

NO VAT CLAIMS ON RESIDENTIAL PROPERTIES IN BOTSWANA

The Value Added Tax Act generally restricts a VAT registered person from claiming input tax paid in respect of the purchase or maintenance of residential properties. Though the Act provides taxpayers with some form of tax relief by allowing them to claim VAT paid on expenses which are utilised towards taxable supplies, it plainly denies taxpayers a deduction of input tax paid on 'entertainment' expenses, which includes residential accommodation under its ambit. We will analyse further in the next paragraphs why this is the case. In this article, words including the masculine shall be deemed to import the feminine.

Enter input VAT

Input tax is a tax which is charged by VAT registered suppliers of goods or services to the recipients/buyers of such supplies. VAT registered entities can generally claim input VAT from BURS through their VAT returns if such VAT is used to advance a taxable activity. Per the Act, a taxable activity is a business activity or supply which is chargeable to VAT at the rate of 0% or 14%, which are the current VAT rates in place. This means that any VAT incurred on expenditure which will be used to advance a supply other than one which is taxable cannot be claimable.

Prohibited input tax

The Act lists the expenses which a taxpayer cannot claim input tax on, and one of the restricted expenses is entertainment expenses, save for taxpayers who are in the business of provision of entertainment as their core business such as hotels. The Act defines 'entertainment' as 'the provision of food, beverages, tobacco, accommodation, amusement, recreation, or hospitality of any kind by a registered person whether directly or indirectly to any person in connection with a taxable activity carried on by the registered person.' The above simply means that no taxpayer can claim input VAT on the acquisition or maintenance of a residential property which is either occupied or rented out for residential purposes. However, input VAT is claimable on the acquisition of residential properties which are for sale. Technically, mines, schools and manufacturing businesses, among other entities bear input VAT they incur on housing staff or clients. This VAT is still not claimable regardless of the fact that the VAT-registrant uses the property to generate business income.

Further, residential accommodation is also exempt from VAT, which is another window through which VAT on residential accommodation is thrown out of the VAT claims. What this entails is that a person who rents out residential buildings cannot charge VAT as residential rent is an exempt supply. An exempt supply is one on which VAT cannot be charged by the supplier, even if they are registered for VAT. Therefore, such a supplier is also precluded from claiming VAT on such properties. On the other hand, VAT-registrants who offer commercial accommodation can claim the full input VAT which they incur for their business, provided that they don't have residential rent contributing more than 10% of total revenue. If the latter is

applicable, then such persons become mixed VAT suppliers who have to apportion or directly attribute their VAT claims.

Relief

This prohibited input tax becomes a cost to the taxpayer and all is not lost as per the Income Tax Act, this prohibited input tax is tax-deductible when determining the income tax of the business, i.e., for VAT linked to business raw materials or consumables. VAT linked to assets may be recovered through capital allowances.

Well folks, we hope that was insightful. As us two Yours Truly say 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.