

INTERPRETATION NOTE: NO. 52 (Issue 3)

DATE: 10 March 2014

ACT : VALUE-ADDED TAX ACT NO. 89 OF 1991
SECTIONS : PROVISO (ii) AND (iii) TO SECTION 27(6)
SUBJECT : APPROVAL TO END A TAX PERIOD ON A DAY OTHER THAN THE LAST DAY OF A MONTH

Preamble

In this Note unless the context indicates otherwise –

- “**BGR**” means a binding general ruling issued under section 89 of the TA Act;
- “**section**” means a section of the VAT Act;
- “**TA Act**” means the Tax Administration Act No. 28 of 2011,
- “**VAT Act**” means the Value-Added Tax Act No. 89 of 1991; and
- any word or expression bears the meaning ascribed to it in the VAT Act.

1. Purpose

This Note serves to –

- set out those instances when tax periods may end on a day other than the last day of a month (referred to in this Note as cut-off dates);
- discuss under **5**, paragraph 2 of BGR (VAT) No. 19, which provides the necessary approval to change cut-off dates; and
- withdraw and replace under section 86(1) of the TA Act, Interpretation Note No. 52 (Issue 2) dated 30 April 2013, including the BGR contained therein, with effect from the date of issue of this Note.

2. Background

A supplier, being a vendor, making a taxable supply of goods or services in the course or furtherance of its enterprise is required to levy VAT at the applicable rate on the value of the supply. Furthermore, a supply is deemed to have been made under the time of supply provisions contained in section 9. Subsections (2) to (11) of section 9 regulate the time of supply of specific supplies. In all other instances the general rule, in section 9(1), is that the time of supply occurs at the earlier of the date of receipt of the consideration or an invoice is issued in relation to a supply.

A vendor is required to determine and declare its VAT liability by deducting the input tax incurred on taxable goods and services acquired or imported from output tax charged on taxable supplies made in a specific period. This period is referred to as a tax period.

3. The law

The relevant sections of the VAT Act are quoted in the **Annexure**.

4. Application of the law

A vendor is required to submit VAT 201 returns and account for VAT to SARS according to the tax periods allocated to the vendor by the Commissioner. Section 27(1) sets out the various categories of tax periods available to vendors (see the **Annexure**). Tax periods range from one, two, four, six or 12 calendar months.

The tax periods in section 27(1) all end on the last day of the last month of the relevant tax period. However, proviso (ii) to section 27(6) makes provision for the Commissioner to allow a tax period to end on a fixed day instead of the last day of the month. Whilst this provision allows for flexibility regarding the date on which a tax period may end, the Commissioner will only approve a fixed day if that fixed day falls within 10 days before or after the last day of the tax period as contemplated in section 27(1) (the 10-day rule).

A vendor may change the date on which a tax period ends, but the liability to submit the VAT 201 return and pay the tax (where applicable) is prescribed under section 28 of the VAT Act read with section 25 of the TA Act. In this regard, the normal rules for manual or e-filing submission of returns apply. For ease of reference, the day that a vendor may choose to end its tax period other than on the last day of the month, is set out below:

Last day of tax period	10 days before	10 days after
31 January	21 – 30 January	1 – 10 February
28/29 February	18 – 27 February/ 19 - 28 February	1 – 10 March
31 March	21 – 30 March	1 – 10 April
30 April	20 – 29 April	1 – 10 May
31 May	21 – 30 May	1 – 10 June
30 June	20 – 29 June	1 – 10 July
31 July	21 – 30 July	1 – 10 August
31 August	21 – 30 August	1 – 10 September
30 September	20 – 29 September	1 – 10 October
31 October	21 – 30 October	1 – 10 November
30 November	20 – 29 November	1 – 10 December
31 December	21 – 30 December	1 – 10 January

5. Binding general ruling (VAT) No. 19

The approved categories and conditions referred to in paragraph 2 of BGR (VAT) No. 19, which is effective since 1 May 2013, are discussed below.

