

ONCE -OFF SALES DON'T TRIGGER VAT REGISTRATION: By Jonathan Hore

The VAT Act prescribes that anyone who meets P1m in annual sales must compulsorily register for VAT, if the sales are subject to VAT at either 14% or 0%. One aspect which is usually a bother to businesses is whether once-off sales exceeding the P1m threshold compel businesses to register for VAT. The fact that the VAT Act does not delve much into that matter makes this some real and live quandary for businesses. I want to analyse this aspect in today's article. Keep on reading. Throughout this article, words importing the masculine shall be deemed to include the feminine.

Who should register?

It is vital to first understand that VAT is charged only on the supply of goods or services at the commencement, during trade or termination of a registered person carrying on a taxable activity in Botswana.

Based on this, we should have a clear understanding of who a "person" is and what is a "taxable activity." The VAT Act provides us with the definitions of these key terms. It defines a person as, "the State, a local authority, board, natural person, trust, company, and partnership." The Act also defines a taxable activity as any activity that is carried on "continuously or regularly" in or partly in Botswana in which goods or services are supplied for a consideration, whether or not for profit.

It is also very important to note that the definition of a "taxable activity" provides us with the guidelines and criteria to determine who is or not required to register for VAT. It states that in order for a person to be considered for VAT registration, the person's income generating activities should be conducted, "continuously or regularly," in Botswana. In other words, the activity should create a recurring pattern or must be anticipated to occur or recur in the foreseeable future. Further, the income of the business must be chargeable to VAT at either 14% (e.g. sale of laptops) or 0% (such as the sale of raw vegetables), for it to fall within the ambit of "taxable activity."

Once-off sales?

As highlighted above, a taxable activity should be repetitive or recurring in nature. Consequently, this clearly eliminates once-off transactions falling within the ambit of a taxable activity. This means that a once in a life-time transaction that may cause a person's annual turnover to exceed P1m do not warrant VAT registration. For example, if Company X sells its only building for P2m, where the P2m will be its only income in say 4 years, then the company mustn't register for VAT despite the fact that it exceeded the P1m threshold. In addition, disposals of capital goods which spontaneously make income exceed the P1m must not conjure VAT registration. As enunciated above, both transactions are once-off and are not anticipated to recur in the future.

Don't twist it

Despite the above, where sales similar to those mentioned in the above examples occur more than once, they may fall within the definition of a taxable activity which may then trigger VAT registration if the P1m threshold is breached.

It is also key to note that some transactions occur once over a long period of time, yet they fit in the definition of a taxable activity. For instance, an architectural company whose core business is structural designs which operates a separate real estate division, will register for VAT if it annually sells one piece of land as the sales occur annually and are thus continuous in nature. It is also very important to understand the modus operandi of any business to determine the motive behind certain transactions as that shapes whether the transactions

qualify the business to register for VAT. In conclusion, once-off transactions do not trigger VAT registration even if the sales exceed P1m as there must be a pattern of recurrence of such sales.

Well folks, I hope that was insightful. As Yours Truly says goodbye, remember to pay to Caesar what belongs to him. If you want to join our Tax WhatsApp group or know about our 9 Tax e-books, send me a text on the cell number below.