



human settlements

Department:
Human Settlements
PROVINCE OF KWAZULU-NATAL

Policy Communiqué

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ZERO-RATING OF VALUE ADDED TAX ON LOW INCOME HOUSING PROJECTS

The department has received numerous enquiries regarding the payment of VAT on low income housing projects. Municipalities have adopted different approaches and/or methodologies with regards to the payment of VAT.

1. In terms of the Division of Revenue Act of 2018, funding appropriated for the purposes of low income housing is defined as the Human Settlements Development Grant
2. In terms of paragraph 6.4 (Definition of grant) of the Interpretation of the Value Added Tax Act, No. 89 of 1991 a grant which is paid by a public authority to a private vendor (that is not a “designated authority”) will be zero-rated in the hands of the recipient in terms of Sections 8(5A).
3. The current law also allows such payments to qualify for zero-rated VAT treatment, as well as payments made under the Division of Revenue Act (DORA) (mainly affecting municipalities). Before 1 April 2005 the receipt of such payments would not have qualified for the zero rate since they would have been excluded from the definition of transfer payment. The word “grant” has replaced the term” transfer payment”
4. A “grant” means any appropriation, grant-in-aid, subsidy or contribution transferred, granted or paid to a vendor by a public authority, municipality or constitutional institution...” This effectively means that the payment is a gratuitous or “unrequited” payment by the grantor, where no reciprocity is expected from the recipient in the form of a supply of goods or services of corresponding value.
5. It must be noted that the “payment” excludes the payment for the actual supply of goods and services acquired by a public authority, municipality or constitutional institution through their usual respective procurement procedures.
6. Previously, housing subsidy payments were treated as zero-rated transfer payments in terms of section 8(5) and 11(2) (p). Section 8(5) after the amendment applies exclusively to designated entities, and section 8(23) was

introduced to create a deemed supply where a vendor (e.g. property developer or builder), is involved in delivering low cost housing projects and that person receives an amount on behalf of the housing subsidy beneficiary. The purpose of this provision was to bring the housing subsidy payment within the scope of the Act so that the zero-rating in terms of section 11(2) (s) could apply.

“...to the extent of any payment in terms of the Housing Subsidy Scheme referred to in section 3 (5)(a) of the Housing Act,1997 (Act No. 107 of 1997)...”

7. The deemed supply on applies in respect of, and to the extent that, the vendor receives payment of the low cost housing subsidy amount to which certain beneficiaries are entitled in terms of the Housing Act. If the housing subsidy is insufficient to cover the price of the house, the additional consideration payable by the beneficiary to the vendor is subject to VAT at the standard rate. This would include the case where the developer is the municipality. Section 8(23) was further amended so that it now refers to a payment made in terms of a national housing programme approved by the Minister by regulation after consultation with the Minister for Human Settlements. The purpose being to make it clear that zero-rating only applies to subsidy payments in terms of certain housing programmes.
8. The following must be noted with regard to the implementation of VAT

a) Zero Percent on Low Income Housing Project

The housing subsidy is defined as grant therefore the VAT charged is zero percent. It must be noted that zero percent VAT is not applicable to all housing programmes e.g. Rectification projects.

The zero percent VAT does not apply to the procurement of goods and services which is undertaken in terms of the normal supply chain management processes.

b) Registration as vendor

Municipalities who are not registered as vendors with South African Revenue Services (SARS) must register with immediate effect. The registration as a

vendor will allow the municipality to claim any VAT paid on low income housing projects as input tax.

It must be noted that a municipality cannot reduce the payment on a current invoice to recover VAT paid to an implementing agent on previous invoice(s). The municipality has to claim the VAT paid as input tax from SARS.

c) VAT paid by Implementing Agents (IA)

In instances where an IA has paid VAT when implementing a low income housing project. The VAT must be claimed as input tax from SARS.

d) Issuing of invoices by Implementing Agent (IA)

When an IA issues an invoice to a municipality for payment. The invoice must reflect VAT at zero percent.

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