

vat news

keeping vendors informed

SEPTEMBER 2002 No. 20

ZERO RATING OF FOODSTUFFS

In terms of the Value Added Tax Act, vendors may sell certain foodstuffs at the zero-rate. These foodstuffs are listed on page 24 of the VAT Guide for vendors (VAT 404 published in April 2000).

Recent findings have shown that many vendors are incorrectly applying the zero-rate in the following circumstances:

- Non zero-rated ingredients are added to a zero-rated product. In such cases VAT must be levied at the standard rate on the product.

Examples:

- A pack of vegetables containing a pat of flavoured butter.
- A pack of rice containing a sachet of flavouring.
- A pack of salad, to which salad dressing has been added.
- Milk to which whey powder, animal or vegetable fat has been added.
- Flavouring added to cooking oil.
- Where zero-rated foodstuffs are served as a meal or prepared in any way so as to be ready for immediate consumption, VAT at the standard rate must be levied.

Examples:

- A glass of milk served in a restaurant
- A pack of salad ready to eat
- Fruit prepared as a fruit salad
- A sandwich

Where a vendor has incorrectly applied the zero-rate he is liable for VAT calculated at 14/114 of the amount charged to the customer. VAT auditors will be on the lookout for vendors who have incorrectly applied the zero-rate and will levy additional tax and penalties where it is found that the vendor concerned intended to evade tax.

VAT RETURNS

Vendors may submit VAT returns (VAT 201) to SARS branch offices (Receivers of Revenue) by fax. The fax number of the branch office will in future appear on VAT returns. This will normally apply in respect of refund returns, or returns where payment is made electronically or at First National Bank.

Should any changes be made, or correctional fluid used, the alterations must be signed.

Remember to sign the return and to complete all mandatory fields to prevent the return to be considered as invalid. Such a return will be returned to you and be considered not to be submitted.

NOTIONAL INPUT TAX CLAIMED BY MOTOR DEALERS ON SECOND-HAND MOTOR VEHICLES

Motor dealers often purchase second-hand motor cars and other vehicles from private owners (non-vendors) or accept trade-in of such vehicles. Motor dealers also acquire "motor cars" as defined in section 1 of the Act from persons registered for VAT (vendors). VAT vendors (except motor dealers, motor manufacturers and car rental businesses) cannot claim input tax on "motor cars", and may therefore not charge VAT when they sell these "motor cars".

For VAT purposes the term "motor car" *includes a motor car, station wagon, minibus, double cab, light delivery vehicle and any other vehicle of a kind normally used on public roads, which has three or more wheels and is constructed or adapted wholly or mainly for the carriage of passengers...*

Where a dealer buys "second-hand goods" as defined in the VAT Act from a person who is resident in South Africa, he is entitled to claim a notional input tax by applying the tax fraction (14/114) to either:

- the amount paid for the second-hand vehicle, or
- the amount given by way of a trade-in.

A motor dealer may not claim a notional input tax deduction unless he has obtained and kept the following:

- A declaration by the person selling or trading-in the motor vehicle stating whether the supply is a taxable supply for VAT purposes or not.
- The name, address and identity number of the person selling or trading-in the motor vehicle and, if the price is more than R1000, a copy of the seller's identity document.
- The date the motor vehicle is bought or taken in as a trade-in by the motor dealer.
- A description (including registration details, chassis and engine numbers and vehicle identification number [VIN]) of the motor vehicle.
- The amount paid for the motor vehicle or the value given as a trade-in by the motor dealer.
- Proof of the payment made by the motor dealer for the motor vehicle or proof of the reduction of the purchase price by the trade-in value relating to the trade-in.

Note: If the purchase from a vendor is a taxable supply (e.g. another motor dealer or a car-hire business), the seller must levy VAT and furnish the motor dealer with a tax invoice.

The above requirements have been in effect since 29 June 1998 but it has been found that many motor dealers are not complying with these requirements. From October 2002 SARS auditors will be visiting motor dealers to ensure compliance. Motor dealers who have not complied were given a period of **3 months** commencing 1 July 2002, to obtain the necessary records. Failure to comply may result in input tax being disallowed and additional tax, penalties and interest being imposed.

Where a commercial vehicle is bought from a vendor, input tax may be claimed **only** on the strength of a tax invoice furnished by the vendor. The motor dealer may **not** issue a tax invoice on behalf of the seller.

ELECTRONIC TAX INVOICES

Vendors may now issue tax invoices to their customers electronically instead of in paper format. The tax invoices

must contain:

- the name,
- address and VAT registration number of the seller,
- the name and address of the purchaser,
- a serialised invoice number,
- the date,
- the words "tax invoice",
- a proper description of the goods or services supplied,
- the date of issue,
- the volume or mass of the goods,
- the consideration for the supply and the VAT charged or a statement that VAT is included in the price charged and the rate of VAT charged.

Tax invoices must be sent in encrypted format (at least 128 bytes), over a secure line or contain an electronic signature.

The recipient of the supply must confirm in writing that he or she will accept electronic invoices for the purpose of claiming input tax. **No** other tax invoice may be issued and all copies extracted by the recipient must bear the words "copy tax invoice". Debit and credit notes may accordingly also be issued electronically, subject to the requirements set out in the VAT Act.

SHOULD YOU NEED A VAT RETURN

You can download blank VAT returns from the SARS website www.sars.gov.za. Go to VAT - go to Forms and to VAT 201.

Please make sure you fill in your VAT registration number and tax period correctly.

NEW INTEREST RATE

As from 1 October 2002 the interest payable on the late payment of VAT is increased to 1.3% per month. Interest payable by SARS on delayed refunds is increased to 15.5% per year.