

Free intercompany rent & services trigger VAT

Group companies generally enjoy preferential trade terms which grants them trade advantages over other independent companies. Generally, they are able to procure goods or services within the group free of charge or at a price lower than the prevailing market values. This practice may enable group companies to offer competitive prices to clients as compared to independent companies. However, it is imperative to understand the inherent Value Added Tax (VAT) risk associated with intercompany transactions, particularly those conducted for free. Keep on reading and allow us to help you understand the VAT implications associated with free intercompany transactions. In this article, words importing the masculine shall be deemed to include the feminine.

Intercompany transactions

Basically, intercompany transactions denote a trade of goods or services between or amongst a parent company and its subsidiaries or other related entities or associates. The most common intercompany transactions include free occupation of a holding company's building by a subsidiary, accounting services performed by a holding company's employees on behalf of a subsidiary and free transfer of cash or other assets from one entity to another. However, such transactions are usually embedded with tax implications, particularly VAT. Let us have a look at what the VAT law says.

Enter VAT

The VAT Act generally brings into the ambit of taxable supplies the provision of goods or services between related persons. Accordingly, such transactions are assessable for VAT even when they are conducted for free. In other words, related party transactions need to be assessed whether they qualify for VAT at standard rate or zero rate. In verbatim, the VAT Act states that, 'a supply made for consideration includes a supply made between related persons for no consideration.' In this regard, the VAT Act provides that such a supply shall be construed to have been supplied at a price equivalent to the fair market value of that supply. For clarity, let us assume that ABC (Pty) Ltd, a cement manufacturing company, transferred 10 000 bags of cement for free to its subsidiary, XYZ (Pty) Ltd, a construction company. Let's also take it that the cement was valued at P50 ,000 at the time of transfer. In this respect, for the purposes of determining VAT, ABC (Pty) Ltd shall be deemed to have sold the cement of P50 ,000 to its subsidiary and VAT shall be determined thereon.

Enter time of supply

Generally, a VAT liability is usually triggered at the earlier of issuance of an invoice or receipt of payment. However, such principles do not apply where a supply of goods or services is made between related companies where an invoice is not issued, and no payment is received. Accordingly, the VAT Act provides that in such a scenario, VAT is triggered at the time of transferring the goods or when services are actually performed. Further, the VAT laws provide that where goods involved are immovable or are not required to be moved, VAT is triggered at the time such goods are made available for use to the recipient related company. Using the example above, ABC (Pty) Ltd is required to account for VAT in the month the cement was transferred to the subsidiary.

Conclusion

Free intercompany transactions involving standard rated supplies technically triggers VAT in the hands of the transferring or issuing entity. In this regard, group companies are required

to account for VAT determined by considering the prevailing market value of such goods or services to avoid imputed VAT obligations and penalties.

Well folks, we hope that was insightful. As us the two Yours Truly say goodbye, remember to pay to Caesar what belongs to him. If you want to consult, join our free Tax WhatsApp group or to know about our 9 Tax e-books, send us a text on the cell number below. You can read more tax articles on our website, www.aupracontax.co.bw under the 'Tax articles' tab.