Legal and Policy Division
Indirect Tax Policy

South African Revenue Service

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Reference
BGR14

Date
13 December 2013

Mr C Hitchcock
South African Insurance Association
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Dear Mr Hitchcock

VALUE-ADDED TAX: SHORT-TERM INSURANCE

I refer to your letter dated 13 September 2013 in which you provided a synopsis of the concerns raised by the short-term insurance industry (the Industry) regarding the implementation of Binding General Ruling No. 14 (BGR14) and apologise for the delay in responding.

The issues which you have raised and the responses thereto are set out below.

1. BACKGROUND

Based on the information you provided in your letter and previous discussions, especially the meeting which took place on 6 August 2013, it is understood that the position as you see it, is as follows:

1.1 BGR 14 was issued with effect on 1 July 2013 in accordance with Chapter 7 of the Tax Administration Act No. 28 of 2011 (the TA Act) and section 41B of the Value-Added Tax Act, No. 89 of 1991 (the VAT Act) on various matters pertaining to the Industry.

1.2 The Industry is compliant with some aspects of BGR 14, but difficulties are being experienced in complying with some of the requirements.

1.3 The Industry is, however, able to become compliant within a few months on some of the areas of non-compliance whereas other matters require further attention. These other aspects are more complex and may require additional time to become compliant, or may require an amendment to the law to be resolved.

1.4 The Industry is currently compliant in respect of the following paragraphs of BGR14:

- Paragraph 2.1 – Time of supply.
- Paragraph 2.7 – Policies covering fixed property situated in an export country.
- Paragraph 2.10 – Indemnity payments.
- Paragraph 2.11 – Recoveries.
- Paragraph 2.12 – Group personal accident claims.

1.5 The Industry is experiencing various degrees of difficulty in order to comply with the following paragraphs of BGR14, amongst others, :

- Paragraphs 2.2 and 2.3 – The requirements relating to tax invoices, bordereaux and commission statements, including self-invoicing and statements required in terms of section 54(3) of the VAT Act;
- Paragraphs 2.4 to 2.6 – The zero-rating of marine and hull insurance, international travel insurance and foreign reinsurance inwards, including the obtaining of the necessary documentation to justify the application of the zero rate;
- Paragraph 2.8 – Policies covering movable property situated in an export country;
- Paragraph 2.9 – The treatment of excess payments;
- Paragraph 2.13 – Reinsurance; and
- Paragraph 2.14 – Documentary proof in respect of zero-rating.

2. REQUEST

The Industry is mindful of the current effective date of implementation of BGR 14 and is concerned regarding non-compliance issues with which it is faced. Consequently, an extension on the implementation date of BGR14 is requested regarding certain issues highlighted in the synopsis whilst efforts continue to be made to find solutions to those aspects which cannot be resolved in the short term.

3. THE LAW

For ease of reference, the relevant sections of the VAT Act are quoted in **Annexure A**. All references to sections herein are references to sections in the VAT Act unless the context otherwise indicated.

4. APPLICATION OF THE LAW

4.1 The application of the law is set out in some detail in BGR 14 and is not repeated here.

4.2 After considering the issues which you have brought to our attention in the synopsis and in various meetings, the view as confirmed by you at the meeting on 6 August 2013, is that the interpretation of the law as it currently stands, and as expressed in BGR 14 is considered to be correct. BGR 14 will, however, be amended in due course to clarify SARS' view on the application of the law on certain aspects which you have highlighted to the extent that this is possible. As an interim measure, these aspects will be dealt with in the ruling provided in **5.**

4.3 Other aspects are more complex and may require an amendment to the law in order to resolve the Industry's issues. Consequently, these issues cannot currently be accommodated in BGR 14. The Industry is therefore advised to approach National Treasury with proposals that could be considered for inclusion in the 2014 Budget to address these issues.

