



VAT POLICY CORNER

POLICY 40: Persons in Representative Capacity and VAT

Many persons serve in a **representative** capacity for other persons or on behalf of an organisation. This policy seeks to clarify the role of duly appointed persons who are responsible for performing any duties imposed by the ACT, on a taxable person or organisation.

Section 53 (1) of the VAT Act defines “representative” in relation to a taxable person as follows:

- in the case of a corporation, **the treasurer or other designated officer (s)**
- in the case of an unincorporated association or body , **any member of the committee of management**
- in the case of a company-
 - (i) for a company other than a company in liquidation, **the secretary of the company**
 - (ii) for a company in liquidation, **the liquidator**
- in the case of the state, **any person responsible for accounting for the receipt and payment of money under the provisions of any law or for the receipt or payment of public funds voted by Parliament**
- in the case of local authority or board, **any person who is responsible for the receipt and payment of money or funds on behalf of the local authority or board**
- in the case of partnership, **any partner in the partnership**
- in the case of a trust, **any trustee**
- in the case of a non resident person, any person controlling the non resident person’s affairs in Guyana , including any manager of a taxable activity of the non resident person in Guyana

Further, the representative is responsible for performing any duties, including the payment of VAT and lodging of returns on behalf of the taxable person.

In addition, there are two classes of case where the representative is personally liable for tax payable by the representative in his representative capacity because of action the representative takes while the tax remains unpaid.

The first occurs if the representative alienates, charges, or disposes of money received or accrued in respect of which the tax is payable and the second occurs if the representative transfers funds of the taxable person in the representative's possession or that comes to the representative after the tax is payable. However, the second class of case applies only if the tax could legally have been paid from those funds.

A person who, in a representative capacity, pays tax payable by a taxable person is entitled to recover such amounts from the taxable person or retain such moneys of the taxable person in the representative's possession or under his or her control.

It should be noted that under section 54 (1) of the VAT Act, the Commissioner has the authority to declare a person, if he considers it necessary, to be the agent of a taxable person and the person declared is deemed to be the representative of the taxable person for the purposes of section 53.

Finally, nothing is intended to mitigate any taxable person from performing any duties imposed on the person under the VAT Act that the representative failed to perform.

Persons who have queries with reference to VAT are encouraged to write to the Commissioner, VAT and Excise Tax Department, 210 'E' Albert and Charlotte Streets, Bourda for clarification.