

VATR 76

FACTS

XYZ is a private limited company whose business is to produce and organise events and Cultural Strategy, including cultural festivals in Mauritius.

XYZ Ltd is also the producer and organiser of an annual festival. This non-for-profit festival promotes culture and the *patrimoine*.

There is no monetary benefit towards the creation of the event, as this annual festival is sponsored by the private sector and the public sector. It is expected that some more individuals will contribute to the holding of the other editions.

The festival will be sponsored by –

- (i) donations from private firms and companies whose logos are displayed by XYZ Ltd on leaflets, flyers and bill-boards. VAT is being charged to the private sponsors;
- (ii) donations (hereinafter referred to as “gifts”) from individuals and companies whose logos are not displayed;
- (iii) crowdfunding.

The gifts to XYZ Ltd will be spent towards the expenses of the festival or other festivals. The gifts are given for free and no consideration or services will be provided in return by XYZ Ltd to the donors, save for the obligation imposed on XYZ Ltd to use the monies towards the expenses of the event which promotes culture. The monies given to XYZ Ltd will become part of XYZ's Ltd revenue on the festival and will be mixed with the remaining revenues received from sponsors.

Crowdfunding is the process by which the public is called upon by an entity or individual to give money to that entity or individual for a special purpose. The monies are not investment; they are given as gift but for a specific purpose and the entity is obliged to use the monies for this purpose. The scenario is therefore similar to the scenario described in respect of gifts, but the process is slightly different in that there is an appeal to the public and a specific process to follow.

Thus, the financial activity is reported and disclosed under the name XYZ Ltd. However, the audit of the festival is done separately and the financial figures are recorded and reported separately.

POINTS AT ISSUE

Value Added Tax

Whether the gifts received by XYZ Ltd from individuals and companies, and the monies received through crowdfunding for the sponsoring of the festival will be subject to VAT?

Income tax

1. Whether the gifts received by XYZ Ltd from individuals and companies, and the monies received through crowdfunding for the sponsoring of the festival will be subject to income tax?
2. Whether the companies and individuals contributing as gifts will be allowed to deduct the amount donated against their gross income?

RULING

On the basis of the above-mentioned facts, it is confirmed that:

Value Added Tax

1. The gifts received by XYZ Ltd from companies and individuals, and the monies received through crowdfunding for the sponsoring of the festival do not constitute supply for consideration by virtue of Section 4 of the VAT Act. They will therefore not be subject to VAT.

Income Tax

1. The gifts received by XYZ Ltd from companies and individuals, and the monies received through crowdfunding for the sponsoring of the festival should be accounted as gross income and therefore will be subject to income tax.
2. The contribution of companies and individuals by way of gifts for the sponsoring of the festival are not expenses exclusively incurred in the production of gross income and therefore will not be deductible under section 18(1) of the Income Tax Act.