4.4 It should be noted that even in the absence of BGR 14, any non-compliance by Industry members (or non-members) will have to be dealt with on a case-by-case basis upon objection or appeal of any assessment through the dispute resolution mechanism provided in Chapter 9 of the TA Act. Alternatively, relief can be sought for any default which may have occurred prior to assessment under the voluntary disclosure programme as set out in Part B of Chapter 16 of the TA Act. BGR 14 merely expresses SARS' view on the application of the law as at 1 July 2013 and does not introduce anything new on the application of the law as at that date.

4.5 In the meantime, the Industry and SARS will continue to engage in further meetings and workshops.

5. RULING

5.1 In the light of the above, the Industry is hereby granted an extension until 1 March 2014 to become compliant with **5.1.1 to 5.1.5** below.

Alternative to a tax invoice

5.1.1 A short-term insurance policy or renewal notice will constitute a tax invoice provided the requirements of paragraph 2.2(a) of BGR14 are met. For the purposes of consistency in the Industry in regard to the third and fourth bullets of paragraph 2.2(a) of BGR14, the following wording should be contained in the policy document, renewal notice, or other document issued in regard to the conclusion of a policy contract, or the extension, renewal or endorsement thereof to substantiate the insured's entitlement to deduct input tax:

> *"In terms of a ruling issued by SARS, this document together with proof of payment of premium constitutes an alternative to a tax invoice, debit note or credit note as contemplated in sections 20(7) and 21(5) of the VAT Act respectively."*

Debit notes

5.1.2 An intermediary currently issues a so-called “debit note” to the insured when acting in the capacity of the agent of the insurer as a notification of premiums payable in respect of one or more insurance contracts. This so-called “debit note” is the equivalent of a renewal notice issued by an insurer and is not a debit note as contemplated in section 21. The issuing of the document concerned will not trigger the time of supply for the supply of insurance in accordance with the principles set out in paragraph 2.1(a) of BGR 14. This concession is conditional upon the Industry renaming the document and provided that the document is not an “invoice” as defined in section 1(1), or issued as a means of adjusting the consideration previously invoiced in respect of a taxable supply.

Bordereaux, agents statements, self-invoicing and tax invoices

5.1.3 As stated in paragraphs 2.2 and 2.3 of BGR 14, bordereaux issued by insurers and intermediaries would constitute alternative documents serving as tax invoices, debit notes or credit notes provided they contain the following particulars:

5.1.3.1 Bordereaux issued by intermediaries to insurers as tax invoices for commissions due and/or as statements required in terms of section 54(3) in respect of premiums and fees collected:

- The date of issue and the period (i.e. the month) and the year to which it relates;
- The name, address and VAT registration number of the intermediary;
- The name address and VAT registration number of the insurer;
- The value of zero-rated commissions and fees together with an indication that the amount is subject VAT at the zero rate;
- In the case of a standard rated supply, either the VAT inclusive standard rated commissions/fees with a statement that it includes VAT at 14% or the VAT exclusive commissions/fees, the VAT amount and the VAT inclusive amount.

In the event that intermediaries also process and pay claims on behalf of insurers, the bordereaux should include the following information:

- Trade payments - The VAT inclusive amount, together with a statement of the rate of VAT included, or the VAT exclusive amount, the VAT amount and the VAT inclusive amount of trade payments made;
- Cash payments - The total amount of claims payments made in respect of which a deduction of the tax fraction of the amount paid-
  - may be made by the insurer in terms of section 16(3)(*c*); and
  - may not be permitted in terms of proviso's (i) to (iv) to section 16(3)(*c*).

5.1.3.2 Bordereaux issued by insurers to intermediaries under the recipient-created invoicing arrangements as contemplated in paragraph 2.3 of BGR 14 for commissions and fees due to intermediaries on premiums collected from policyholders:

- The date of issue and the period (i.e. the month) and the year to which it relates;
- The name address and VAT registration number of the insurer;
- The name, address and VAT registration number of the intermediary;
- The value of zero-rated commissions and fees together with a statement that the amount is subject VAT at the zero rate;
- In the case of a standard rated supply, either the VAT inclusive standard rated commissions/fees with a statement that it includes VAT at 14% or the VAT exclusive commissions/fees, the VAT amount and the VAT inclusive amount.

