

Tax First

Namibia Newsletter

September 2017



A monthly newsletter published by PwC Namibia providing informed commentary on current developments in the local tax arena.

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Ring-fencing of tax losses incurred by a taxpayer in previous years

Ring-fencing, in terms of section 21A of the Income Tax Act, implies that tax losses from certain trades cannot be offset against taxable trade income received from other trades or salary income. This legislation came into effect on 30 December 2011 and taxpayers should consider the impact, especially where more than one trade is carried on.

Who does it apply to:

1. The taxpayer must be a natural person (not a company, close corporation or trust), **and**
2. The taxpayer earns annual taxable income (disregarding any prior year tax losses) equal to or in excess of N\$200,000.

If you comply with **both** of the above requirements, you will need to determine:

- a. Whether the loss was obtained from a so-called “suspect trade” (refer below for list of suspect trades); or
- b. Whether losses were incurred from any specific trade for at least 3 out of the 5 preceding years of assessment (commencing on or after 1 March 2011).

If you answered yes to either a) or b) above, the loss incurred from that specific trade will be ring-fenced. This does not mean that the loss cannot be set off against a future taxable income, but that it may only be set off against taxable income earned from that specific trade in the future.

List of suspect trades:

Sporting activities; Dealing in collectibles; Rental of residential accommodation (unless 80% of the residential accommodation is used by non-relatives of the taxpayer at least half of the year of assessment); Rental of vehicles, aircraft and boats (unless 80% of the vehicles, aircraft and boats is used by non-relatives of the taxpayer for at least half of the year of assessment); Animal showing; Part-time farming or animal breeding (all farming is seen as one single trade); Carrying on creative arts; and Gambling or betting.

Is there any relief available?

Ring fencing of trades could be avoided where a taxpayer can prove that:

- The specific trade constitutes a ‘business’ with a reasonable prospect of being profitable within a reasonable period of time (certain requirements must be met as set out in Section 21 (3)); **and**
- The specific trade generated taxable profits for at least 5 years out of a 10 year period as from 1 March 2011.

Care should be taken in applying the relief and detailed documentation of your thought process should be done.

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TIM's TIP:

Imagine if completing your tax return could be as easy as having a conversation. Use TaxTim to complete your annual and provisional returns - quick & easy!

For queries please mail us at namibia@taxtim.com or register for TaxTim today at www.taxtim.pwc.com.na



Time of supply rules—When must a VAT registered taxpayer account for VAT on services provided or goods sold?

VAT registered persons often receive money in advance in the form of a deposit or part-payment for a supply of goods or services. When must such money be declared for Output VAT purposes?

The liability for VAT in Namibia arises at the “time of the supply” of goods or services. It is important, therefore, to establish the time of supply, as this will have a bearing on when output tax on that transaction will be payable to Inland Revenue.

The general rule for “Time of Supply” states that a supply of goods or services is deemed to take place at the **earlier** of:

1. The time an invoice in respect of that supply is issued by the supplier; or
2. The time any payment in respect of that supply is received.

Section 1 of the VAT Act of Namibia, 2000 (“The VAT Act”) defines an **invoice** as a document giving notification of an obligation to make payment. Such obligation must be unconditional. It should be noted that the word “invoice” does not mean a “tax invoice” (which is the document that a registered person is required to have in their possession in order to claim an input tax credit).

Therefore a contract, delivery note or detailed statement could constitute an invoice if it stipulates an amount payable for the supply of goods or services. It is important to note that the time of supply only occurs on the date an invoice is *issued*. It would therefore appear that it is not sufficient for the VAT registered person merely to prepare an invoice and not issue it.

Reference is further made to any **payment** and not necessarily full payment. Therefore, where an upfront partial payment is made prior to or upon delivery of any goods or services, without an invoice being issued, the supply is deemed to have taken place on such date the supplier receives this partial payment. The VAT registered supplier is thus obliged to declare Output VAT on this part payment received.

A deposit (other than a deposit on a returnable container), whether refundable or not, is not regarded as a payment made for a sale or service rendered, unless and until the supplier applies the deposit as payment/consideration for the transaction or it is forfeited. In practice, the distinction between a deposit (specifically non-refundable deposits) and a part payment has proven to be a challenge. Deposits would normally not be utilized in the daily operations of the business and would be kept as security in the event the client defaults on payment as and when due, for example, a deposit on a commercial rental transaction. However upfront payment, for example, on accommodation services or venue hire services, which have not yet been provided, would not construe a deposit for VAT purposes and would trigger an output tax declaration at the time of receipt.

