

NO VAT CLAIMS ON VEHICLE HIRE FEES: By Jonathan Hore

A friend of mine, Tiro, owns a renowned engineering company in the country. His team of engineers usually travels all over the country attending to clients' faults. Tiro once told me that it was actually cheaper for his business to hire passenger vehicles used by his engineers when they travel to the other parts of the country as opposed to buying and maintaining company owned passenger vehicles. Tiro went on further to say that he also enjoys the benefit of claiming the input tax on the vehicle hire fees which in turn lowered his monthly VAT liability. Tiro was so convinced that all he needed is a valid tax invoice from a VAT registered supplier. Well, over the years in my career I came across many people who shared the same sentiments as my friend Tiro only to be disappointed when I shared with them some tax wisdom. Some may think Tiro was right, however allow me to clarify the prohibited VAT claim on vehicle hire fees. In this article, words importing the masculine shall be deemed to include the feminine.

Input tax claim

Well, let me first acknowledge that the assertion made by my dear friend Tiro is true that you can claim input tax if you obtain a valid tax invoice from a VAT registered supplier. However, the VAT Act actually contains certain provisions that prohibit taxpayers from claiming an input tax on the purchase, lease, hire or importation of a passenger vehicle. Let us take a closer look at what really a passenger vehicle is and what actually warrants the prohibition to claim input tax.

Passenger vehicle

The VAT Act defines a passenger vehicle as *'a vehicle designed or adapted for the transport of nine or fewer seated persons, including a double cab vehicle but does not include a safari vehicle.'* On the other hand, a safari car is technically a vehicle designed to carry tourists. The Act further provides that input tax on passenger vehicles can only be claimed by a person in the business of selling, hiring or leasing such vehicles. Consequently, if you are not in the business of hiring passenger vehicles you cannot claim input tax unless if you hire a single cab or bakkie.

It should be noted that the preamble to the above definition of a passenger vehicle introduces an element of subjectivity in the determination of whether the vehicle is constructed for transporting nine or less passengers. Tacitly, bakkies, trucks or lorries are not regarded as passenger vehicles thus, input VAT on such can be claimed whether the vehicles are bought locally, imported or hired. Evidently, the assessment on whether a vehicle qualifies for an input tax credit lies in the construction or adaptation of the vehicle in the physical sense, not necessarily its specific use.

The embargo

Now that we are clear on what a passenger vehicle is in relation to VAT let us turn to the prohibited claims. The VAT Act solely permits a person in the business of *'dealing in, or hiring of,'* passenger vehicles to claim input tax. However, the embargo will also extend to the car dealer if he acquires a passenger vehicle for senior staff or management. Technically, the dividing line on this matter is clearly on the supply or acquisition of the passenger motor vehicle itself that is not subject to input tax claims. However, VAT can be claimed on operating costs of the vehicle itself such as repairs, maintenance and insurance.

As I check out

I am sure that it is now a bare secret for most of us that Tiro was wrong in claiming input tax on the passenger vehicle hire fees. As alluded to above, the restriction lies in the design and construction of the vehicle rather than its use. We should also bear in mind that this restriction does not apply to a person running the business of selling, leasing or hiring such vehicles.

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