

REGISTRATION AND TAX PERIOD THRESHOLDS

In the Minister's Budget Speech on 20 February 2008, it was proposed that the existing VAT registration threshold of R300 000 be increased to R1 million and that the thresholds applicable to certain tax periods for farmers and small business be increased from R1.2 million to R1.5 million. As there was some uncertainty as to the date from when these new thresholds would apply, the position is clarified as follows:

Registration threshold

The proposed compulsory VAT registration threshold of R1 million has not yet come into effect. Therefore, the threshold of R300 000 continues to apply in determining if a person is liable to register for VAT. In addition, if a person has exceeded the R300 000 threshold in any consecutive period of 12 months, but not the proposed R1 million threshold, that vendor may not deregister for VAT at present.

Tax period thresholds

The increase in the tax period threshold from R1.2 million to R1.5 million for the following vendors comes into effect from 1 March 2008:

- Category D (six-monthly) – vendors who conduct agricultural, pastoral or other farming activities; and
- Category F (four-monthly) – vendors who qualify as small businesses.

PRESUMPTIVE TURNOVER TAX

The intention with regard to the proposed increase in the VAT registration threshold to R1 million is that it will coincide with the proposed introduction of the simplified presumptive turnover tax for very small businesses in 2009. One of the main objectives of the proposed turnover tax is to significantly reduce the administrative burden and costs of compliance for these businesses.

Vendors currently on the register with taxable supplies less than the threshold will be able to apply to deregister for VAT and either –

- convert the existing income tax registration to a registration under the proposed turnover tax; or
- continue with the existing income tax registration.

Where a vendor opts to deregister for VAT as a result of the increase in the threshold, a VAT liability on the value of assets held on deregistration may be incurred. Arrangements are under consideration to assist vendors in paying off this liability.

Draft legislation regarding the increase in the VAT registration threshold and matters related to the implementation of the proposed turnover tax will be released later this year for stakeholders' comments.

Keep a lookout for further announcements and information in the media or on the SARS website in this regard.

DEREGISTRATION AND DIESEL REFUNDS

Where a vendor deregisters for VAT, there will usually be output tax payable on the fixed assets and stock on hand where those assets were purchased and held for enterprise purposes, but have not been sold before the date of deregistration. The value on which VAT must be accounted is the lesser of the cost or open market value of the assets, and the output tax must be declared in that vendor's final VAT return. Where all the business assets have been sold to another vendor as a necessary part of a going concern, and no assets have been retained by the seller, there will be no VAT payable by the seller when deregistering for VAT.

Vendors registered for the Diesel Refund Scheme (e.g. farmers) must remember that any diesel refund is provisional in nature and is based on actual use for eligible purposes. The benefits of the scheme are also only available to VAT registered vendors.

Therefore, when a participant in the Diesel Refund Scheme deregisters for VAT, the vendor must account for any stock of unused diesel held as at the date of deregistration. If a diesel refund in regard to that stock has previously been claimed (or offset against any output tax liability), the amount must be repaid to SARS during the deregistration process.

Vendors who have ceased trading or who wish to apply for deregistration (i.e. voluntary registrations) should complete and submit form VAT 123 to the SARS branch office where they are on register. Diesel Refund Scheme participants who wish to deregister only from the scheme and not for VAT should complete and submit form VAT 123D.

RULINGS

General

Any application for a VAT class ruling or a VAT ruling must be lodged at the SARS branch office where the applicant is registered (or with the nearest SARS branch office if the applicant is not registered).

Often applicants do not submit sufficient information for the SARS branch office to issue the ruling. This causes unnecessary delays in the rulings process as further information is requested from the applicant. In order to ensure that rulings are issued within a reasonable turnaround time, applicants are requested to provide the following details when applying for a ruling:

- The applicant's name, VAT number (if applicable), address, contact details (e.g. phone, fax, e-mail etc), and if applicable, the contact details of the applicant's representative.
- A complete description of all the transaction(s) concerned, and the impact on the applicant's VAT liability (or on any connected person in relation to the applicant).
- A clear statement as to the issue at hand, or the specific request which is to be ruled upon.
- The relevant statutory provisions and the applicant's interpretation of those provisions.
- A statement to the effect that the issue upon which the ruling is sought, is not the subject of an audit, investigation, objection or appeals process, or a matter which is being considered by a Court, and in which the applicant (or any connected person in relation to the applicant) is involved.

Where a VAT class ruling is requested, the application must, in addition to the above requirements, include a list or description of the class members to which the ruling is intended to apply.

Rulings on apportionment methods

From November 2000, the turnover-based method is the only standard method which a vendor may use to apportion input tax without obtaining prior approval from SARS. The turnover-based method is explained on page 41 of the VAT 404 Guide for Vendors and constitutes a binding general ruling, effective from 1 April 2007.

Where the turnover-based method does not yield a fair and reasonable approximation of the input tax which should be recovered in the circumstances, the vendor may approach the local SARS branch office where that vendor is on register to consider the approval of a different method.

The vendor must present sufficient information which clearly demonstrates why the turnover-based method (or other method currently being used) yields an unfair result, or why the method cannot be used. In addition, convincing evidence and a well motivated argument must be presented to demonstrate that the proposed method yields a more fair and reasonable result.

In order to ensure that rulings in this regard are dealt with properly, and without unnecessary delays, vendors are requested to include at least the following information in their applications:

- A description of the nature and structure of the business, including a description of any divisional or branch structures through which business is conducted (and if so, whether the branches or divisions are separately registered for VAT).
- A description of the type of supplies made and the associated activities and expenses which relate to those supplies.
- A list of all income for the period concerned, categorised under the headings: "taxable supplies", "exempt supplies" and "non-supplies/other income", and where possible, a list of the associated expenses relating to each item under those headings, or a list of specific expenses to which the apportionment method should apply.
- A description of the current method being used (if it is not the turnover-based method), the method which is proposed, as well as any alternative methods that have been considered.
- A comparative calculation based on the practical application of the different methods under consideration which indicates the input tax recovery ratio in each case, based on actual figures for the current year and past five years (where possible).
- Documentation upon which the information in the apportionment calculations is based (e.g. Annual Financial Statements, transaction logs etc).
- Where applicable, an explanation of any changes in the business environment, or external factors which have rendered the current method inappropriate.

eFILING OF RETURNS AND PAYMENTS

Vendors who make use of eFiling have until the last business day of the month concerned to file VAT returns and to make VAT payments in respect of such returns. Recently it has been noted that some eFiling clients have filed the returns on eFiling, but made their payments via another payment method, and as a result, have incurred penalties.

eFiling clients are therefore reminded that to obtain the benefit of filing a VAT return and making payment on the last business day of the month, the VAT liability indicated on the VAT return filed via e-Filing must be matched by full payment of that liability on the eFiling system.

Vendors must select the "VAT Normal Payment" option when making a VAT payment for a specific tax period and VAT return, to avoid having penalties imposed. When making payment of any other VAT liability, for example, any arrear VAT, penalties or interest, the "ADHOC" or "VAT Allocation Payment" option must be selected.

Call Centre 0860 12 12 18

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

 **SARS**
At Your Service

www.sars.gov.za