Dear Sir/Madam

SUBMISSION: VAT DRAFT INTERPRETATION NOTE - DOCUMENTARY PROOF PRESCRIBED BY THE COMMISSIONER

Introduction

1. Thank you for affording the South African Institute of Chartered Accountants the opportunity to provide our feedback and inputs on the above matter.

2. Set out below are our comments. You are welcome to contact us should you wish to clarify any of our comments or concerns.

Background

3. Section 16(2)(f) of the VAT Act determines that a vendor must be in possession of documentary proof, as is prescribed by the Commissioner, substantiating the vendor’s entitlement to a deduction in terms of section 16(3)(c), (d), (e), (f), (g), (h), (j), (k), (l), (m) or (n) of the VAT Act.

4. This draft Interpretation Note (IN) deals with the documentary proof that is required to be acceptable to the Commissioner for SARS to make a deduction in terms of section 16(3)(c) to (n).

Betting transactions: Awarding of a prize or winnings - money - [section 16(3)(d)] – item B – page 2

5. The draft IN states that if the prize or winnings constitutes money, then proof of payment of the money is required, for example, payment advice, bank statement, internet payment confirmation etc.
6. The IN unfortunately does not address winnings paid in the form of off-setting. An example would be where the winnings of a gambler are used to reduce his other expenses incurred at the casino (i.e. the hotel room, room service, etc.).

7. **Submission:** While it conceded that off-setting will generally happen in the gaming industry, consideration should be given to including off-setting as a mechanism of payment.

**Adjustments: Increase in taxable application or use of goods or services [section 16(3)(f)] – item C – page 4**

8. The draft IN states that where goods or services are acquired on a date falling within a period of 5 years immediately preceding the date of the adjustment, a tax invoice and proof of the open market value of the goods/service would be acceptable documentary proof.

9. **Submission:** As far as tax invoices are concerned, it should be made clear that where a deduction is claimed in terms of section 18(4) of the VAT Act and the goods or services were acquired before the person was registered as a vendor, the tax invoice will not reflect the vendor’s VAT registration number. In practice SARS branches sometimes require that the tax invoices must reflect the recipient vendor’s VAT number, which leads to unnecessary disputes.

10. **Submission:** With regards to the open market value of goods or services, it is submitted that guidance be provided on the proof required for the open market value. For example is a formal external valuation required or will something like the insured value of the goods suffice?

**Adjustments: Increase in taxable application or use of goods or services [section 16(3)(f)] – item C – page 4**

**By a principal or agent: documents under sections 16(2)(d) and 16(2)(dA)**

11. One of the documents indicated in the Draft IN that SARS would accept in such cases is the receipt for the payment of the tax.

12. Where a clearing agent is used that operates a deferment account, obtaining details of the amount of VAT paid by each client of the clearing agent is a challenge if regard is had only to the receipt issued by SARS.
13. **Submission:** It is submitted that guidance be provided on how to deal with such circumstances.

Adjustments: Input tax in respect of a non-taxable portion of a supply which is or deemed to be a taxable supply of goods or services [section 16(3)(h)] – item G – page 5

14. **Submission:** With regards to tax invoices and proof of the open market value in the case of goods or services, we raise the same issues mentioned in points 8 to 10 above.

Deductions allowed in respect of excess consideration refunded [Section 16(3)(m)] – item L – page 7

15. Currently the rules do not make provision for circumstances where the refund is made more than 5 years after the original receipt.

Yours sincerely

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