

Circular to VAT Registered Persons

Implementation of VAT on Special Projects and Projects Exempt Under Strategic Development Projects Act.

Procedure to be adopted on the application of VAT on projects exempted under Items(i) & (ii) of paragraph (f) of PART II of the First Schedule Special projects and the project (to be)exempted under the Strategic Development Project Act

(1) Application of the Provisions of the Act

Relevant provisions of the Value Added Tax (VAT) Act No. 14 of 2002, as amended by the Amendment Act No. 15 of 2008 are set out below.

(i) Exemption

In terms of paragraph (f) of Part II of the First Schedule to the VAT Act No. 14 of 2002, as amended by the Amendment Act No. 15 of 2008;

The supply of:

- (i) goods or services to any project identified as a Strategic Development Project, in terms of Section 3(4) of the Strategic Development Projects Act No. 14 of 2008; or
- (ii) goods or services to any specified project identified by the Minister in charge of the subject of Finance, taking into consideration the economic benefit to the country, on which project the tax is borne by the Government

is exempt from VAT with effect from 1.1.2008.

(ii) Claimability of input tax

As provided in the proviso to subsection (6) of section 22 of the VAT Act, even though the supply is exempt from VAT, the suppliers of goods or services are entitled to claim the input tax in relation to such supplies.

(iii) Restriction of input tax { Second proviso to subsection (10) of section 22 }

The normal restriction of input tax of 85% is applicable to suppliers of goods or services to the exempt project considering that the supply which is exempt, is deemed to be liable for the calculation of input tax claimable.

(2) The procedure applicable

- (i) The letter of approval is issued by the Director General Fiscal Policy of the Ministry of Finance once the project is approved by the Minister. The letter of approval contains the following information.
 - (i) Name of the project exempted.
 - (ii) The approximate value of the project.
 - (iii) TIN of the institution/project (suppliers of goods or services to the exempt project), if already registered for VAT and the name and address if not registered. (A special registration should be obtained if the supplier supplies only to such project)
 - (iv) The specific instructions to be followed are also indicated.

The letter is addressed to the Commissioner General with copies to the recipient of the supplies (exempt project or institutions), the provider of goods or services to the exempt project, and to the Secretary to the relevant Ministry to which the project is related to.

- (ii) Once the letter of approval is received, both parties (the exempt institutions/project and the provider of goods or services) should call over at the Secretariat Branch of the Department of Inland Revenue, and obtain the necessary instructions relating to the procedure. A registration No. will be allocated to the supplier for administrative purposes.

Any changes of the suppliers or the values of the projects etc also should be made with the approval of the Ministry and informed to the Commissioner General accordingly.

Any supplier, who has not obtained the necessary approval, will not be considered as a supplier for the claim of input tax on exempt supplies made to the project.

- (iii) The supplier should submit a report on monthly basis along with the return to the Assessor handling the file, including the following:
 - (i) The total value of the project;
 - (ii) The value of the work done during the relevant taxable period with the amount invoiced;
 - (iii) The total purchases with the schedule of input credits claimed in the return.
 - (iv) Any changes, adjustments etc
- (iv) The official in charge of such project (exempt) should submit a summary of invoices issued by the supplier by separating out each supplier (in duplicate) on monthly basis. (The same should be submitted to the Ministry of Finance, Policy Division as per the enclosure referred to in item (3) of the letter of approval)

- (v) The evaluation of the project also should be submitted by the relevant officer on a half yearly basis to the Department of Inland Revenue (Secretariat Branch) along with the other documents under the registration No allocated to the supplier with a copy to the Assessor handling the file in the respective unit/branch.

(3) Filing of Returns (monthly or quarterly as the case may be)

- (i) The supplier of goods/ services is entitled to claim input tax credit subject to the provision of the VAT Act (i.e. disallowable input tax & 85% restriction etc.) However, for the purpose of claimability of input tax credit, the supplies of the goods or services (with the prior approval as mentioned above) are treated as deemed liable supplies.

Therefore, the value of deemed liable supplies should be indicated in the returns under liable supplies (under respective rate applicable, if liable) and indicate the output tax in the respective cage. Accordingly, the subsequent calculations are made considering the output tax as if liable. In order to remove the deemed tax calculated as payable, deduct the same amount of deemed tax (included in the calculation) as a special credit under the cage of withholding tax/ Advance tax referred to in section (vi) of the Return form.

(The relevant amendments will be incorporated in the VAT Return form in due course).

The procedure to be adopted is set out below.

