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VAT CLAIMABLE BACKWARDS ON REGISTRATION: By Jonathan Hore
There is a very generous section in the VAT Act which allows VAT registrants to have an input tax claim on stock and consumables at the time that they register for VAT. Ordinarily, VAT claims are only made after one is already on the BURS' VAT register and that is done using VAT compliant tax invoices. In the circumstances under discussion today, you will realise that the VAT registrant even claims input tax in the absence of VAT compliant tax invoices. I will analyse this matter in more detail below. In this article, words importing the masculine shall be deemed to include the feminine.

THE EXACT SECTIONS
The VAT claims stated above can be made in terms of section 19(1)3 and 19(1)4 of the VAT Act which state that, 'a deduction is allowed to a registered person in the first tax period in which the person is registered for input tax paid or payable by the person in respect of-
(a) taxable supplies of goods, other than capital goods, made to the person; and
(b) any imports of goods, other than capital goods, made by the person, prior to becoming registered to the extent that the goods are for use or resupply in a taxable activity carried on by the person after registration [provided that] the supply or import occurred not more than four months prior to the date of registration.'

Below is a summary of what the above quotes mean:

- **Only stock/consumables eligible:** When BURS registers a person for VAT, it issues a notice of registration which states the effective date of such registration. In most instances, the first date when a VAT return is due is also stated on that notice. What the above quoted sections establish is that if a person registers with effect from say 1 November 2019, they can claim input tax on stock in trade/consumables at the date of registration, which is, as stated above, 1 November 2019. I must state that the section does not allow a claim on capital goods. The Act goes further to define the term 'capital goods' as meaning, 'any asset, or component of an asset, which is of a character subject to a deduction of capital expenditures incurred as provided in section 41 of the Income Tax Act, and which is used in the course or furtherance of a taxable activity.' These are assets which the VAT registrant repeatedly uses in the production of taxable sales such as vehicles, machinery and office equipment.
- **4months limit:** VAT on such stock can only be made for not more than 4 months prior to the date of registration. In other words, the VAT claimable is for the periods going backwards and using our 1 November 2019 registration date above, the newly registered person can claim VAT from 1 July 2019 to 31 October 2019.
- **Goods must be on hand:** The other condition is that the stock/consumables on which VAT can be claimed must be on hand as at the date of registration for VAT. In reality, BURS requires every VAT registrant to furnish them with a list of assets and their values at the time of registration, for control purposes. That list may be used to ensure that no VAT claims are made over and above

the VAT applicable on the list provided. Stock in trade depends on the business that the VAT registrant conducts. A tax consultancy firm would treat bakkies as capital goods but a car dealer may treat the same types of vehicles as stock in trade. A seed trader would obviously claim VAT on seed imports or purchases made prior to date of registration. Consumables include but are not limited to items such as stationary, uniforms and spare bulbs.

- **Current VAT also claimable:** One aspect you should also realise is that the VAT for the first tax period during which the taxpayer is to account for VAT must also be claimed over and above the VAT for the prior 4months period. If we use our 1 November 2019 effective date of registration, it means that the VAT registrant may have to claim VAT for 1 November 2019 to 31 December 2019 over and above the VAT on the stock/consumables on hand as at the date of registration.
- **Invalid tax invoices acceptable:** The obvious fact that the stock would have been purchased in the periods prior to registration for VAT means that the tax invoices at hand will not have the VAT registrant's VAT number and will technically not be compliant with the stipulations of section 23 of the VAT Act. However, it is not expected that the VAT registrant requests fresh tax invoices for the 4months pre-registration VAT claims.

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.