



Tax and Legal News

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Agent/principal relationships & VAT

The VAT Act has very specific provisions that deal with the sale or acquisition of goods or services or the importation of goods by a person acting as an agent on behalf of another person, i.e. the principal. Fundamentally the VAT Act provides that:

- Any supply made by an agent on behalf of a principal is deemed to be made by the principal, even where the tax invoice for the supply is issued in the name of the agent;
- Any supply made to an agent on behalf of a principal is deemed to be made to the principal, even where the tax invoice is issued by the supplier in the name of the agent;
- Any importation of goods by an agent is deemed to be made by the principal.

The effect of the above is that the principal is liable to account for VAT on supplies made and only the principal is entitled to claim input tax on any acquisitions of goods/service or imports even where agents are involved.

Where a tax invoice was issued by/to the agent, the VAT Act requires the agent to issue a statement within 21 days of the date of the supply or acquisition, which statement is required to contain certain prescribed information.

The following common errors/pitfalls resulting from agent/principal relationships may create a risk or an exposure for VAT purposes:

- *Agent claims input tax on the goods or services acquired on behalf of a principal*

The agent will be exposed to VAT, penalties and interest on input tax claimed where it was not entitled to such input tax. This exposure will remain even where the agent also incorrectly accounts for output tax on the recovery of costs.

- *No statement or a non-compliant statement is issued by the agent to the principal where goods or services are acquired, or goods are imported on behalf of the principal*

The principal is not entitled to claim input tax on the acquisition or importation of goods until such time it is in possession of the prescribed documentation.

- *No statement is issued by the agent to the principal where goods were supplied on behalf of the principal*

Output tax is not accounted for, or is accounted for in a later tax period, leaving the principal exposed to VAT, penalties and interest.

- *No statement is issued to inform a principal of a discount granted*

When a discount is granted by a supplier and input tax was previously claimed on the full consideration the principal is liable to account for VAT on the discount.

Where the agent does not timeously provide the principal with the information as required in the VAT Act, the principal will be exposed to VAT, penalties and interest.

Note that from an agent's perspective it commits an offence where it wilfully does not provide the statement or does not provide it within the prescribed time period to the principal.

Should you have any queries regarding the above or require any additional information, please do not hesitate to contact us.

Contact us



Andre Meyburgh

Director: Indirect Tax

Email: andre.meyburgh@kpmg.co.za

M: +27828516587



Erina Cooper

Director: Indirect Tax (VAT)

Email: erina.cooper@kpmg.co.za

M: +27827195758



Anzuette Bezuidenhout

Associate Director: Indirect Tax (VAT)

Email: anzuette.bezuidenhout@kpmg.co.za
M: +27827162690



Martin Delpont

Associate Director: Indirect Tax (VAT) – Cape Town
Email: martin.delpont@kpmg.co.za
M: +27827191948



Bridget Mogola

Senior Tax Consultant: Indirect Tax (VAT)
Email: bridget.mogola@kpmg.co.za
M: +27765112512

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