

# GOVERNMENT NOTICE

## GOEWERMENTSKENNISGEWING

### SOUTH AFRICAN REVENUE SERVICE SUID-AFRIKAANSE INKOMSTEDIENS

No. R. 270

28 March 2007

#### TRANSITIONAL ARRANGEMENTS FOR MUNICIPALITIES FOLLOWING THE DELETION OF PARAGRAPH (c) OF THE DEFINITION OF "ENTERPRISE IN SECTION 1 OF THE VALUE-ADDED TAX ACT, 1991 (ACT NO. 89 OF 1991), THE ZERO-RATING OF MUNICIPAL RATES AND OTHER CONSEQUENTIAL AMENDMENTS

By virtue of the power vested in me by section 74(1) of the Value-Added Tax Act, 1991 (Act No. 89 of 1991), I, Trevor Andrew Manuel, Minister of Finance hereby make the following regulation, as set out in the Schedule hereto, prescribing the transitional arrangements which apply to municipalities following the deletion of paragraph (c) of the definition of "enterprise" in section 1 of the Act, the zero-rating of municipal rates in terms of section 11(2) and other amendments to the Act affecting the taxation of municipalities which were introduced by the Small Business Tax Amnesty and Amendment of Taxation Laws Act, 2006 (Act No. 9 of 2006).



T.A. MANUEL

Minister of Finance

#### Schedule

##### Preamble

1. Definitions
2. Output tax on supplies which became taxable for the first time on or after 1 July 2006
3. Apportionment of input tax
4. Payments basis of accounting

#### **PREAMBLE**

On 15 February 2006 it was announced that the regional service and joint service council levies will fall away in July 2006, and that municipalities would receive compensating income through an increase in their equitable share grants allocated from nationally collected revenue. In addition, it was announced that municipal property rates would be zero-rated for VAT purposes with effect from 1 July 2006. Part of the object of these changes was to unlock the input tax, which previously could not be claimed due to the non-taxable nature of many of the supplies made by municipalities. In so doing, revenue is shifted to municipalities by allowing them to claim more input tax, but at the same time, goods and services previously not subject to VAT are now drawn into the tax net.

The amendments contained in the Small Business Tax Amnesty and Amendment of Taxation Laws Act, 2006, are also aimed at assisting municipalities to simplify their accounting and tax records. However, many legislative changes were necessary to achieve these objects and in view of the submissions received from municipalities stating that they lack administrative capacity, it appears that municipalities may experience difficulties in complying fully with the law in the short term. It was, therefore, necessary to consider an arrangement whereby municipalities are afforded an opportunity to put the necessary administrative and accounting mechanisms in place to become fully compliant. It is within this context that the regulation setting out the transitional arrangements is made.

## 1. **Definitions**

For purposes of the regulation, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the Act, 1991, bears the meaning assigned thereto, and for the purposes of this regulation—

“**the Act**” means the Value-Added Tax Act, 1991 (Act No. 89 of 1991);

“**municipality**” includes any person which complied with the definition of “local authority” in section 1 of the VAT Act prior to the deletion of that definition on 1 July 2006; and

“**transition period**” means the period commencing on 1 July 2006 and ending on 30 June 2007.

## 2. **Output tax on supplies which became taxable for the first time during the transition period**

2.1 Where any output tax due by a municipality on supplies which became taxable for the first time during the transition period has been omitted in error from any return for a prior tax period which was required to be submitted within the transition period, that output tax may be accounted for by the municipality in a later return which is due for payment on or before 25 July 2007.

2.2 No additional tax, penalty or interest will be imposed on any late payment of output tax referred to in paragraph 2.1.

## 3. **Apportionment of input tax**

3.1 With effect from 1 July 2006 a municipality must calculate input tax by using the turnover based method of apportionment on any goods and services acquired by it which are partly for consumption, use or supply in the course of making taxable supplies and partly for another intended use.

3.2 In order to determine the amount of input tax as contemplated in paragraph 3.1 during the transition period, a municipality must use the information pertaining to the value of the supply of goods and services made during the previous 12 months as per its financial statements as at 30 June 2006, and apply the following formula:

$$Y = \frac{A}{B} \times \frac{100}{1}$$

where—

“Y” = the percentage of input tax which may be claimed on supplies of goods and services acquired on or after 1 July 2006 which are partly attributable to making taxable supplies.

“A” = the aggregate value of all taxable supplies made during the previous 12 month period.

“B” = the aggregate value of all supplies made during the previous 12 month period (including the value of any other amounts received during that period which are not in respect of any supply).

3.3 The following adjustments must be made to the financial statements for the purposes of applying the formula referred to in paragraph 3.2 during the transition period:

3.3.1 The value of supplies of goods and services which were not taxable prior to 1 July 2006, but which became taxable on that date must be included in the value of taxable supplies for purposes of A and B of the formula.

3.3.2 The amounts received in respect of punitive statutory fines and penalties levied by the municipality must only be included in the value of supplies for purposes of B of the formula.

- 3.3.3 Grants (including capital grants) made to a municipality for purposes of financing the taxable supplies of goods or services made by that municipality must be included in the value of supplies for purposes of A and B of the formula.
- 3.3.4 Grants (including capital grants) made to a municipality for the purposes of financing supplies of goods or services made by that municipality which are exempt in terms of section 12 of the Act, or which are out of scope for VAT purposes, must be included in the value of supplies for purposes of B of the formula.
- 3.4 Where a municipality is unable to apply the turnover based method of apportionment specified in this regulation, the Commissioner may, in terms of section 17(1) of the Act, approve another method of apportionment which is equitable in the circumstances and which may be used during the transition period, or for any period thereafter.
- 3.5 An application to apply another method of apportionment as contemplated in paragraph 3.4 will only be considered upon receipt of full reasons in writing, together with supporting evidence, as to why the prescribed method of apportionment cannot be applied.
- 3.6 At the end of the transition period, a revised apportionment percentage must be calculated with reference to the actual value of supplies of goods and services made during the transition period according to the financial statements for the financial year ending on 30 June 2007. Any difference in input tax for the transition period between the revised apportionment percentage and the percentage determined in paragraph 3.2 must be accounted for in the September 2007 return, which is due on 25 October 2007.
- 3.7 No additional tax, penalty or interest will be levied on any tax which may be payable as a result of the adjustment in paragraph 3.6, provided that the amount is paid on or before 25 October 2007 or any further period that the Commissioner may allow.

#### **4. Payments basis of accounting**

- 4.1 Where a municipality accounts for VAT on the payments basis as contemplated in section 15(2) of the Act, it must treat payments received by it on or after 1 July 2006 in respect of the supply of goods or services made by that municipality before that date as if that payment had been received before that date.
- 4.2 Where a municipality accounts for VAT on the payments basis as contemplated in section 15(2) of the Act, it must treat payments made by it on or after 1 July 2006 in respect of the supply of goods or services acquired by that municipality before that date as if that payment had been made before that date.