

PROFORMA INVOICES TRIGGER OUTPUT VAT

Businesses usually bill for the goods or services they would have provided to clients in the form of an invoice. One type of an invoice usually issued in business is a proforma invoice, which provides an estimate of the total amount to be charged for the goods or services. It differs from a normal invoice in the sense that it is issued before the finalisation of a transaction, unlike a commercial invoice. This type of invoice, though provided before provision of goods or services, triggers output VAT payable to BURS. Read on as we explain why. In this article, any word importing the masculine shall be deemed to include the feminine.

VAT TREATMENT

The provision of a proforma invoice for services or goods yet to be delivered triggers VAT which should be declared over to Botswana Unified Revenue Service (BURS). This is provided for in the VAT (Value Added Tax) Act and failure to adhere to that triggers penalties. The VAT Act provides that VAT is triggered by payment or issuance of an invoice, whichever happens first. The same Act does not specify the kind of invoice, consequently including the issuance of proforma invoice in this condition. This means that for one to assert that pro forma invoices don't trigger VAT, they must be confident and ready to convince BURS why the said document carries the name 'invoice' after proforma.

Since a proforma invoice is generally not considered a formal invoice, some businesses believe that it carries no VAT implications. That assertion or view is wrong because a proforma invoice fits in the definition of an 'invoice' per the VAT Act in section 2. 'Invoice' is defined as a document notifying an obligation to make a payment, which includes a proforma invoice in its definition since it is also a document which outlines the amount to be paid for the provision of goods or services. In fact, pro forma invoices are usually used to request for payment for goods or services.

CHARGE VAT

As already alluded, the provision of a proforma invoice triggers VAT in the hands of an entity issuing the said invoice, regardless of whether payment was received or not. If a proforma invoice is issued before payment is received, VAT should still be declared to BURS. If you were thinking you were ducking VAT by issuing a proforma invoice with the idea that it is not the kind of invoice stipulated in the VAT Act, then think twice. Instead, you may consider requesting for a deposit since it does not have any VAT implications. The VAT Act provides that VAT applies on 'consideration' of a taxable supply, which excludes deposits from the definition of 'consideration'. 'Consideration' per the VAT Act means 'the total amount in money or kind, paid or payable ... for the supply or import by any person ... but does not include ... a deposit... whether refundable or not, given in connection with a supply of goods or services, unless and until the supplier applies

the deposit as consideration for the supply or such deposit is forfeited.’ That definition makes it apparent that a deposit received by a VAT registrant does not form part of consideration and as such, no VAT consequences arise on its receipt.

CONCLUSION

Issuing a proforma invoice creates a tax obligation under the VAT Act. Businesses should ensure compliance by declaring output VAT accordingly. Misunderstanding the legal standing of a proforma invoice could result in non-compliance and potential penalties from BURS.

Tax hint: If you have never had a tax audit/review conducted by a tax consultancy firm to check whether you are tax compliant or should it be apparent that you are not certain that your tax affairs are in good order, then don’t wait for the taxman to pounce on you as that can be very costly. Contact us today so we can help you fix your tax affairs whilst you still have time.

Contacts: You may contact us at +267 7181 5836 or +267 393 9435 or jhore@aupracontax.co.bw or www.aupracontax.co.bw. This article is general, and tax advice is recommended if decisions are to be made. If you require to join our free Tax WhatsApp groups or to know more about our 9 Tax e-books, please send us a text/whatsapp on the number above.