The Industry must comply with the requirements listed in Interpretation Note 56: Recipient-Created Tax Invoices, Credit and Debit Notes.

Zero-rating of short-term insurance relating to movable property situated in an export country

5.1.4 As stated in paragraph 2.8 of BGR 14, short-term insurance supplied in respect of movable property situated in an export country may be zero-rated, provided the required supporting documents are obtained and retained. The following supporting documents will, in terms of section 11(3), be acceptable to the Commissioner:

- A copy of zero-rated tax invoice;
- A copy of the insurance contract stipulating the location of the movable property and confirming that the cover will be limited to that location; and
- Proof that the premium was paid.

The temporary presence of the movable goods in South Africa which requires an entry to be passed under any provision of the Customs and Excise Act, No. 91 of 1964 relating to temporary imports will not disqualify the supply of short-term insurance relating to those goods from being zero-rated. This is on condition that the temporary importation of the movable goods complies with the requirements of the said Act.

Excess

5.1.5 Excess paid directly to the insurer by the insured does not constitute consideration for goods or services supplied by the insurer. In accordance with the VAT treatment of excess as set out in paragraph 2.9 of BGR14, short-term insurers should not declare output tax on such excess payments. The wording of any policy document, contract, extension, renewal or endorsement thereof which deals with the VAT treatment of excess in any short-term insurance policy must therefore be aligned accordingly.

Zero-rating of marine and hull insurance, international travel insurance, and foreign reinsurance inwards

5.2 The Industry requested that it be permitted to continue zero-rating marine and hull insurance, international travel insurance and foreign reinsurance inwards while it approaches National Treasury to lobby for legislative amendments. SARS can unfortunately not issue a ruling in terms of section 72 in this regard as it would result in a substantial increase or decrease in the ultimate liability for tax levied under the VAT Act.[1] The Industry is, however, invited to meet with this office to discuss the way forward on these issues. Insurers are therefore requested to submit individual ruling applications on or before 31 January 2014 which will be considered on a case-by-case basis. As a transitional measure, insurers intending to submit such ruling applications may continue to apply the zero rate of VAT in respect of these supplies until a ruling is issued in response to the individual ruling application. Failure to submit an individual ruling application by 31 January 2014 will result in these supplies being subject to VAT at the standard rate where all the documentary requirements as per section 11(3) read with Interpretation Note 31 (Issue 3) are not met.

6. General

6.1 This ruling does not extend to the issues listed in **6.1.1 and 6.1.2** below:

Reinsurance

6.1.1 Reinsurance will be removed from BGR14 and dealt with separately in another document. Your submission in respect of the class ruling application proposed in your letter dated 13 September 2013 is awaited.

Other concerns and issues

6.1.2 Negotiations on the other aspects not specifically forming part of this ruling will continue with the Industry to explore possible areas of agreement, or to find other appropriate solutions which can be accommodated within the current provisions of the Act. Once these aspects are resolved, the VAT treatment thereof will be integrated into BGR 14.

[1] *Master Currency v CSARS* (155/2012) [2013] ZASCA 17.

6.2 The ruling set out in **5.1 and 5.2** is effective from 1 July 2013 and remains valid until the date on which BGR 14 (Issue 2) is published on the SARS website and is subject to the standard conditions and assumptions as set out in **Annexure B**.

Yours faithfully

MANAGER

INTERPRETATION AND RULINGS

ANNEXURE A

For ease of reference the following sections of the VAT Act are quoted:

Section 1(1) – Definitions

*"**consideration**", in relation to the supply of goods or services to any person, includes any payment made or to be made (including any deposit on any returnable container and tax), whether in money or otherwise, or any act or forbearance, whether or not voluntary, in respect of, in response to, or for the inducement of, the supply of any goods or services, whether by that person or by any other person, but does not include any payment made by any person as a donation to any association not for gain: Provided that a deposit (other than a deposit on a returnable container), whether refundable or not, given in respect of a supply of goods or services shall not be considered as payment made for the supply unless and until the supplier applies the deposit as consideration for the supply or such deposit is forfeited;*

*"**invoice**" means a document notifying an obligation to make payment;*

Section 7 – Imposition of value-added tax

(1) Subject to the exemptions, exceptions, deductions and adjustments provided for in this Act, there shall be levied and paid for the benefit of the National Revenue Fund a tax, to be known as the value-added tax—

(a) on the supply by any vendor of goods or services supplied by him on or after the commencement date in the course or furtherance of any enterprise carried on by him; …

…

calculated at the rate of 14 per cent on the value of the supply concerned or the importation, as the case may be.

