

VATR 79

Facts

G is a domestic company engaged in providing marketing consultancy services for a number of suppliers incorporated and domiciled in France, Italy and Germany. The activities are carried out in regions such as Guadeloupe, Guyana, Martinique, Reunion, Mayotte, New Caledonia, French Polynesia, Seychelles, Madagascar and Mauritius.

The services provided by G consist of the following:

- i. contact prospective clients in the regions mentioned above;
- ii. negotiate certain terms and conditions relating to proposed sales of products to the clients based on commercial guidelines and policies set by the suppliers;
- iii. assist in the organisation of the promotion of these products by clients; and
- iv. provide training to the clients on the products.

G has only 1 employee who also acts as representative of the brands in all the different countries.

The suppliers provide samples of their products to G to assist the latter in marketing these products. The suppliers remain the owner of their sample products at all time.

G does not order, stock, distribute or supply any product. Orders are made directly by the clients from the suppliers and all payments for any products are made directly between the clients and the suppliers. The suppliers are responsible for the pricing of the products as well as dealing with any issues regarding the products.

Where the prospective clients of suppliers are in countries other than Mauritius, the representative of G travels to those countries and performs the marketing activities (e.g. contacting prospective clients, negotiating terms and conditions, training, etc.) while he is there.

G cannot conclude any agreement with the clients on behalf of the suppliers and does not have any contractual obligations whatsoever with the clients. G is remunerated in the form of a commission which is based on the sales made by the suppliers to the clients contacted by G.

Point at issue

Whether the marketing consultancy services provided by G should be treated as zero-rated supplies?

Ruling

On the basis of the aforesaid facts, it is confirmed that:

The marketing consultancy services by G performed outside Mauritius and supplied to a person who belongs in a country other than Mauritius and who is outside Mauritius at the time the services are performed are outside the scope of VAT.

The marketing services by G performed in Mauritius and supplied to a person who belongs in a country other than Mauritius and who is outside Mauritius at the time the services are performed are considered as zero-rated supplies in accordance with item 6(a) of the Fifth Schedule to the Value Added Tax Act.