

BINDING GENERAL RULING (VAT): NO. 15

DATE: 22 March 2013

ACT : VALUE-ADDED TAX ACT NO. 89 OF 1991 (the VAT Act)
SECTION : SECTIONS 20(2) AND 21(4)
SUBJECT : RECIPIENT-CREATED TAX INVOICES, CREDIT AND DEBIT NOTES

Preamble

For the purposes of this ruling –

- “**BGR**” means a binding general ruling issued under section 89 of the TA Act;
- “**section**” means a section of the VAT Act unless otherwise stated;
- “**TA Act**” means the Tax Administration Act No. 28 of 2011; and
- “**the Note**” means Interpretation Note No. 56.

1. Purpose

This BGR reproduces paragraph 5 of Interpretation Note No. 56 “Recipient-Created Tax Invoices; Credit and Debit Notes” dated 31 March 2010, which comprises a BGR under section 89 of the TA Act.

2. Background

The Note provides the necessary approval by the Commissioner for the issuing of recipient-created tax invoices, credit and debit notes. This BGR updates references to section 76P of the Income Tax Act No. 58 of 1962 with references to the TA Act and incorporates subsequent amendments to sections of the VAT Act.

3. Ruling

3.1 Tax invoices

The Commissioner’s approval is hereby granted to vendors to issue recipient-created tax invoices, where the recipient –

- determines the consideration for the supply of the goods or services; and
- is in control of determining the quantity or quality of the supply, or is responsible for measuring or testing the goods sold by the supplier.

3.2 Credit and debit notes

A vendor that has been granted approval in terms of **3.1** to create and issue recipient-created tax invoices is hereby granted approval by the Commissioner to create and issue recipient-created credit and debit notes relating to the recipient-created tax invoices issued.

3.3 Conditions for Commissioner's approval

The approval set out in **3.1** and **3.2** is conditional upon the recipient, being a vendor,–

- acquiring and retaining proof of the supplier's VAT registration number;
- entering into an agreement with the supplier that the supplier shall not issue a tax invoice, credit or debit note in respect of any taxable supply to which the approval applies;
- issuing a recipient-created tax invoice that complies with the provisions of sections 20(4) or 20(5) or a credit or debit note that complies with the provisions of sections 21(1) and 21(3), as the case may be;
- providing the recipient-created tax invoice, credit or debit note to the supplier and retaining a copy thereof;
- issuing the recipient-created tax invoice within 21 days from the date of the supply being made; and
- retaining a copy of the recipient-created tax invoice, credit or debit note for the period contemplated in section 29 of the TA Act and section 55 of the VAT Act.

4. General

A tax invoice, credit or debit note issued by a supplier in respect of a taxable supply for which a recipient has been granted approval to issue a recipient-created tax invoice, credit or debit note shall be deemed **not** to be a tax invoice, credit or debit note for the purposes of the VAT Act.

Vendors who issue recipient-created tax invoices or debit notes, and who do not comply with **3**, are not entitled to deduct input tax as the documentary proof (that is, the non-approved recipient-created tax invoice or debit note) is not in compliance with section 16(2). A deduction of input tax by the vendor on a non-approved recipient-created tax invoice or debit note, will result in the Commissioner raising assessments to disallow the input tax deducted based on such documents. The vendor deducting input tax on these non-approved recipient-created tax invoices and debit notes will be liable for penalties and interest.

Vendors failing to comply with the criteria stipulated in **3.1** or **3.2** may apply for approval to issue recipient-created tax invoices, credit and debit notes, by submitting a fully motivated request. These applications must –

- describe the nature of the businesses respectively carried on by the supplier and the recipient;
- provide a full description of the supplies in respect of which the issuing of the recipient-created tax invoices, credit and debit notes are required;
- specify the existing invoicing procedures being followed for such supplies as well as the proposed procedures for issuing the recipient-created tax invoices, credit and debit notes;
- include an undertaking by the recipient that the recipient will comply with the requirements of sections 20(2) and 21(4);

- include an undertaking by the recipient that the recipient will enter into an agreement with the supplier that the supplier shall not issue a tax invoice, credit or debit note in respect of the taxable supplies in question; and
- state the difficulties experienced in complying with the requirements set out in **3.1** or **3.2**.

The request must be submitted to the following centralised e-mail address or facsimile (Fax) number:

E-mail: VATRulings@sars.gov.za

Fax number: 086 540 9390

All applications made in terms of section 41B of the VAT Act must comply with section 79 of the TA Act, excluding sections 79(4)(f) and (k) and (6).

5. Period for which this ruling is valid

This BGR applies with effect from 1 April 2013 and will apply for an indefinite period.

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