Section 8 – Certain supplies of goods or services deemed to be made or not made

(8) For the purposes of this Act, except section 16(3), where a vendor receives any indemnity payment under a contract of insurance or is indemnified under a contract of insurance by the payment of an amount of money to another person, that payment or indemnification, as the case may be, shall, to the extent that it relates to a loss incurred in the course of carrying on an enterprise, be deemed to be consideration received for a supply of services performed on the day of receipt of that payment or on the date of payment to such other person, as the case may be, by that vendor in the course or furtherance of his enterprise: Provided that this subsection shall not apply in respect of any indemnity payment received or indemnification under a contract of insurance where the supply of services contemplated by that contract is not a supply subject to tax under section 7(1)(a): Provided further that this subsection shall not apply in respect of any indemnity payment received by a vendor under a contract of insurance to the extent that such payment relates to the total reinstatement of goods, stolen or damaged beyond economic repair, in respect of the acquisition of which by the vendor a deduction of input tax under section 16(3) was denied in terms of section 17(2) or would have been denied if these sections had been applicable prior to the commencement date…

Section 11 – Zero-rating

(2) Where, but for this section, a supply of services would be charged with tax at the rate referred to in section 7(1), such supply of services shall, subject to compliance with subsection (3) of this section, be charged with tax at the rate of zero per cent where—

(a) the services (not being ancillary transport services) comprise the transport of passengers or goods—

(i) from a place outside the Republic to another place outside the Republic; or

(ii) from a place in the Republic to a place in an export country; or

(iii) from a place in an export country to a place in the Republic; or

(b) the services comprise the transport of passengers from a place in the Republic to another place in the Republic to the extent that that transport is by aircraft and constitutes "international carriage" as defined in Article 1 of the Convention set out in the Schedule to the Carriage by Air Act, 1946 (Act No. 17 of 1946); or

(c) the services (including any ancillary transport services) comprise the transport of goods from a place in the Republic to another place in the Republic to the extent that those services are supplied by the same supplier as part of the supply of services to which paragraph (a) applies; or

(d) the services comprise the insuring or the arranging of the insurance or the arranging of the transport of passengers or goods to which any provision of paragraph (a), (b) or (c) applies; or

(e) …

(f) the services are supplied directly in connection with land, or any improvement thereto, situated in any export country; or

(g) the services are supplied directly in respect of—

(i) movable property situated in any export country at the time the services are rendered; or …

(h) the services comprise—

(i)…

(ii) services provided in connection with the operation or management of any foreign-going ship or foreign-going aircraft; or

…

where the services are supplied directly to a person who is not a resident of the Republic and is not a vendor, otherwise than through an agent or other person; or …

(3) Where a rate of zero per cent has been applied by any vendor under the provisions of this section, the vendor shall obtain and retain such documentary proof substantiating the vendor's entitlement to apply the said rate under those provisions as is acceptable to the Commissioner.

