

INDIVIDUAL CONSULTANTS MUST REGISTER FOR VAT: By Jonathan Hore

The VAT Act prescribes that any person who meets the P1m threshold in annual taxable income should compulsorily register for VAT. For some reason, most people are of the view that this notion only applies to companies or organisations. As a result, some individuals who are engaged in consultancies or who freelance as independent contractors choose to turn a blind eye on this provision of the Act. Doctors, lawyers, business consultants and engineers are some of the persons who must register for VAT, despite the fact that they may trade in their individual names.

Some people do not comply with this provision because they are not fully conversant with the tax laws and maybe some do so due to ignorance. However, it is common knowledge that ignorance is not a defence. Today's article seeks to clarify why individual consultants or independent contractors may be required to register for VAT and what should be done to comply with the VAT laws. In this article, words importing the masculine shall be deemed to include the feminine.

The person

Firstly, allow me to clarify the meaning of the word 'person' in reference to the provisions of the VAT Act. In terms of the Act, any reference made to the word person includes, 'the State, a local authority, board, natural person, trust, company, and partnership.' Technically, this means that any individual, referred to as, 'natural person' above, is required to comply with the provisions of this Act. Now that we know that no one is immune to the VAT law, you may need to check whether or not you are regularly conducting a taxable activity in Botswana.

Taxable activity

I know that these terms might be a bit puzzling for some people. However, I will endeavour to clarify with some degree of precision on what exactly this means. A taxable activity is basically any undertaking or any trade conducted in Botswana which would ordinarily qualify for VAT at the standard-rate of 14% or which can be charged VAT at 0%. As you can see almost every consulting business or activity qualifies for VAT at 14% with a few exceptions being subject to VAT at the rate of 0%, commonly referred to as zero-rated supplies. If you are an individual consultant offering services in Botswana, I am sure you agree with me that you are indeed conducting a taxable activity. For your information, such persons have VAT numbers which start with a capital 'I' which denotes that they are individuals.

The obligation

I am sure that it is apparently clear that any person including an individual consultant is required to register for VAT upon reaching P1m in annual taxable turnover. In other words, there isn't any alternative way out. The individual is legally obliged to apply for registration within 21 days of attaining P1m in turnover. Further, any person is required to register for VAT if there is reasonable expectation to exceed the P1m in a 12month period. Officially, all those individuals who seemingly receives a stable income of, say P250 000 per month are required to register before they even exceed the annual P1m threshold. They must do so as there is reasonable expectation to exceed the P1m mark based on their monthly sales of P250 000.

Enter VAT defaulters

You are probably wondering what happens if you do not or did not register within 21 days of breaching the P1m threshold. Well, the obvious punishment comes in the form of penalties. In fact, BURS can impose penalties of up to 200% on defaulters. As if that's not enough, the Act empowers BURS to register you retrospectively. This means that all the sales made after the retrospective registration date are assumed to include VAT. In other words, you will pay VAT for the past sales from your own pocket. For instance, BURS can register you for VAT with effect from January 2021 if they prove that you exceeded P1m in December 2020. This means all the sales you made from January 2021 to date will be assumed to include VAT which you should pay in addition to the penalties of 200%. Further, BURS will charge monthly interest on late payments at 1.5%. I must say, defaulting on VAT registration can really turn your fortunes into a nightmare.

Am out

Should you by any chance fit in the bracket of defaulters, I implore you to take advantage of the current tax amnesty scheme and regularise your trade. You may as well contact the writer of this article for professional assistance.

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 to know about our 9 Tax e-books, send me a text on the cell number below.