

VAT APPORTIONMENTS AND DEEMED SUPPLIES

VAT OFFICE POLICY STATEMENT [VP020]

(Issued April 2002)

Introduction

This policy statement explains:

- (a) the VAT Office policy in respect of apportioning claims for VAT where there is an element of non-taxable activity use, and
- (b) the circumstances where a 'deemed supply' is made i.e. when goods or services are initially acquired for use in the taxable activity and then subsequently applied to some other purpose.

Apportionment of VAT Claims for Business Purchases

Section 19(5) of the Value Added Tax Act 1998 ("the Act") provides that VAT paid on goods and services is deductible only to the extent that the goods and services are acquired for the purposes of making taxable supplies.

This means that VAT claims must be apportioned whenever goods or services acquired for the business are (or will be) used for any non-business purpose.

Apportionment Methods

The method of apportionment will vary according to the particular type of expenditure; however the two most common methods of apportionment establish a business percentage using:

- (i) a log book, or similar record of the business versus non-business use of an asset such as a car or boat, or
- (ii) a proportional area calculation, such as expenses relating to a building used both as a home and business.

The VAT Office will also accept any other reasonable method of apportionment, provided that the registered person seeks VAT Office approval prior to making any VAT claims on the basis of that apportionment. Requests for approval should be made in writing.

(Note; special rules apply to the apportionment of motor vehicle expenditure. For a full discussion on this matter refer to policy statement 'VP005 – VAT Expense Claims for Motor Vehicles').

Default Apportionment Percentage

Where there is no reasonable apportionment method available and the VAT Office is satisfied that part of the expenditure relates to business use, then the VAT Office may approve a flat business percentage of 25% without the need for any other apportionment method. Requests to use the default percentage of 25% must be made in writing.

VAT Returns

VAT claims that have been apportioned are entered on the VAT return in the same manner as other expenditure items, i.e. in Box 11. An example is:

- Total VAT inclusive vehicle running costs for the month = vt20,000
- Business use of vehicle = 80%
- $vt20,000 \times 80\% = vt16,000$
- Enter vt16,000 in Box 11 of return.

Registered persons should record apportionment calculations on their VAT return worksheet for each period. These calculations will be checked by the VAT Office during the routine audits of each person's business records.

Deemed Supplies

Goods and Services Acquired for a Taxable Activity and Applied to another Purpose

Under the provisions of subsection 3(10) of the VAT Act, goods and services initially acquired by a registered person for use in their taxable activity, that are subsequently applied to some other purpose, are deemed to be 'supplied' by that registered person.

Example - Subsection 3(10)

On 29 March a registered person purchases 10 bags of rice for sale in her store. Each bag costs vt1500 and she prices them at vt2200 for resale. In her March VAT return the registered person claims back the VAT content of the purchase price of the rice (i.e. 1/9th of vt15, 000).

On 8 April the registered person takes one of the bags of rice home for her family, she makes no payment to the store. At this point, the bag of rice which was initially acquired for sale in the store (i.e. acquired for use in the taxable activity) has now been applied to some other purpose (i.e. the private use of the registered person) and accordingly a deemed supply has occurred and the registered person must account for VAT on that supply in her April VAT return.

Goods and Services Supplied to Employees at Less than Cost

It is common practice for registered persons to provide free or subsidised goods or services to their employees. These goods and services are generally provided in lieu of monetary remuneration. In most cases the registered person has claimed back the VAT paid on the purchase or manufacture of the goods and services therefore identifying them as part of their taxable activity.

Subsection 3(11) of the VAT Act provides that a deemed supply occurs in any case where a registered person acquires or produces goods or services for use in their taxable activity and then subsequently supplies them at below cost to employees (or persons associated to employees such as family members).

In addition to ensuring that all supplies made by a registered person are subject to VAT, subsection 3(11) was inserted into the VAT Act to provide equity to the majority of employees who are paid fully in cash and are then required to pay VAT on the market price of goods and services they purchase.

However there are two exclusions to the deeming provision contained in subsection 3(11). Subsection 3(12) provides that no deemed supply occurs under subsection 3(11) where:

- (i) The goods and services supplied to the employee are consumed as part of, and during the hours of, the employee's employment duties e.g. a resort provides staff meals to an employee during the employee's shift, or
- (ii) The supply of goods or services to the employee provides a direct benefit to the taxable activity undertaken by the registered person, e.g. travel and accommodation costs associated with sending the employee to another island to carry out a short-term job on behalf of the employer.

Value of Deemed Supplies

The above paragraphs discuss how deemed supplies occur under subsections 3(10) and 3(11), however we need to look to subsection 6(4) of the VAT Act to determine the value of these deemed supplies.

If goods or services are deemed by subsections 3(10) and 3(11) to be supplied, then subsection 6(4) values that supply at the lesser of cost or market value.

In the above example in the paragraph headed 'Example – Section 3(10)' the cost of the bag of rice taken home by the registered person was 1500vt and the resale (market) value was 2200vt. Subsection 6(4) values the supply to the registered person as the lesser of these amounts i.e. 1500vt. Accordingly the registered person, in that example, would be required to account for VAT of 1/9th of 1500vt in their April VAT return.

Sales of Assets Where Claims Have Been Apportioned

Section 10 of the VAT Act requires registered persons to account for VAT on any supply of goods or services made in the course of carrying on a taxable activity.

The question then arises whether assets used only partially for business purposes are part of a registered person's taxable activity.

Generally, the VAT Office considers that an asset is part of a person's taxable activity where it is used 50% or more for business purposes.

Accordingly, registered persons are required to account for VAT on the sale price of any asset where they have claimed 50% or more of the purchase price and/or maintenance costs of the asset.

Example

ABC Ltd purchases a truck for 3 million vatu. The vehicle logbook indicates that the truck is used 60% of the time for business purposes.

The VAT Office approves the logbook percentage, so ABC Ltd claim 60% of the purchase price and ongoing maintenance costs in their VAT returns

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After some time ABC Ltd decides to sell the truck and in April 2002 sells it for VT1, 890,000. The company is therefore required to account for VAT of 210,000 VT in its April 2002 VAT return.
