

# **INSURANCE AGENTS ACTING FOR OFFSHORE COMPANIES**

## **VAT OFFICE POLICY STATEMENT [VP006]**

(Issued 19 May 1999)

### **Introduction**

This Policy Statement clarifies the Value Added Tax (“VAT”) treatment of insurance services provided in Vanuatu by an offshore insurance company using an agent based in Vanuatu.

The statement discusses the VAT implications for both the premiums collected on behalf of the overseas principal, and the commissions earned by the Vanuatu agent.

### **Application Date**

The policies set out in this statement have effect from 1 May 1999.

### **Summary**

A summary of this policy is:

- (i) offshore insurance companies providing insurance services through an agent in Vanuatu are liable to register and account for VAT on premiums charged if the premiums exceed 4 million vatu annually,
- (ii) VAT on expenses incurred by VAT registered offshore insurance companies may be claimed against the VAT collected on premiums charged
- (iii) agents’ commissions received from offshore insurance companies are generally zero-rated,
- (iv) agents are required to register for VAT if their total commissions exceed 4 million vatu annually.

### **Legislative References**

This policy is based on the following key legislative references from the Value Added Tax Act No.12 of 1998 (“the Act”):

#### Section 10 – Imposition of Value Added Tax

A value added tax will be payable by –  
any registered person on account of any supply of goods or services made in Vanuatu in the course of carrying on a taxable activity.

#### Section 4 – Taxable Activity

“Taxable activity” means any activity carried on continuously or regularly and involving the supply of goods or services to any other person for a consideration.

#### Section 12 – Registration of Persons Making Taxable Supplies

Every person who carries on a taxable activity and is not already registered becomes liable to be registered under this Act –

- (a) If the total value of supplies made in Vanuatu by the person in the course of carrying on taxable activities has exceeded four million vatu; or
- (b) If there are reasonable grounds for believing that the total value of supplies made in Vanuatu in the course of carrying on taxable activities will exceed the registration threshold amount.

#### Section 7(4) – Place of Supply

A supply of services will be treated as being made -

- (a) In Vanuatu if the supplier operates in Vanuatu in respect of the supply;
- (b) Outside Vanuatu if the supplier operates outside Vanuatu in respect of the supply.

#### Section 8(c) - Place Where Supplier Operates

A supplier will be treated as operating in Vanuatu in respect of a supply if the supplier:

- (c) Has a branch, agency or fixed establishment both in Vanuatu and elsewhere but is making the supply in the course of carrying on activities through the branch, agency or fixed establishment in Vanuatu.

#### Section 47(1) and 47(3) – Agents and Auctioneers

- (1) If an agent makes a supply of goods and services for and on behalf of any other person who is the principal of that agent, a supply will be treated as being made by the principal and not by the agent.
- (3) If a registered person makes a taxable supply of goods and services to an agent who is acting on behalf of another person who is the principal for the purpose of the supply, the supply will be treated as being made to the principal and not to the agent.

### **VAT Liability of the Offshore Insurance Company**

An offshore insurance company providing insurance services through an agent in Vanuatu is conducting a taxable activity in terms of section 4 of the Act.

Sections 7 and 8 of the Act deem the 'place of supply' to be Vanuatu as the insurance is supplied through an agent in Vanuatu.

Section 47 provides that the insurance services sold by the agent on behalf of the insurance company (the principal) are deemed to be supplies made by the principal and not the agent.

If the insurance company's annual turnover exceeds 4 million vatu in respect of insurance sales made in Vanuatu then it is required to register for VAT under the provisions of section 12.

Once registered the insurance company is required to account for VAT at 12.5% on their insurance premiums, unless the supply is zero-rated. Insurance, and the arranging of insurance, provided on the transportation of passengers or goods to or from Vanuatu are zero-rated.

The insurance company will also be required to file VAT returns if registered. These returns may be completed by the agent on behalf of the company. The VAT component of the expenses incurred by the agent, on behalf of the insurance company, may be deducted by the insurance company against the VAT collected on their premiums when calculating the amount of VAT payable.

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### **VAT Treatment of Commissions Charged by Agents to the Overseas Insurance Company**

Commissions charged by agents based in Vanuatu to overseas insurance companies are taxable supplies, however they will generally be zero-rated under clause 5 of the Third Schedule of the Act.

Clause 5 zero-rates any supply of services to a person who is not a resident of Vanuatu and who is outside of Vanuatu at the time that the services are performed. Therefore, as the insurance company is outside of Vanuatu at the time the supply is made (i.e. when the agent arranges the insurance) the agent can zero-rate the commission charged to the insurance company.

If the agent is not already VAT registered they will be required to register if their commissions (together with all other supplies made) exceed 4 million vatu annually.

The VAT component of expenses incurred by the agent relating to their commissions is deductible, however, agents will need to be careful to separate expenses claimed in their VAT return from the expenses claimed in the insurance company's VAT return.