5.1 Approved categories

The following categories of cut-off dates of a vendor's tax periods, listed below, are approved by the Commissioner for purposes of proviso (ii) to section 27(6):

- A fixed day, being a specific day of the week.
- A fixed date, being a specific date in a calendar month.
- A fixed day determined in accordance and consistent with the "commercial accounting periods" applied by the vendor.

5.2 Conditions for the Commissioner's approval

The approval set out in 5.1 is conditional upon the following:

- In respect of the cut-off dates set out in the last-mentioned category, the vendor is required to retain the necessary proof that the cut-off dates required are in accordance and consistent with its commercial accounting periods (for example, the minutes of a board meeting in which a decision was made regarding the entity's commercial accounting period or proof of cut-off dates for management reporting purposes).
- In all instances where a change in cut-off dates is allowed, the first day of the next tax period is the day following the last day of the previous tax period, or the day following the fixed day as approved by the Commissioner.
- Any cut-off date that is changed in accordance with this ruling must be for a future tax period and remain unchanged for a minimum period of 12 months under proviso (ii) to section 27(6).
- Notwithstanding any of the above, the **cut-off date must fall within 10 days before or after the end of the tax period.**
- Failure to comply with the above will result in the imposition of interest under section 39 of the VAT Act and penalties under sections 210 and 213 of the TA Act, where applicable.

6. General

A vendor who intends changing the date on which its tax period ends, and the date does not fall within one of the approved categories, may apply for a VAT ruling or VAT class ruling in writing by sending an e-mail to **VATRulings@sars.gov.za** or by facsimile to 086 540 9390. In this regard a clearly motivated application complying with the provisions of section 79 of the TA Act, excluding sections 79(4)(f) and (k) and (6), must be submitted. The cut-off dates requested must fall within the ambit of the 10-day rule.

7. Examples

The following are examples of categories of cut-off dates that the Commissioner has approved:

Example 1 – Vendor’s month-end reporting ends on a fixed date

Scenario:

Vendor A is a VAT-registered vendor and is required to submit VAT 201 returns on a monthly basis as contemplated in section 27(1). However, Vendor A ends its month-end reporting on the 7th day of each month for purposes of its management reports.

Question:

Can Vendor A, instead of ending its tax periods on the last day of each month, end its future tax periods on the 7th day of each month?

Result:

Yes, Vendor A’s cut-off dates fall within the categories for which approval is granted by the Commissioner as set out in **5.1**. Furthermore, Vendor A must ensure that it satisfies the conditions set out in **5.2**.

Example 2 – Vendor’s month-end reporting ends in terms of its “commercial accounting periods”

Scenario:

Vendor C is a VAT-registered vendor and is required to submit VAT 201 returns on a monthly basis as contemplated in section 27(1). Vendor C ends its month-end for reporting purposes on the following days (commercial accounting periods) which were approved by its board of directors and documented and retained as minutes in the company’s records:

Tax Period	Commercial Accounting Date
March 2012	28 March 2012
April 2012	25 April 2012
May 2012	30 May 2012
June 2012	27 June 2012
July 2012	25 July 2012
August 2012	29 August 2012
September 2012	26 September 2012
October 2012	31 October 2012
November 2012	28 November 2012
December 2012	21 December 2012
January 2013	29 January 2013
February 2013	28 February 2013

Question:

Can Vendor C, instead of ending its tax periods on the last day of each month, end its tax periods on the dates set out above?

Result:

Yes, Vendor C's cut-off dates fall within the categories for which approval is granted by the Commissioner as set out in **5.1**. Furthermore, Vendor C may only apply the new cut-off dates from a future tax period and must ensure that it satisfies the conditions set out in **5.2**.

Example 3 – Vendor's month-end reporting ends on a fixed day*Scenario:*

Vendor B is a VAT-registered vendor and is required to submit VAT 201 returns on a monthly basis as contemplated in section 27(1). Vendor B ends its month-end reporting on the last Wednesday of each month for the purpose of compiling its management reports.

Question:

Can Vendor B, instead of ending its tax periods on the last day of every month, end its future tax periods on the last Wednesday of every month?

