

VAT input documents critical for retailers

To avoid losing margins to SARS, retailers need to ensure that they are in possession of associated tax invoices for VAT inputs. Following successful SARS legal cases, companies need to ensure that all input tax invoices are compliant and the record of invoices is complete.

In a recent court case before the Pretoria Tax Court, a vendor CC deducted input tax of close to R4.5 million on a VAT-return, which was not supported by the relevant tax invoices. The CC had obtained the goods from another VAT-registered supplier and, based on the facts of the case, there was no indication that it would have been denied the input tax deduction, if it had had the tax invoice.

Allegedly, someone in the supplier's service had committed fraud and this is why the CC did not receive its tax invoices. SARS learnt of this whilst instituting a tax audit on the return and then issued an assessment on 7 March 2008 reversing the full amount.

This case highlights a problem that could be widespread. There are instances, other than fraud, where recipient companies cannot obtain tax invoices. The Value-Added Tax Act, states that companies may only claim input tax on supplies supported by valid tax invoices.

The CC in this case asked SARS to direct that a tax invoice was not required, in the circumstances. When SARS refused, the CC objected and then appealed the disallowance of the input tax deduction.

The Court agreed that SARS was correct to disallow the objection in line with the relevant objection and appeal provisions, strictly applied. Therefore, the company lost R4.5 million for the lack of an invoice. The Court did not decide whether it would be possible to allow the deduction based on a person's constitutional right to "administrative action that is lawful, reasonable and procedurally fair."

Another problem that may be encountered by newly established businesses involves delays in the VAT registration process. These could render tax invoices invalid. A tax invoice is invalid if it does not reflect the VAT registration number of the customer, which will not have a VAT registration number until SARS has processed its registration. SAICA (South African Institute of Chartered Accountants) has since made submissions to and consulted with National Treasury and SARS, requesting amendments to the VAT Act to resolve this problem.

Somaya Khaki, the institute's project director: tax suite says that businesses that are unsure about their tax compliance should consult their accountant or find a professional tax consultant through the institute's website, which has specialist tax information. For more information, go to www.taxesuite.co.za.

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