

WHEN DOES THE 15% VAT RATE BECOME APPLICABLE?

There seems to be considerable confusion over when the 15% VAT rate, which will take effect on the 1st April 2018, will apply to Vatable property transactions and agency commissions. SARS has generally answered these queries and the position is as follows:

General Principles

The new rate of 15% becomes applicable from the **date of supply** of Vatable goods by a registered VAT vendor to a purchaser. This is very easily worked out – it is either *the date of the transaction* or the *date of a VAT invoice* issued by the vendor, whichever occurs first. The date of supply is not the date on which the goods are actually supplied to the purchaser unless this coincides with the transaction date.

The transaction is defined as taking place on the day on which *the purchaser actually pays the purchase price* to the seller. This includes even a part-payment. If, for example, a seller and buyer of an immovable property agreed that the purchase price will be paid in five instalments to the seller directly (that means it is not being held in trust by an attorney until registration of transfer) prior to transfer of the property and payments commenced on the 1st February 2018, the VAT applicable to the whole transaction will be the *old* figure, namely 14%.

Residential Property Sales

Where a residential property (being one which actually has a dwelling on it) has been sold prior to the 1st April 2018, and the sale has specifically been declared in the sale contract to be VAT inclusive, the rate will be 14% even if transfer of the property only takes place after the 1st April 2018. This applies also to the payment of the purchase price – even if it is only made on transfer after the new rate has already become applicable, the VAT payable by the Seller will still only be 14%. It appears that this does not apply to sales of residential properties which state that the sale is *plus VAT* or alternatively *excluding VAT*.

A **dwelling** includes a property bought off-plan which is still to be constructed or a partly completed residence.

Business, Industrial and Other Properties

In the case of all other Vatable sales, where the property sold does not qualify as residential, VAT will be payable at the rate applicable *on the date of registration of transfer* or the *date of payment of the purchase price* to the Seller, whichever occurs first. From the 1st April 2018 all transfers still outstanding, even if the sale took place long before that date, will attract 15% VAT.

Agent's Commission

SARS has not specifically covered this but the principles given above will apply. If an invoice for commission due has been issued to a seller or the agent's commission has been paid *to the agency* before the 1st April 2018, the VAT applicable will be 14%. Otherwise, if an invoice has been issued or the commission is only paid to the agency after this date, the VAT due will be 15%. The provisions regarding residential and other sales do not apply to estate agency commissions as the agreement between a seller and an agency to pay commission on the sale is always treated as a separate agreement and does not form part of the original sale agreement even if it is recorded in it.

Courtesy

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