

VATR 62 (Govt Gazette No.44 of 18 May 2013)

Facts

XYZ Ltd is a company holding a GBL 1 licence and is engaged in the provision of wholesale international broadband capacity. XYZ Ltd intends to enter into a reciprocal deal with ABC Ltd which will involve the swap of an "indefeasible right of use" of services between ABC Ltd and XYZ Ltd.

In that respect, ABC Ltd will sell capacity on its cable from "Mauritius to Mombassa" to XYZ Ltd and XYZ Ltd will sell capacity on its cable from "Mombassa to Marseille" to ABC Ltd . These capacity services will be utilised within their own networks and are not for end-user business.

Points at Issue

- a. Confirmation that the sale of capacity from "Mauritius to Mombassa" by ABC Ltd to XYZ Ltd will be subject to VAT at 15%;
- b. Confirmation that the sale of capacity from "Mombassa to Marseille" by XYZ Ltd to ABC Ltd will be outside the scope of the Mauritius VAT.

Rulings

On the basis of facts provided, the transactions between XYZ Ltd and ABC Ltd will involve the sale of reciprocal capacity on their respective networks between two companies operating in Mauritius, in the course or furtherance of their business.

Both supplies are therefore subject to VAT at 15%.