

DEREGISTER FOR VAT IF BELOW P500 000! By Jonathan Hore

If you didn't know, any VAT registrant whose annual sales fall below P 500 000 must deregister for VAT purposes with BURS. This came through an amendment of the VAT Act which took effect from the 23rd of January 2015. In other words, if one's annual sales are below P 500 000 and they are still registered for VAT, they may be on the register illegally, except if they requested BURS for some concession. I will analyse this issue in more detail below. In this article, words importing the masculine shall be deemed to include the feminine.

THE PREVIOUS REGIME

Before 23 January 2015, anyone could voluntarily register for VAT even when they had not made any sales. VAT registrations were then not tied to a sales figure. The problem that BURS faced was that most small businesses would register without comprehending the VAT obligations that came with such registrations. Most of the small businesses would solely register for VAT because they wanted to tender for jobs or they wanted a tax clearance certificate. If they didn't win the tenders, they would then have no interest in keeping the businesses active, let alone file VAT returns. This clogged BURS' VAT register with many VAT registrants who had no clue about VAT compliance matters. The resultant effect was that BURS had many VAT registrants who would not file returns or pay VAT on sales made.

Some of the businesses were trading but because they could not afford the services of professional tax consultants, this resulted in rampant non-compliance with the tax laws. Most such traders would only file all outstanding returns the next time they needed a tax clearance certificate. Unknown to them, section 26 of the VAT Act levies a P5 000 per each return that they would file late with BURS. If a VAT registrant had 12 outstanding nil returns for example, they would find themselves with a penalty of P 60 000 upon subsequent submission of VAT returns. These penalties are very onerous for small businesses and most of them can't afford to pay them, further exacerbating their non-compliance with tax laws.

THE NEW REGIME

To solve the problem stated above, the tax authorities sought to limit the number of taxpayers who would register for VAT by introducing a sales threshold of P500 000 if someone wanted to voluntarily register for VAT. In other words, BURS cannot under normal circumstances process one's VAT registration without proof that the person reached P500 000 in annual sales. Further, the mandatory registration was upped from P 500 000 to P1m. This means that if any business reaches P1m in annual sales, it must register for VAT. The above moves were meant to once and for all deal with the small players who clogged the VAT register and yet not comply with taxes.

DEREGISTRATIONS MANDATORY

The VAT Act requires that a person who makes annual sales which are less than P1m must deregister for VAT. However, due to the fact that anyone who reaches P500 000 can voluntarily register for VAT, BURS practically allows businesses with turnover of between P500 001 and P1m to remain on the VAT register. Anyone with annual turnover not exceeding P500 000 must deregister for VAT, unless if some sort of dispensation has been granted by BURS.

The deregistration for VAT becomes technical if the business is capital intensive as BURS deems that the business would have sold its capital assets and any stock at hand on the date of deregistration, a process which results in BURS demanding tax when no actual sale is made. For example, if a VAT registrant has a commercial building valued at P3.36m which

it would have purchased at P1.12m, BURS demands VAT on the higher of the two amounts, upon deregistration. From the above example, BURS will demand tax of P 360 000 from the VAT registrant ($12\%/112 * P3.36m$) who intends to deregister, despite the fact that no actual sale would have been made. This causes financial distress for most VAT registrants as they usually do not have the cash with which to pay the VAT; but this is what the law prescribes. In reality, most VAT registrants freeze when they are told that they have to pump out thousands just to be removed from the VAT register. This again results in those VAT registrants staying on the VAT register when they do not qualify to. Despite the practical challenges stated above, any VAT registrant whose annual turnover falls below P1m is legally required to deregister for VAT.

As Yours Truly says goodbye, remember to pay to Caesar what belongs to him. If you want to join our Tax whatsapp group, please send me a text on the number below.