- (i) The supplier should handover the return to the Commissioner VAT – (specify) with the relevant documents referred to above (Do not post the return or hand over to the relevant branch where the file is dealt without being recorded by the Commissioner VAT)
- (ii) The commissioner VAT will forward the return to the relevant branch to check the accuracy of the filing of the return after making the necessary recording.(This is not an audit but only a checking of the accuracy of the return including the adjustments with regard to the deemed liable supplies and the deemed tax credit.)
- (iii) The return will be sent back to the Commissioner VAT with the confirmation (that the return is checked) of the Assessor handling the file through the Deputy Commissioner of the branch after checking the documents submitted by the supplier.(This will be done subject to an audit).
- (iv) Commissioner VAT will forward the return with the approval to record the deemed credit to the Deputy Commissioner Data Preparation and Revenue Accounting Unit prior to entering the return into the system.
- (v) Deputy Commissioner DPRA will prepare a credit advice for the deemed tax credit, and refer the return for data entry after allocating a DNL No for that return.

The tax payers are specially advised not to post or send the return directly to the Computer Branch without going through the procedure set out above. The following schedules should be submitted along with the Return.

- (a) Total supplies liable at respective rates and exempt (deemed) supplies included in the value of supply.
- A schedule of liable supplies.
 - A schedule of exempt (deemed) supplies.
 - Any other supplies exempt/ excluded.
- (b) Input tax schedules.
- Imports.
 - Local purchases of goods/ services (Total)
 - A sub schedule giving the following information
 - Disallowable input credit
 - Input connected to exempt supplies (not claimable)
 - Input connected to supplies to exempt projects (deemed to be liable) on which input tax is claimable in duplicate.
 - Any other specific information requested by the assessor
- (One copy to be sent to the Secretariat Branch)

Illustration 1

(i) In the case where the supplier supplies only to a specific project on which the output tax is exempt.

	Value	Rate	Rs.
Supply	1,000,000	15%	
Input tax on goods/ services purchased			
- on imports	500,000	15%	75,000
- on payments to sub contractors	100,000	15%	15,000
local purchases of goods.	100,000	15%	
15,000			
motor vehicle *	300,000	20%	60,000

			165,000
C/F from the month of March			30,000

The supply being an exempt supply VAT is not chargeable. However, input is claimable. For this purpose of calculation of input tax claimable, deemed output tax should be declared.

* used for travelling

Taxable period (assessed for April 2008)
Section (2) of the Return.

	Value	Rate	Tax	
(ii) Output tax	(A) -	-	-	
	(B) 1,000,000	15%	150,000	
Taxable supplies	(C) -	-	-	150,000(3)
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(iii) Input tax	Value		Tax	
On imports (H)	500,000		75,000	
On local supplies (I)	500,000		90,000	165,000(7)
Disallowable input tax				60,000(8)
Allowable input tax excluding B/F excess				105,000(9)
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(iv) B/F input tax				30,000(10)
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(v) Allowable input tax subject to 85% of (3)	105,000 + 30,000			(9+10)
85% of 150,000	127,500 (12)	135,000	127,500 (13)	
Unabsorbed input C/F	135,000 – 127,500			7,500
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(vi) Tax payable (150,000 – 125,000)				22,500
Less credit against Deemed output tax		(150,000)		150,000
Refund due to the tax payer				127,500
				=====

Illustration 2

Assume in the same case along with the exempt supplies to the project the taxpayer has other liable supplies.

Value of exempt supplies Rs. 500,000 Rate 15%
Value of liable supplies Rs. 500,000
Other input taxes remain the same.

Section (2) of the Return	Value	Rate	
(ii) Output tax (including deemed supplies)	1,000,000	15%	150,000
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(iii) Input tax			
On imports	500,000	75,000	
On local	500,000	90,000	165,000

	Disallowable input		(60,000)
	{As in illustration (1)}		-----
	Allowable input tax other than		
		B/F. excess	105,000
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(iv)	B/F. excess	input tax	30,000
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(v)	Allowable input tax	$105,000 + 30,000 = 135,000$	
	85% of 150,000		127,500
	C/F unabsorbed input tax		7,500
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(vi)	Tax payable	$[150,000 - 127,500]$	22,500
	Less credit against		
	Deemed output tax	$[1/2 \text{ of } 150,000]$	(75,000)

	Refund due to taxpayer		(52,500)

4. Maintenance of Records

Proper records should be maintained by the suppliers on the basis of the taxable period (monthly or quarterly), showing the value of the project, the payments received, the cost of the project with input taxes claimed, the profit margin, the completion of the project at any point, working progress and other relevant information.

5. The issue of Refunds/ claimability of input tax etc. are subject to other provisions of the VAT Act.

The refund or the input claim will be suspended if the supplier does not comply with the above conditions mentioned in this circular.

It is advised to adhere to the instructions provided in this circular, where necessary modifications will be effected after a review of the procedures mentioned herein.

S. Angamma
 Commissioner General of Inland Revenue

5/8/2008