

# VAT PRACTICE NOTE: NO 7

10 February 1992

## Passenger Transport (Section 12(g) of the Act)

### 1. Introduction

In terms of section 12(g) of the Act "the supply by any person in the course of a transport business of any service comprising the transport by that person in a vehicle operated by him of fare-paying passengers and their personal effects by road or railway", shall be exempt from VAT (unless it is zero-rated).

The purpose of this practice note is to clarify the impact of this provision upon, particularly, bus operators in the tourism and related industries.

### 2. Transport business

2.1 In order to qualify for the exemption the supplier of the transport service must be the operator of the vehicle in which the passengers are transported. He need not be the owner of the vehicle or even the employer of the driver, but must be commercially responsible for the transporting of the passengers. He will frequently, but not necessarily, also hold a licence in terms of the Road Transportation Act.

2.2 Subject to what is said in 2.3, where the supplier of the vehicle does not operate it himself, but rents or hires it with or without fuel to a third party who uses it for the transport of passengers the nature of the supply is that of hire of the vehicle and not that of a transport service. Accordingly the consideration payable by the third party for the hire of the vehicle will be standard-rated. (The services supplied by the third party may qualify for exemption in accordance with 2.1 and 2.4).

2.3 Where the supplier of the vehicle referred to in 2.2 also provides the services of a driver, the agreement will usually, but not always, constitute an exempt service of transport and not a standard-rated hire. The use of such words as "hire" or "charter" in such an agreement is not conclusive as to its nature and each situation must be analysed on its own facts. The person to whom the driver is ultimately responsible will frequently be an important factor in this regard.

2.4 Where a person procures the services of a transport business in the form of a vehicle and driver and in turn charges passengers for transport, that person also renders an exempt transport service. This is the case even though that person does not directly own the vehicle, employ the driver or hold a road transportation licence. He carries on a transport business and operates the vehicle using sub-contracted transport services which are likewise exempt.

### 3. Fare-paying Passengers

In any situation where the operator of the vehicle in which passengers are transported charges a consideration in respect of the service, the passengers will be regarded as fare-paying. The term is not limited to the situation where the passenger himself pays a specified fare either on boarding the vehicle or on purchasing a ticket to travel in this vehicle.

### 4. Examples of exempt passenger transport services

4.1 Scheduled commuter bus services, intercity bus services and tourist bus transport irrespective of the distance covered or duration of the service concerned. (See paragraph 4.3).

4.2 Ambulance services - the transport of patients for a consideration in an ambulance.

4.3 Tour buses or trains - the transport of passengers by a tour operator, irrespective of whether a specific fee is charged for such transport or whether it is incorporated into the overall fee for the tour. (In the latter case the total fee will have to be apportioned between the fee for the taxable supplies, for example, hotel accommodation, and the fee for the exempt passenger transport service. If the fee is not apportioned, the full amount of the fee is subject to VAT at the standard rate.)

Where a transport operator "A" furnishes a bus and driver to provide a bus tour packaged and sold by "B" the consideration charged by both A and B will usually be exempt (or apportioned). (See paragraphs 2.3 and 2.4)

4.4 Airport/hotel transfer - the transport of patrons to and from, for example, an airport by a hotel or equivalent supplier, provided a specific fee is charged for the service. Where the service is provided as a courtesy to patrons without a specific amount being charged, the hotel will not be regarded as supplying exempt passenger transport.

4.5 Transport of employees/pupils - the transport of employees or pupils on behalf of an employer or school, irrespective of whether the consideration charged by the operator is a fixed amount or a variable amount based on the number of employees actually transported. (This, of course, must be distinguished from the case where the employer hires the vehicle and undertakes the transport of the employees himself.) (See paragraph 2.2)