

REGISTERING FOR VAT WITHOUT P0.5m IN SALES: By Jonathan Hore

A couple of weeks ago, I wrote about the challenges that start-ups face when they intend to register for VAT, following the amendment that was made to the VAT Act. In that article, I stated that most start-ups cannot, as was previously the case before 23 January 2015, approach BURS and register for VAT without proof of sales. This is so as the VAT Act was amended such that no-one can register voluntarily until they prove that they made sales of P500 000. This certainly causes huge operational challenges for start-ups as their costs suddenly shoot up by 12%, since they can't claim the VAT they suffer as they will not be VAT registered. The businesses which are usually affected by this are those which are capital intensive such as those who are in the hotel, farming and commercial property development businesses. I will try to throw in a few tips on how one may still be able to register for VAT before making any sales. Before I do that, let me elaborate on why the VAT Act was amended to make VAT registrations stringent. In this article, words importing the masculine shall be deemed to include the feminine.

WHAT CHANGED IN THE LAW?

Before 23 January 2015, anyone aspiring to start a business could approach BURS and register for VAT, even before commencing trading. Registering for VAT allows a business to claim VAT that it is charged in advancing its trade. For example, if someone starts a new hotel, registering for VAT allows them to get the VAT incurred when constructing the hotel, buying equipment and in the general running of the business. This means that if the total cost of starting the business was say P11.2m, the business will in fact only incur P10m as the VAT amount of P1.2m is claimable from BURS.

Before 23 January 2015, BURS had a number of start-ups who would register for VAT mainly to obtain tax clearance certificates for tender purposes. A number of them would not win the tenders and as such, they would not have any business. That being the case, it meant that there would not have resources with which to ensure compliance with VAT returns filings. This then resulted in the amendment of the VAT Act with effect from 23 January 2015, to allow BURS to only deal with 'quality investments,' per the Minister of Finance & Economic Development. The Act was then amended such that voluntary registration threshold was increased from P0.00 to P500 000. This means that currently, one needs to prove to BURS that they have reached P500 000 in sales, otherwise they won't be registered for VAT voluntarily. I must also state that there is what is known as mandatory VAT registration, where one registers when they attain or expect to reach P1m in a 12month period.

HOW TO REGISTER WITHOUT SALES

I must state that even if one has proof of significant capital invested in a project, what BURS focusses on is proof of income. Further, before the law was amended, businesses could apply to register based on forecasts of revenue and again, that is no longer consistent with the Act and per our experience, BURS is not entertaining such documents as acceptable in supporting VAT registration applications.

I must be upfront and state that BURS has not officially recommended any other way in which a person who does not meet the new registration criteria can register without proof of the required income. What I am suggesting below is what I have, from experience, seen happening. I therefore would not want to guarantee that if it happened for one of my clients or to someone else, it will also work for you. It depends on how you present your facts and application for VAT as well as how BURS looks at it. I have noted that prospective VAT

registrants can register without the required sales of P0.5m or P1m under the following circumstances:

- Tenders: One can attach a tender document which shows that they will indeed reach P1m in a 12month period and BURS may consider them for registration. They will be registered under section 16(1)b of the VAT Act, as they will have a 'reasonable expectation' to reach P1m in a 12month period;
- Contracts: A contract which shows that the prospective VAT registrant will offer services or goods exceeding P1m in 12months is another alternative to support a VAT registration application. Again, the registration is done under the reasonable expectation avenue;
- Delivery notes: It can happen that a business may have made deliveries of goods on a sale or return basis to its agents but the deliveries may be substantial, say P3m. The delivery notes indicating that indeed the applicant has delivered the goods can also be used to support VAT registrations. That again is proof of a reasonable expectation to exceed P1m in 12months.

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, send me a text on the cell number below.