

No VAT claims on residential properties in Botswana

Residential accommodation services providers can't claim any VAT which they incur, making them final consumers who ultimately regard the VAT as their cost. We will delve into details of why this is so as well as the legal basis of such practice. In this article, words importing the masculine shall be deemed to include the feminine.

The concept

For most businesses which generate income exclusively from commercial properties, it is clear that the determination of VAT payable is output VAT on sales minus input VAT on purchases. However, a great deal of care and diligence will need to be applied in instances where income is generated from both commercial and residential properties or where a business venture has residential properties amongst its buildings.

Residential rent is exempt

A VAT-registered person is only allowed to claim a credit on VAT incurred on purchases used to make taxable supplies. As you can tell, it's not every purchase in respect of which VAT is claimable, rather the credit is only applicable to the extent of it being used to produce taxable supplies. By the way, taxable supplies refer to those goods and services charged VAT at a rate of 14% or 0%.

This, technically, means that any purchase not utilised towards the making or production of taxable supplies does not qualify for a VAT credit. As a matter of fact and law, any VAT incurred on purchases of goods and services utilised towards residential properties is a prohibited deduction. This is because residential properties predominately exist to accommodate staff or to generate residential rent. The rent is officially and legally an exempt supply; hence no VAT can be claimed on such supplies. Some may be of the opinion that since staff accommodation is meant to house employees who directly generate taxable supplies VAT incurred on construction or maintenance of those properties should be claimed. Unfortunately, that argument won't hold any water. The VAT Act specifically classifies the provision of employees' accommodation as entertainment which is a prohibited deduction. On the other hand, residential accommodation remains VAT exempt even if provided to clients.

At this point, some of you are probably asking yourselves how you should treat VAT on purchases when you operate both commercial and residential properties. Allow us to clarify this further below.

Enter apportionment

Technically, a person who generates income from both taxable supplies and exempt supplies is referred to as a 'mixed supplier.' However, this does not change the complexion of the law regarding VAT claims. As enunciated above, input tax remains claimable only to the extent of the purchase utilised to make or produce taxable supplies. This entails that any VAT on purchases directly linked to residential properties is not claimable. On the contrary, input tax directly linked to commercial properties is deductible. To make it clearer, the VAT Act further provides for an apportionment of input tax in circumstances where it is not possible to clearly distinguish input tax that relates directly to commercial or residential properties.

The said Act provides that input tax which cannot be easily allocated to either commercial or residential property should be apportioned based on the turnover method. Technically, this is the default method acceptable by BURS. Any method other than the turnover method can only be implemented after approval of such from BURS.

Conclusion

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 a text to +267 7181 5836 or email us at jhore@aupracontax.co.bw. You can read more tax articles on our website, www.aupracontax.co.bw under the 'Tax articles' tab.