

# MEMO

---

FROM: Director General

---

TO: All Officers

---

DATE: 3 July 2014

---

SUBJECT: Statement of Practice (VAT/SP3/14) – VAT  
treatment of input tax in respect of  
immoveable property

---

Please find herewith attached, MRA's Statement of Practice (VAT/SP3/14) on the above issue.

2. The Statement of Practice will also be available on MRA website <http://mra.mu>



S. Lal

**Director-General**

**Mauritius Revenue Authority**

## **Statement of Practice (VAT/SP3/14)**

### **VAT treatment of input tax in respect of immovable property**

#### **Section 21(7) and (7A) of the VAT Act**

1. This Statement of Practice aims at clarifying for the purposes of Section 21(7) and 7A, the following issues:
  - (a) The meaning of the term "year".
  - (b) The point at which the twenty-year period starts.

It also gives examples of the computation of

- (i) input tax to be paid back under Section 21(7)(a)
  - (ii) VAT to be charged on deemed taxable supply of building under Section 21(7A)(a)
2. Section 21(7)(a) and (7A) of the Value Added Tax Act provide as follows:

#### **Section 21**

- (7)(a) Where, in respect of a building or part of a building (including extension and renovation) forming part of the fixed assets of a registered person, a credit for input tax has been taken and before the end of the nineteenth year following the year in which it was acquired -
- (i) that building or part of that building is sold or otherwise transferred;
  - (ii) the person transfers his business or ceases to carry on business; or
  - (iii) the Director-General is satisfied that the person should cease to be registered under the Act,

the registered person shall, subject to subsection (7A), be liable to pay back to the Director-General, in respect of the remaining portion of that period, the proportionate amount of the credit allowed.

- (7A) (a) Where the building or part of a building referred to in subsection (7)(a) in respect of which a credit for input tax has been taken is sold or otherwise transferred to a registered person, before the end of the nineteenth year following the year in which it was acquired, the seller or transferor shall be deemed to have made a taxable supply and shall charge VAT on that supply in accordance with paragraph (b).
- (b) The VAT chargeable under paragraph (a) shall be the credit for input tax taken by the seller or transferor in his VAT return in respect of the building or part of the building, multiplied by the factor referred to in paragraph (c).
- (c) The factor shall be the proportion which the period between the date of sale or transfer and the expiry of the 20 year period from the date of acquisition bears to the 20 year period.

### **3. Meaning of the term “year”.**

In the absence of a definition for the term “year” in the VAT Act, it is given its ordinary meaning, that is, a period of 365/366 days for the purpose of the above provisions.

### **4. Point at which the 20-year period starts**

Where the construction of a building spans over a period of time, notwithstanding that claim for repayment is made in the taxable period in which the supply is invoiced, for the purpose of the above provisions, the 20-year period starts from the date the building is completed and made available for use.

### **5. Examples**

#### **5.1 Computation of input tax to be paid back under Section 21(7)(a)**

A VAT registered person (A) started the construction of a building in year 2000. The construction was completed in June 2002. The building was available for use on 16 June 2002. On 31 March 2014, (A) sold the building to a non VAT registered person (B).

(A) claimed credit for input tax to the tune of Rs 2M in respect of the building.

Computation of proportionate amount of input tax to be paid back as output tax by (A).

$$\begin{aligned} & \text{Credit for input tax taken} \times \frac{[20 \text{ years} - \text{Expired portion of 20 years}]}{20} \\ & = 2,000,000 \times \frac{[20 - 11.80^*]}{20} \end{aligned}$$

$$* (16 \text{ June } 2002 \text{ to } 31 \text{ March } 2014) = 11 \text{ years} + 288 \text{ days} = 11 \frac{288}{365} = 11.80 \text{ years}$$

(A) is required to account for Rs 820,000 as output tax in the VAT return for the period in which the building is sold.

The tax is to be declared as an adjustment increasing the VAT payable (Line 11 of VAT return).

5.2 Computation of VAT to be charged on deemed taxable supply under Section 21(7A).

X Ltd entered into a contract for the acquisition of building 'en futur etat d'achèvement' in July 2011, for rental. The building was made available to X Ltd on 15 March 2012. Total credit for Input Tax taken in the period July 2011 to March 2012 amounted to Rs 4,000,000.

On 1 January 2014, X Ltd transferred the building to Y Ltd, another VAT registered person.

X Ltd is deemed to make a taxable supply to Y Ltd.

The VAT chargeable on the deemed supply is computed as follows:-

$$\begin{aligned} & \text{Credit for input tax taken} \times \frac{(20 \text{ yrs} - \text{Expired portion of 20 years})}{20} \\ & = \text{Rs } 4,000,000 \times \frac{(20 - 1.80^*)}{20} \\ & = \text{Rs } 3,640,000 \end{aligned}$$

$$*(15 \text{ March } 2012 \text{ to } 31 \text{ December } 2013) = 1 \text{ year} + 291 \text{ days} = 1 \frac{291}{365} = 1.80 \text{ years}$$

X Ltd is required to account for Rs 3,640,000 as output tax in the return for the taxable period in which the building is transferred. The deemed taxable value to be declared at line 1.4 of the VAT return would amount to Rs 24,266,667 (3,640,000 x 100).

15

Y Ltd is entitled to take credit for input tax, subject to the limitations of Section 21(1) & (2), in respect of the amount of Rs 3,640,000.

Should Y Ltd sell the building to another VAT registered person within a period of 20 years from its acquisition (1 January 2014), it will have to charge a proportionate amount of Rs 3,640,000 as output tax, using the formula in 5.2 above.

**Note:** *The expired portion in the above examples is the period between the point at which the building is available for use and the date of sale/disposal of the property or cessation of the business.*

3 July 2014