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Highlights

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Zero-rating of indirect exports

Introduction

Does your company export goods on an indirect export basis (where the foreign purchaser is responsible for removing the goods from South Africa) and do you treat these exports as being zero rated for value-added tax (VAT) purposes?

If so, it is important to take note of the below interpretation by the South African Revenue Service (SARS). The below discussion is typically relevant to export transactions using one of the “F” International Commercial Terms (Incoterms® 2020) for example, Free Alongside Ship(FAS), Free Carrier(FCA) or Free On Board(FOB).

We recently sought clarity from SARS on the following question: *‘Can the seller apply the zero rate of VAT to the export transaction where the goods are removed from South Africa by the foreign purchaser, whether by sea or air?’*

SARS indicated, in its private non-binding opinion, that the supply of goods on an indirect exports basis by sea or air cannot be zero rated where –

- 1) the supplying vendor is listed as the exporter of record on the bill of entry (that is, the SAD 500); and
- 2) the qualifying purchaser or his registered agent is not listed as the exporter of record on the bill of entry.

SARS further advised that it is a requirement for indirect exports, which are zero rated, that the foreign purchaser is reflected as the “exporter of record” on the SAD500 because it is in control of the export from the Republic. If not the supply must be levied with VAT at the standard rate. SARS may then also disallow the VAT refund claim by the foreign purchaser as a result of the same interpretation noted above i.e. where the foreign purchaser is not reflected as the “exporter of record” on the SAD500.

Conclusion

A foreign purchaser must register with SARS Customs as an exporter and, if not located in South Africa, they should appoint a representative agent (‘Exporter’s Agent’) who is based in South Africa. The legal name of the registered exporter (foreign purchaser) or its duly appointed agent must then appear on the SAD500 in the required field.

Failure to show the foreign purchaser, or its duly appointed representative agent, as the “exporter of record” on the SAD500 means that the seller is exposed to assessment for tax, penalties and interest on the basis that the supply of the goods does not qualify for the application of the zero rate.

It is worth noting that where VAT is levied at the standard rate (currently 15%) on an indirect export sale, it is up to the foreign purchaser to apply for a refund from the VAT Refund Administrator. Any refund claim must be lodged within 90 days from the date the goods are exported from South Africa. The refund, however, could be disallowed in instances where the foreign purchaser (unless exempted from this requirement) has not registered as an exporter and or appointed a representative agent as when required to do so.

Whilst the above confirmation has been obtained specifically for exports by sea / air, the same rules apply to indirect exports by road / rail.

Need more information?

Should you require assistance with the aforementioned information, kindly reach out [Dinisha Munien, Associate Director](#) or [Peter Maxwell, Director](#), or one of the below [Deloitte Africa Tax & Legal contacts](#).

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