

## **VAT ARISES ON FREE INTERCOMPANY DEALS IN BOTSWANA**

In most cases, group companies enjoy favourable trade terms which grant them advantages over other independent companies. Generally, they can procure goods or services within the group free of charge or at prices lower than those prevailing in the market. This practice may enable group companies to offer more competitive prices than independent companies. However, it is imperative to understand the inherent VAT risks associated with free intercompany transactions. Keep on reading and allow us to help you understand the prime tax implications associated with free intercompany transactions. In this article, words importing the masculine shall be deemed to include the feminine.

### **Intercompany transactions**

Intercompany transactions denote a trade of goods or services between or amongst a parent company and its subsidiaries or other related entities or associates. More often than not, such transactions include the transfer of cash or other assets from one entity to another to assist in the recipient's operations. However, such transactions are usually laden with numerous tax implications.

### **Enter tax**

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 verbatim, the VAT Act states that 'a supply made for consideration includes a supply made between related persons for no consideration.' Essentially, this means goods or services provided or supplied for free to a related company are technically required to be valued for VAT purposes. In this regard, the VAT Act provides that such a supply shall be construed to have been made at a price equivalent to the fair market value of that supply. For clarity, if say ABC (Pty) Ltd, a cement manufacturing company transfers 100 bags of cement valued at P 50 000 for free to its subsidiary, XYZ (Pty) Ltd, ABC (Pty) Ltd is required to account for VAT even when it doesn't charge for the cement. However, XYZ (Pty) Ltd cannot claim the VAT charged as it won't have a valid tax invoice. Therefore, to cure this, it is ideal for such transactions to be done as if the two parties are not related.

### **The time of supply**

Generally, a VAT liability is triggered at the earliest 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 transfer of the goods or when services are 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 company. Looking at the example above, ABC (Pty) Ltd is required to account for VAT in the month the cement was transferred to the subsidiary.

### **Conclusion**

Free inter-company transactions involving standard-rated supplies technically trigger VAT in the hands of the transferor. 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 Caesar what belongs to him. If you want to consult, join our free Tax WhatsApp group

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