

GUIDELINES

VALUE ADDED TAX (AMENDMENT) ACT, 2023

A	Introduction
A1	The Value Added Tax (Amendment) Act, 2023 was published on the 02 April 2023 and commenced on the 03 May 2023 as per Commencement Order of 02 May 2023.
B	Exemptions
B1	<p>The Amendment introduces an exemption of medical services by deleting the definition of “public medical facility” in Paragraph 1 of the Second Schedule of the Act and substituting Paragraph 2 (b) with a new subparagraph stated below.</p> <p>“(b) a supply of prescription drugs specified under Schedules 1, 2 and 3 of the Medicines and Related Substances Act, and a supply of medical services by a person in the ordinary course of operating a medical facility, including a hospital, maternity home, nursing home, convalescent home, hospice or clinic.”</p> <p>The new subparagraph opens the exemption of medical services across the board to cover all medical services provided by the private practitioners and the Government.</p>
B2	Exempted Medical Services
	<p>A medical facility or medical services are not defined in the Amendment Act.</p> <p>The ordinary meaning of a medical facility includes a place where sick or injured people are given care or treatment such as a hospital, maternity home, nursing home, convalescent home, hospice, clinic, medical laboratories and imaging or radiology service laboratories. These medical services are exempt when provided as part of operating medical facilities or even when provided as ancillary services by stand-alone operators that support medical facilities.</p> <p>Medical services are services provided for medical purposes and include:</p>

- attendance, examination or treatment of any kind by a medical practitioner, registered dentist, registered optometrist, registered physiotherapist, registered chiropractor and osteopath or registered podiatrist
- attendance, examination or treatment by a registered occupational therapist
- attendance, examination or treatment of any kind by a registered psychologist
- the provision of acupuncture by a registered acupuncturist
- repair, adjustment or replacement of skiagrams, artificial members, eyes or teeth, spectacle glasses, hearing aids, orthoses or mobility aides
- ambulance services
- accommodation and meals provided to a patient in course of receiving an exempt medical service.

B3 Implications for Exemption

Imposition of exemption of medical services means that medical service providers will now be providing exempt services and not liable for VAT registration. On deregistration, the sector will be deemed to have made taxable supplies and hence required to pay VAT.

The VAT Act has however been amended in section 18 by introducing a new subsection (11A) which is reproduced below.

*“(11A) Notwithstanding the provisions of sections 5(3) and 18(11), a person whose registration is cancelled by virtue of the exemption of medical service, shall be deemed **not** to have made a taxable supply of goods on hand, including capital goods and goods that were acquired before the commencement of this Act, whether or not input tax under section 20(2) was claimed.” (Our emphasis).*

The above amendment is meant to cushion registered private medical service providers who will be exiting the tax register following the exemption of medical services as provided under section 11 and paragraphs 1 and 2 of the Second schedule to the Act.

	C	Cancellation of Registration
	C1	<p>Ordinarily, a VAT registered person who cancels registration is required to account for output tax at the fair market value in terms of section 18(11) of the VAT Act. This requirement was going to be burdensome to taxpayers who must deregister from VAT, as a result of the exemption. Therefore, subsection (11A) was introduced to ease the burden of paying VAT on deemed supply of goods on hand and capital goods.</p> <p>Cancellation from the VAT register is not automatic. Registered persons are still required to assess their supplies and determine whether they should remain in the VAT register. Those that qualify for deregistration should make proper applications to the Commissioner General within 21 days from ceasing to make taxable supplies.</p>
	D	Implications of Cancellation of Registration
	D1	<p>The implications of deregistration are as follows:</p> <ul style="list-style-type: none"> • Only VAT registered persons who provide medical services are affected. • No output tax is required to be paid by VAT registered medical service providers on cancellation of registration. • Registered medical service providers are still required to comply with section 18 of the VAT Act. • Medical service providers have ceased to satisfy the criteria of dealing in taxable supplies set by section 18(2) since medical services are now exempt. • Medical service providers are required to stop charging VAT on the medical services they are providing. • Any VAT charged must be paid with the last VAT return prior deregistration. • Any VAT liability outstanding should be paid or an arrangement for payment of such liability made with BURS. This includes liabilities for VAT deferral accounts. • Application for deregistration should be made within 21 days from the date of cessation which is from the 03 May 2023 using the BURS deregistration form. • The Commissioner General shall cancel registration with effect from the last day of the tax period of cessation of carrying on a taxable activity. • Registered medical service providers may still have to undergo exit audits and any ongoing audits will be formally concluded.
	E	Other Implications of Exemption of Medical Services

