

NO INPUT VAT CLAIM – NO OUTPUT VAT (BOTSWANA TAX) By Jonathan Hore

Welcome folks to today's article in which I want to analyse what happens when a VAT registrant is denied an input tax claim. Before I confuse you with the tax jargon, let me first simply some of the critical terms that I will use. VAT can only be charged by a person who is registered for VAT. That person is required to regularly file VAT returns to BURS of transactions that would have occurred during his tax period. A tax period is either a period of 1 or 2 months of trading, during which the VAT registrant is required to account for VAT. VAT charged by a VAT registrant is called **Output Tax** whilst VAT paid or incurred when a VAT registrant acquires services and goods is called **Input Tax**.

WHEN IS VAT CHARGED?

Well, a VAT registrant is required to charge VAT in almost all instances in which he makes supplies of Vatable goods or services. Vatable supplies refer to the sale of goods or services on which VAT is required to be charged. Supplies on which VAT is charged at 12% are commonly referred to as standard-rated supplies. Where VAT is not chargeable at all, the supplies are referred to as exempt supplies. It follows therefore that except if the supply is exempt or is a non-supply, a VAT registrant should charge VAT when he makes that supply. This means that the VAT registrant should charge VAT and pay it to BURS or offset it against VAT incurred and then net is paid or claimed from BURS.

WHAT'S THE AUTHORITY?

The major exception to the rule that VAT should be charged whenever a taxable supply is made is when the VAT registrant is denied an input tax claim on acquiring the goods or services. The authority to this principle is section 4(19) of the VAT Act, which prescribes that, *'where a registered person supplies goods or services and a deduction for input tax paid on the acquisition of such goods or services was denied, the supply by the registered person is a supply of goods or services otherwise than in the course or furtherance of a taxable activity.'*

The above quote basically prescribes that a VAT registrant who has been denied input tax on acquiring goods or services should not charge VAT when he supplies the same goods or services to his clients. I must hasten to state that this, in practice, applies to goods more than it does to services.

WHEN IS INPUT TAX DENIED?

Input tax is denied in a number of instances, primarily by section 20 of the VAT Act. The most common example of a scenario where input tax cannot be claimed is on the purchase or hire of a passenger vehicle by a person who does not deal in or hire passenger vehicles. The VAT Act defines a passenger vehicle as a vehicle which carries not more than 9 seated passengers. These are vehicles primarily designed for the conveyance of passengers and not goods, i.e. bakkies and lorries etc are not passenger vehicles. A tax consulting firm cannot claim input tax whenever it purchases passenger vehicles but a car dealer or a car hire company can. So, for the tax consulting firm, it is denied an input tax claim whilst the car dealer/trader is not denied the input tax claim.

Another example of scenarios where input tax is denied is on the purchase of canteen equipment or the construction of canteen buildings. The basis for such denial is that such expenditure is regarded as entertainment and as such, input tax can only be claimed by those in the business of providing entertainment such as hotels. A tax consulting firm cannot therefore claim input VAT on the purchase of canteen equipment.

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So, the VAT Act clearly states that where a VAT registrant is denied input tax, he shall not be required to charge VAT whenever he makes a supply of that good or service. Below are scenarios which put this concept into perspective:

- Company A, a tax consulting firm, purchased a Toyota Hilux, which is a passenger vehicle for P 300 000 and could not claim the VAT thereon of P 36 000. When the company sells the vehicle, it cannot charge VAT on the basis that it was denied input tax on acquisition. This is still applicable despite the fact that VAT is charged on the sale of passenger vehicles; and
- An audit firm acquired a fridge (considered entertainment) and did not claim the VAT on acquisition. The audit firm cannot charge VAT on the subsequent sale of the fridge on the basis that a VAT claim was denied

Well folks, I hope that was insightful. As yours truly says goodbye, remember again to give to Caesar what belongs to him.