Payments in respect of “returnable containers” must be regarded as part of the consideration, unlike the above-mentioned deposits. This means that a registered person who, for example, sells gas in a gas bottle and who charges a deposit of N\$100 for the bottle and N\$200 for the gas, has to account for VAT on the total amount of N\$300, i.e. N\$45 VAT.

Based on the above, it is clear that a taxpayer is required to account for Output VAT on income received in advance, if such income is to be applied as payment in respect of a specific supply yet to be delivered.

In conclusion, when receiving upfront payments be aware of the “time of supply” rules and ask yourself - should I declare output VAT now or later? And if in doubt, consult...

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PwC Business School Training Calendar



Training for September:

Windhoek

4-6 Sept	Finance Training for Non-Finance Managers
8 Sept	Managing Company Secretarial Risk
13 Sept	Annual IFRS Update
27-28 Sept	Pay Structuring Workshop
2-6 Oct	COBIT 5 & ITIL Foundation Training

For more information, contact one of our Business School Managers.

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Walvis Bay

11 Sept	Annual IFRS Update
20 Sept	Managing VAT in your industry
21 Sept	International Tax & Transfer Pricing
21 Sept	Employee Pay & Taxes
22 Sept	Introduction to Income Tax
16-17 Oct	Excel Skills for Remuneration Practitioners

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Or follow the below link to our website:
<http://www.pwc.com/na/en/events.html>

New Legislation Tracker

This diagram tracks the progress of proposed tax legislation.

The following is the status of proposed legislative changes up to 31 August 2017. No effective date has been set.

Transfer Duty amendments – In drafting, expected date not yet set.

Expansion of Capital Gains Tax provisions to provide for wealth-based taxation on new categories of capital assets.

Simplified Presumptive Tax on small businesses to be developed.

Establishment of Revenue Authority – In drafting, expected date not yet set. Planned implementation for 2018/2019.

Tax proposals on wealth tax will be developed to embody principles of Solidarity Tax .

Proposals to remove base-eroding Income Tax and VAT exemptions in future.

Develop the Double Taxation Agreement Policy and increase collaboration with international tax authorities to counter transfer pricing.

Tax Calendar - September 2017

Mon	Tue	Wed	Thu	Fri
18	19	20 <ul style="list-style-type: none"> VET Levy return PAYE return Import VAT return Withholding Tax returns: Services, Royalties, Interest NRST 	21	22
25 <ul style="list-style-type: none"> VAT return 	26	27	28	29 <ul style="list-style-type: none"> Social Security payment
October 2 <ul style="list-style-type: none"> 1st provisional for taxpayers with March 2018 year-end 2nd provisional for taxpayers with September 2017 year-end Tax return for companies with 28 February 2017 year-end 				

For assistance or advice please contact one of our tax specialists.

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PwC Business School

Annual Namibian Tax Symposium 2017

PwC Tax teams will again host our popular three-day Symposium on Namibian Taxes.

WHERE: Walvis Bay **DATE:** 20, 21 and 22 September 2017
VENUE: PwC Business School Walvis Bay, 1st Floor, 122 Theo Ben Gurirab Street

NOTE: You can book any one of the sessions or more than one session.

20 September 2017

Managing VAT in your industry

Session 1: Basic VAT & VAT Game
Session 2: General retail, wholesale and export industry
Session 3: Construction & property trading industry
Session 4: Transport and logistics industry

Time:

Refer to our website for time slots per session

Cost:

Session 1 N\$1,300
Session 2 N\$550
Session 3 N\$550
Session 4 N\$550
Lunch N\$100

Combination of all sessions including lunch N\$3,000.



21 September 2017

Afternoon Session

Employee Pay and Taxes

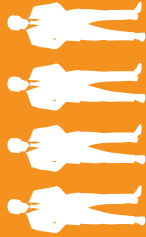
Income Tax Framework; Total Cost to Company; Employee Taxes (PAYE); Payroll administration

Time:

14h00 - 17h00

Cost:

N\$ 1,250 (incl VAT) per delegate



21 September 2017

International Tax & Transfer Pricing

International trends; Challenge faced in the Transfer pricing world; Double taxation agreements; Permanent establishments, withholding taxes, cross border issues

Time:

08h00 - 11h00

Cost:

N\$ 1,250 (incl VAT) per delegate



22 September 2017

Morning Session

Introduction to Income Tax

• Basic Income Tax Rules: Tax Framework; Gross income definition; Deductions; Capital allowances and Recoupment; Individual Taxes • Thin Capitalisation & Transfer Pricing
• Withholding taxes

Time:

07h30 for 08h00 - 13h00

Cost:

N\$ 2,250 (incl VAT) per delegate



Register via liza.mollentze@pwc.com
Registrations close Monday, 18 September 2017