		The Value Added Tax (Exemption) Regulations on Medical services have now become obsolete since all medical services are exempted together with specified prescription drugs. Prescription drugs that do not fall under Schedules 1, 2, and 3 of the Medicines and Related Substances Act still attract VAT and suppliers will continue charging VAT for those prescription drugs. It should also be noted that medical equipment remains taxable and medical service providers will pay VAT on their acquisition.
	F	Zero-rated Supplies
	F1	<p>The First Schedule (Zero-Rated Supplies) to the VAT Act has been amended by increasing the list of zero-rated supplies to include the following items:</p> <ul style="list-style-type: none"> • leguminous vegetables (peas and beans) as specified under Customs Tariff Heading 07.08 and ginger (neither crushed nor ground) as specified under Customs Tariff Heading 0910.11.00. • cooking oil as specified under Customs Tariff Heading 15.07, 15.08, 15.09, 15.10, 15.11, 15.12, 15.13, 15.14 and 15.15. • liquid petroleum gas as specified under Customs Tariff Heading 2711.11.00, 2711.12.00, 2711.13.10, 2711.13.90, 2711.14.00 and 2711.19.00. • salt as specified under Customs Tariff Heading 2501.00.90, • infant formula as specified under Customs Tariff Heading 1901.10.00 • baby diapers as specified under Customs Tariff Heading 9619.00.00, and • sanitary pads or tampons as specified under Customs Tariff Heading 9619.00.00
	G	Deletion of subparagraphs (i), (k) and (l) from the exemption lists that are now zero rated and moved to First Schedule.
	G1	A supply of condoms, tractors and farming implements have now been moved from the exempt schedule to the zero-rated schedule.
	G2	<p>The VAT Act amendment has deleted farming implements from the exemption list in the Second Schedule and moved them to the zero rated in First Schedule. The list is reproduced below.</p> <ul style="list-style-type: none"> • disc harrows as specified under Customs Tariff Heading 8432.21.00, • ploughs as specified under Customs Tariff Heading 8432.10.00 • scarifiers, cultivators, weeders, hoes as specified under Customs Tariff Heading 8432.29.00, • manure spreaders as specified under Customs Tariff Heading 8432.41.00, • fertilizer distributors as specified under Customs Tariff Heading 8432.42.00,

- rotavators as specified under Customs Tariff Heading 8432.29.00,
- rippers as specified under Customs Tariff Heading 8432.29.00,
- cutter bars for tractor mounting as specified under Customs Tariff Heading 8433.20.00,
- hay making machine as specified under Customs Tariff Heading 8433.30.00,
- straw or fodder balers and pick up balers as specified under Customs Tariff Heading 8433.40.00,
- combine harvesters as specified under Customs Tariff Heading 8433.51.00,
- threshing machinery as specified under Customs Tariff Heading 8433.52.00,
- root or tuber harvesting machinery as specified under Customs Tariff Heading 8433.53.00,
- forage harvester as specified under Customs Tariff Heading 8433.59.00,
- tractors of an engine power not exceeding 18kW as specified under Customs Tariff Heading 8701.91.00,
- tractors of an engine power exceeding 18kW but not exceeding 37kW as specified under Customs Tariff Heading 8701.92.00,
- tractors of an engine power exceeding 37kW but not exceeding 75kW as specified under Customs Tariff Heading 8701.93.00,
- tractors of an engine power exceeding 75kW but not exceeding 130kW as specified under Customs Tariff Heading 8701.94.00,
- tractors of an engine power exceeding 130kW as specified under Customs Tariff Heading 8701.95.00, and
- trailers as specified under Customs Tariff Heading 8716.40.00.

H Implications for Zero-Rating Tractors

Tractors are now zero-rated whether or not acquired for farming purposes. This means that purchasers of tractors will no longer be required to make a declaration that the tractor is going to be used for farming to qualify for zero-rating. The zero-rating will be automatically applied by suppliers.

Following the zero-rating, BURS will no longer issue exemption letters for tractors.

FURTHER INFORMATION

For further information or clarification, please contact the office of the Botswana Unified Revenue Service (BURS), Domestic Taxes Division through e-mail vatconsulting@burs.org.bw and telephone at 363 9604.

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10 MAY, 2023

Date