

Notional Input Tax Credit

Fixed Property Acquired by a VAT Vendor from a Non-VAT Vendor

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INTRODUCTION

Where a VAT Vendor acquires fixed property from a Non-VAT Vendor, such transaction is subject to Transfer Duty at the prescribed rates. Prior to 10 January 2012, the purchasing VAT-Vendor was (under certain circumstances) able to claim the transfer duty paid in respect of the acquisition from SARS as a notional input tax credit.

This deduction remained limited to the amount actually paid, provided that the property was acquired for the purpose of consumption, use or supply in the ordinary course of generating taxable supplies (i.e. a vatable income).

CHANGES IN THE VAT ACT

The VAT Act was amended and with effect from 10 January 2012, the aforesaid ceiling of the notional input tax deduction, which was arguably unfair, was eliminated.

When purchasing a property for the generation of taxable supplies, such as the supply of commercial accommodation, the vendor is entitled to a notional input tax credit on the basis that the fixed property is now viewed in the same light as the supply of second-hand goods.

Although still subject to transfer duty, the notional input tax credit is now calculated and equal to the tax fraction of 15/115. The calculation is based on the purchase consideration paid or the market value of the property, whichever is the lowest. In the event that a vendor purchases fixed property for any purpose other than that of making taxable supplies, no input tax credit is allowed under the Act.

CALCULATION OF NOTIONAL INPUT TAX CREDIT

Purchase Price R 5 000 000.00
Transfer Duty R 317 000.00 (as at January 2012)

Prior to 10 January 2012

Input VAT Credit : R 317 000.00

After 10 January 2012

Input VAT Credit : R 5 000 000.00 x 15/115 = R 652 173.91

CLAIMING THE NOTIONAL INPUT TAX CREDIT

The credit can only be claimed by a VAT vendor who is a South African resident as defined in the VAT Act. The full purchase price must have been paid and the transfer property must have been registered in the Deeds Office.

The deduction is claimed in the VAT vendor's return in the ordinary course. Section 16 of the VAT Act allows for the input tax credit to be claimed within a period of 5 years from acquisition of the property. It must be noted that should the input tax credit be claimed and subsequently the property no longer be used for the generation of a taxable supply (i.e. change of use of property), SARS will require the input credit so claimed to be repaid.

It is imperative that vendors claiming such credit must provide the necessary documentary proof, as set out in Section 20(8) that it is entitled to such input tax or deduction in terms of Section 16(2) of the VAT Act. Documentary proof include inter alia, the offer to purchase, proof of payment and the transfer duty receipt.

The SARS Interpretation No. 49 must be consulted for further details on the requirements in this regard, as the above is only a simple summary of complex legislation.



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