Result:

Yes, Vendor B's cut-off dates fall within the categories for which approval is granted by the Commissioner as set out in **5.1**. Furthermore, Vendor B must ensure that it satisfies the conditions set out in **5.2**.

Example 4 – Vendor's elected month-end cut-off date has been used for less than 12 months and Vendor requests to change to another fixed day*Scenario:*

Vendor D is a VAT-registered vendor and is required to submit VAT 201 returns on a monthly basis as contemplated in section 27(1). Vendor D has been ending its monthly tax period on a fixed day, being the 5th day of the calendar month, for the last 7 months from January to July.

The shareholding in Vendor D has recently changed and its new majority shareholder, Company X, wants the cut-off dates of Vendor D to align with its own for management reporting purposes. Company X is also a VAT-registered vendor and ends its tax periods on the 25th day of each calendar month.

Question:

Can Vendor D, instead of ending its tax periods on the 5th day of the calendar month, end its future tax periods on the 25th day of each calendar month?

Result:

No, while both Vendor D and Company X's cut-off dates fall within the categories for which approval is granted by the Commissioner as set out in **5.1**, Vendor D has not used its elected cut-off dates for a minimum period of 12 months as prescribed in proviso (ii) to section 27(6). Vendor D is required to end its tax periods on the 5th day of the calendar month for an additional 5 months after which it may elect to end its tax periods on the 25th day of each calendar month.

Example 5 – Vendor is changing cut-off dates and is uncertain about when subsequent tax period begins

Scenario:

Following on from the scenario in **Example 4**, Vendor D carries on ending its tax periods on the 5th day of the calendar month for an additional period of 5 months from August to December, thus satisfying proviso (ii) to section 27(6).

Vendor D's cut-off date in December is the 5th day of January. This complies with the 10-day rule. From its January tax period it will change its cut-off dates to the fixed day of the 25th day of each month to align itself with Company X's tax periods.

Question:

How will Vendor D implement the subsequent cut-off day of the 25th considering its previous tax period ended on the 5th of January?

Result:

The first day of Vendor D's January tax period will be the 6th day of January as provided for by the proviso (iii)(b) to section 27(6). This tax period will end on the 25th day of January. The first day of the subsequent tax period will be the 26th day of January as provided for by the proviso (iii)(b) to section 27(6).

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Annexure – The law

Section 27 of the VAT Act – Tax period

(1) For the purposes of this section—

“**Category A**” means the category of vendors whose tax periods are periods of two months ending on the last day of the months January, March, May, July, September and November of the calendar year;

“**Category B**” means the category of vendors whose tax periods are periods of two months ending on the last day of the months February, April, June, August, October and December of the calendar year;

“**Category C**” means the category of vendors whose tax periods are periods of one month ending on the last day of each of the 12 months of the calendar year;

“**Category D**” means the category of vendors whose tax periods are periods of six months ending on the last day of February and August of the calendar year or, where any vendor falling within this category makes written application therefore, on the last day of such other months as the Commissioner may approve;

“**Category E**” means the category of vendors whose tax periods are periods of twelve months ending on the last day of their year of assessment as defined in section 1 of the Income Tax Act or, where any vendor falling within this category makes written application therefore, on the last day of such other months as the Commissioner may approve;

“**Category F**” means the category of vendors whose tax periods are periods of four months ending on the last day of the months June, October and February of the calendar year;

...

(6) The tax periods applicable under this Act to any vendor shall be the tax periods applicable to the Category within which the vendor falls as contemplated in this section: Provided that—

- (i) the first such period shall commence on the commencement date or, where any person becomes a vendor on a later date, such later date;
- (ii) any tax period ending on the last day of a month, as applicable in respect of the relevant Category, may, instead of ending on such last day, end on a fixed day approved by the Commissioner, which day shall fall within 10 days before or after such last day: Provided that the future tax period so approved by the Commissioner must be used by the vendor for a minimum period of 12 months, commencing from the tax period the change is made;
- (iii) the first day of any tax period of the vendor subsequent to the vendor's first tax period shall be the first day following—
 - (a) the last day of the vendor's preceding tax period; or
 - (b) the fixed day as approved by the Commissioner in terms of paragraph (ii).