

VAT 101 – REGISTRATION FOR VAT PURPOSES

Introduction

This document aims to provide guidance on the registration requirements for VAT purposes as provided for in the VAT Act.

Who has to register for VAT?

Registration is compulsory for any business which supplies taxable goods/services and whose annual taxable turnover exceeds the registration threshold. It is also obligatory for the following to register irrespective of whether or not the registration threshold is exceeded; auctioneers and a national, regional or local public authority that carries on an enterprise.

The registration threshold

In order to ensure that the legislation does not impose unnecessary burden on small businesses, there is a turnover limit for registration for VAT - referred to as the VAT registration threshold. If a business' taxable turnover exceeds the minimum threshold (currently M 850,000.00 per annum), such a business **must** register for Value Added Tax (VAT).¹ It is worth noting that only taxable supplies are considered when determining the registration threshold i.e. exempt supplies are left out. When determining the eligibility of the business to register, the aggregate taxable turnover of all businesses under a single legal entity is considered.

For instance, if Company (Pty) Ltd has 5 branches, the total taxable turnover of all 5 branches will be taken into account when calculating the annual taxable turnover. If the sole trader has a number of businesses, for example, a café, clothing shop and a construction business, the annual taxable turnover will be calculated as a total of all businesses. However it must be noted that a business can also register for VAT even if its taxable turnover is less than the registration threshold (this is mentioned later in this Guide).

It is against the law to deliberately omit other business activities whereby taxable supplies of goods or services are made so that the business falls below the registration threshold.

¹ The registration threshold may be revised by the Minister by notice published in the Government Gazette.

How do I work out whether I have to register?

The sales of all taxable goods and services for a business entity from the commencement date are added together to come up with the monthly sales.² The computation herein will consider both sales of taxable goods and or services made in and outside Lesotho including those that are made for free in the normal course of the business. For example, taxable benefits provided to an employee or a relative etc including goods taken for own or family's use.

Normally, the business is required to consider the value of the taxable supplies made within the past 12 months. However, if at any point in a 12 month period it is discovered that the business's sales of taxable supplies exceed the registration threshold, or will exceed the threshold by the end of 12 months; such a business must notify the Commissioner immediately and apply for registration.

For example, if the business commences in February 2013 and makes taxable supplies amounting to M867, 050.00 during the period to the 31 July 2013, it becomes eligible to register within 14 days into the month of 14 August 2013.

Can I register if my turnover is below the registration threshold?

Where a business turnover is below the registration threshold, such a business may nonetheless apply for voluntary registration. The application for voluntary registration must be made to the Commissioner Domestic Taxes who has the discretion to accept or reject such a request on the basis of the merits of the case.

The commissioner also has discretionary powers to register a person in a case where there are reasonable grounds to believe that a business is required to register but failed to do so. For instance, a business has won a tender valued at M12 million in which it has a one year contract to construct a hospital.

Can I register before I make taxable supplies?

A business may apply for registration at the beginning of any twelve months before making taxable supplies provided there are reasonable grounds to believe that the business will be making taxable in that twelve month period and a registration threshold is going to be exceeded. The application for registration in this case must contain proof that the business will be making taxable supplies in the period specified. Proof may include:

- Details of the business arrangements made;
- Copies of business contracts;

² It must be noted that exempt supplies are not considered in calculating the turnover of the business for VAT registration purposes.

- Other details, which may include the evidence of procurement of supplies by the business.

What happens if I have taken over someone else's business?

Where a business takes over another or merges with another business, it is important that the person acquiring the business carefully considers the former owner's taxable turnover and then the aggregate taxable turnover of the two businesses as businesses they are now under one entity. If the taxable turnover of the business that was acquired exceeds the registration threshold or the aggregate taxable turnover of the two businesses (the taxable turnover of the new business) exceeds the registration threshold, then the new business as merged or taken over must be registered for VAT.

Where the business taking over or merging is between the VAT registered businesses with the other is already registered for VAT, a VAT 5 form must be filled and submitted to the Authority.³

Do I get a registration certificate?

When a vendor is registered for VAT purposes, such a vendor will be issued with a Value Added Tax Registration Certificate. The certificate will indicate among others, the vendor's VAT registration number, the Taxpayers Identification Number (TIN) and the effective date of registration. The Vendor is required to display the certificate at the business premises at a prominent position so that the customers and visiting tax officials are able to see it.

I should have registered but I failed to do so. What is my position?

As soon as the business' taxable turnover exceeds the registration threshold, the business is obliged to register for VAT. Should the vendor fail to register for VAT under the circumstances, the vendor becomes liable to pay the VAT on all the taxable supplies made from the time the vendor became eligible, regardless of whether or not the VAT was charged and collected. In addition, the Commissioner shall impose an additional tax for failure to register as required by law. This additional tax is charged at the rate of 200% of the unaccounted tax liability.

³ The VAT 5 is the form used for any business expansion or changes to management of a VAT registered business

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