

**Policy No. 50-VAT & SHIPPING SERVICES (Revised)**

This VAT policy is intended to address the service of transporting goods by road, rail, water and air.

Section 18 (1) of the Value-Added Tax Act (VAT) provides that, “...**a supply of goods or services is exempt if it is specified in paragraph 2 of Schedule II.**”

Pursuant to Schedule II, paragraph 2 (b) *a supply of international transport services*, is exempt from VAT.

Further, Schedule II, paragraph 1(a) defines international transport services as the services, *other than ancillary transport services*, of transporting passengers or goods by road, rail, water or air, from a place outside Guyana to another place outside Guyana where the transport or part of the transport is across the territory of Guyana or from a place outside Guyana to a place in Guyana; or from place in Guyana to a place outside Guyana.

Additionally, Schedule II, paragraph 1(c) exempts the services, including any *ancillary transport services*, to the extent that they are supplied by the *same supplier* as part of the supply of international transport services.

The term *same supplier* refers to agents resident in Guyana who are representatives of overseas principals; however, in order for agents to be considered same suppliers, there must be a written contract between the local agent and the overseas principal.

Thus, where there is no written contract to indicate that the services are being supplied by the *same supplier*, VAT will apply.

By virtue of the above, *ancillary transport services*, such as cargo inspection, container haulage, clearing of goods, preparation of custom documentation, mooring and unmooring, side wharfage stevedoring commission on freight, receiving storing and delivery, container monitoring, storage, overtime fees, agency fees, lashing and unlashings stanchions, rental of Equipment weighing fees, terminal handling charges brokerage, demurrage fees and any other ancillary services will be exempt from VAT, if these form part of the services provided by the *same supplier* to the recipient or beneficiary of the service or goods/cargo.

Therefore, intermodal bill of lading (IBL) or combined transport bill of lading which covers cargo moving interchangeably between transport modes such as motor, water and air carriers are

considered international transport service since all services relating to the cargo are being provided by the same shipping line.

The implication of being exempt is that the supplier is not allowed to register for VAT, charge the tax, or claim input tax credits. Additionally, a registered person who purchases goods or services which are exempt cannot claim input tax credit for any VAT paid (input tax) on those purchases, even if acquired for use in a taxable activity.

In addition, if a supply of goods or services should happen to be specified in both Schedule I (*zero-rated* supplies) and Schedule II (*exempt* supplies), the zero-rating takes priority under the rule of section 18.

However, at times, a supply of goods or services can consist of both exempt and taxable supplies. Accordingly, Section 4 of the VAT Act provides that, wherever practical, each type of supply is considered a separate transaction and therefore must be classified as either taxable or exempt.

Section 25, paragraph (3) (c) states that where only a part of the supplies made by a taxable person during a tax period are taxable supplies, the amount of the input tax allowed as a credit which is used for the making of both taxable and exempt supplies, shall be calculated using the formula,  $(A \times B/C)$ ; where:

- A** is the total amount of input tax payable in respect of supplies and imports received during the period for which a credit is allowed under section 24(1)(a), less the input tax accounted for under paragraphs (a) and (b);
- B** is the total amount of taxable supplies made by the taxable person during the preceding financial year of the taxable person; and
- C** is the total amount of all supplies made by the taxable person during the preceding financial year of the taxable person.

Thus, any input tax associated with ***ancillary services not subject to VAT is not allowable*** and VAT registered shipping companies which supply ancillary transport services that are ***not allowable***, must calculate and indicate the amount of input tax attributable to both taxable services and non taxable services ***in*** the monthly VAT return by using the formula stated above.

Moreover, where the *ancillary services* are provided by a *separate supplier*, these are *not* considered part of international transport and therefore subject to VAT at the standard rate of sixteen percent when provided by registered suppliers to a recipient or beneficiary of the service or goods/cargo.

In addition, local shippers whose freight rates are quoted on a *FREE IN, OUT, STOWED (FIOS)* basis, must charge VAT on ancillary transport services associated with *FIOS*, since the freight rates associated with *FIOS* specifically exclude all aspects relating to cargo handling operations; accordingly, these operations will not form part of international transport services due to the fact that the ship owners are not responsible for the ancillary services involving cargo.

Also, where the fixed free period of time, stipulated in the agreement for loading/discharging operations is exceeded and demurrage occurs, VAT will apply, except where the charges form part of international transport services.

Please note that commission received on demurrage will be also exempt to the extent that it forms part of international transport services. Notwithstanding this, commission on demurrage pertaining to local ancillary transport services, is taxable at the standard rate of sixteen percent.

In summary therefore, *VAT must be charged and remitted on local shipping services including ancillary transport services and on all services which do not qualify as international transport service effective August 1, 2008.*

As a consequence, shipping agencies which offer taxable services *must register and charge* VAT *if the taxable services equals or exceeds the threshold of ten million dollars (\$10,000,000) at the end of twelve (12) months, or where the taxable activity exceeds the threshold in less than 12 months and if the taxable services are expected to exceed the threshold in any period during the next twelve months.*

On the other hand, *where the taxable turnover is below the ten million dollar threshold, the business may apply for voluntary registration, however, certain criteria must be satisfied before registration is approved.*

Furthermore, where a registered person fails to charge the tax, Section 90 (1) of the VAT Act provides that:

*“A price charged by a taxable person in respect of a taxable supply is deemed to include, for the purposes of this Act, the tax charged on the supply... whether or not the taxable person has included tax in such price.”*

Pursuant to Section 2 of the VAT Act, the VAT fraction which is equal to  $\frac{4}{29}$  and will be used to compute the outstanding taxes to be remitted to the Guyana Revenue Authority (GRA).

Also, Section 27 of the VAT Act states that a person who fails to remit VAT by the due date will be liable for interest at the rate of 2% per month or part thereof and interest will be calculated from the date on which the payment was due until the date on which the payment is made.

If you require additional information or assistance on VAT, please contact the Value Added Tax and Excise Tax Department situated at 210'E' Albert and Charlotte Streets or by telephone numbers 227-7567, 227-7672 or 227-3696.