

VATR 80

Facts

P was incorporated in September 2017 and its sole shareholder is Mr Q.

The company contemplates to acquire a vessel that will be used to:

- (a) transport commodities such as raw sugar for refining or coal, from foreign countries to Mauritius (“activity A”);
- (b) transport commodities such as refined sugar, from Mauritius to foreign countries (“activity B”); and/or
- (c) transport certain commodities between foreign countries only (“activity C”).

The vessel will be registered in Mauritius and the company will not be engaged in any fishing activities.

Whilst its core business activities will initially be the transport of coal and related products for sugar milling companies in the Indian Ocean region, it will ensure that it is able to adapt itself so that it can transport any other commodity. This may require modification to the vessel and the company may have to incur capital expenditure at a later date.

The company may also have to undergo repairs outside Mauritius, whilst it would prefer to have such repairs being done in Mauritius.

Points at issue

Whether reverse charge will apply to -

- (i) any repairs done in Mauritius by a foreigner without a permanent establishment (“PE”) in Mauritius?
- (ii) any repairs done in Mauritius by a foreigner with a PE in Mauritius?
- (iii) any repairs done outside Mauritius?

Ruling

On the basis of facts provided, the company is entitled to be registered for VAT as it will be making zero-rated supplies in accordance with item 3 of the Fifth Schedule to the VAT Act. In the circumstances, it is confirmed that:

- (i) where repairs are done in Mauritius by a foreigner without a PE in Mauritius, the reverse charge will apply and to the extent that the supplies relate to shipping activities, it would be revenue neutral.

- (ii) where repairs are done in Mauritius by a foreigner with a PE in Mauritius, the reverse charge will not apply; the company will be entitled to claim credit for input tax on any VAT charged by the supplier of services and may make a claim for repayment thereof in accordance with Section 24 of the Value Added Tax Act.
- (iii) where the repairs are done outside Mauritius and to the extent that they are not utilized in Mauritius, the repairs will be outside the scope of VAT.