a)(iii) requires the particulars of the recipient to be reflected on a tax invoice unless the credit note relates to a supply under R5 000 for which a tax invoice was issued under section 20(5).

Due to the uncertainty in the industry relating to the particulars required on a credit note as a result of the introduction of section 21(1)(f), this BGR clarifies the acceptable format of the credit note and the particulars which must be reflected on such invoice in order to comply with the requirements for a deduction under section 16(3)(a)(v) read with section 16(2)(a).

### **4. Ruling**

This ruling constitutes a BGR issued under section 89 of the Tax Administration Act 28 of 2011 insofar as it relates to the ruling under **4.1**.

#### **4.1 Particulars relating to the agent and acceptable documentary evidence**

The telecommunications company must issue a credit note to the subscriber in an electronic format whereby the subscriber will be notified by SMS that the said credit note is available for download. The credit note must contain the following particulars:

- The words "credit note"
- The name, address and VAT registration number of the vendor
- The name, address and, if the recipient is a registered vendor, the VAT registration number of the recipient, except if the credit note relates to a supply in respect of which a tax invoice contemplated in section 20(5) was issued

- The date on which the credit note was issued
- Either –
  - the amount by which the value of the said supply shown on the prepaid subscriber's account has been reduced and the amount of the excess tax; or
  - if the tax charged in respect of the supply is calculated by applying the tax fraction to the consideration, the amount by which the consideration has been reduced and either the amount of the excess tax or a statement that the reduction includes an amount of tax and the rate of the tax included
- A brief explanation of the circumstances giving rise to the issuing of the credit note<sup>1</sup>
- Information sufficient to identify the transaction to which the credit note refers

The abovementioned credit note, which includes the relevant particulars, must be retained for a period contemplated in compliance with section 55 read with Part A of Chapter 4 of the Tax Administration Act 28 of 2011.

In the event that the supply exceeds R5 000, and the telecommunications company does not have all the details required under section 21(3)(a)(iii), the telecommunications company is allowed to request the prepaid subscriber to complete his or her personal details and VAT registration number before downloading the credit note from the system.

## **5. Period for which this ruling is valid**

This BGR applies from 1 April 2024 until it is withdrawn, amended or the relevant legislation is amended.

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<sup>1</sup> A record must be kept cross-referencing the credit note to the transaction referred to in **2** that gave rise to the credit note issued.