Section 16 – Calculation of tax payable

(3) Subject to the provisions of subsection (2) of this section and the provisions of sections 15 and 17, the amount of tax payable in respect of a tax period shall be calculated by deducting from the sum of the amounts of output tax of the vendor which are attributable to that period, as determined under subsection (4), and the amounts (if any) received by the vendor during that period by way of refunds of tax charged under section 7(1)(b) and (c) and 7(3)(a), the following amounts, namely—

(a) in the case of a vendor who is in terms of section 15 required to account for tax payable on an invoice basis, the amounts of input tax—

(i) in respect of supplies of goods and services (not being supplies of second-hand goods to which paragraph (b) of the definition of "input tax" in section 1 applies and supplies referred to in subparagraph (iiA)) made to the vendor during that tax period;

…

(v) calculated in accordance with section 21(2)(b) or 21(7) or section 22(1), 22(1A) or 22(4), as applicable to the vendor:

Provided that this paragraph does not apply where a vendor acquires goods or services that are to be awarded as a prize or winnings and in respect of which that vendor qualifies or will qualify for a deduction in terms of paragraph (d);

…

(c) an amount equal to the tax fraction of any payment made during the tax period by the vendor to indemnify another person in terms of any contract of insurance: Provided that this paragraph—

(i) shall only apply where the supply of that contract of insurance is a taxable supply or where the supply of that contract of insurance would have been a taxable supply if the time of performance of that supply had been on or after the commencement date;

(ii) shall not apply where that payment is in respect of the supply of goods or services to the vendor or the importation of any goods by the vendor;

(iii) shall not apply where the supply of that contract of insurance is a supply charged with tax at the rate of zero per cent under section 11 and that other person is, at the time that that payment is made, not a vendor and not a resident of the Republic;

(iv) shall not apply where that payment results from a supply of goods or services to that other person where those goods are situated outside the Republic or those services are physically performed elsewhere than in the Republic at the time of that supply;

…

(4) For the purposes of subsection (3), output tax in relation to a supply made by a vendor shall be attributable to a tax period—

(a) in the case of a vendor who is in terms of section 15 required to account for tax payable on an invoice basis—

(i) subject to the provisions of subparagraph (ii), where a supply is made or is deemed to be made by him during that tax period;

Section 20 – Tax invoices

(2) Where a recipient, being a registered vendor, creates a document containing the particulars specified in this section and purporting to be a tax invoice in respect of a taxable supply of goods or services made to the recipient by a supplier, being a registered vendor, that document shall be deemed to be a tax invoice provided by the supplier under subsection (1) of this section where—

(a) the Commissioner has granted prior approval for the issue of such documents by a recipient or recipients of a specified class in relation to the taxable supplies or taxable supplies of a specified category to which the documents relate; and

(b) the supplier and the recipient agree that the supplier shall not issue a tax invoice in respect of any taxable supply to which this subsection applies; and

(c) such document is provided to the supplier and a copy thereof is retained by the recipient:

Provided that where a tax invoice is issued in accordance with this subsection, any tax invoice issued by the supplier in respect of that taxable supply shall be deemed not to be a tax invoice for the purposes of this Act.

…

(4) Except as the Commissioner may otherwise allow, and subject to this section, a tax invoice (full tax invoice) shall be in the currency of the Republic and shall contain the following particulars:

(a) The words "tax invoice" in a prominent place;

(b) the name, address and VAT registration number of the supplier;

(c) the name, address and, where the recipient is a registered vendor, the VAT registration number of the recipient;

(d) an individual serialized number and the date upon which the tax invoice is issued;

(e) full and proper description of the goods (indicating, where applicable, that the goods are second-hand goods) or services supplied;

(f) the quantity or volume of the goods or services supplied;

(g) either—

(i) the value of the supply, the amount of tax charged and the consideration for the supply; or

(ii) where the amount of tax charged is calculated by applying the tax fraction to the consideration, the consideration for the supply and either the amount of the tax charged, or a statement that it includes a charge in respect of the tax and the rate at which the tax was charged:

Provided that the requirement that the consideration or the value of the supply, as the case may be, shall be in the currency of the Republic shall not apply to a supply that is charged with tax under section 11.

(5) Notwithstanding anything in subsection (4), where the consideration in money for a supply does not exceed R5 000, a tax invoice (abridged tax invoice) shall be in the currency of the Republic and shall contain the particulars specified in that subsection or the following particulars:

(a) The words "tax invoice" in a prominent place;

(b) the name, address and VAT registration number of the supplier;

(c) an individual serialized number and the date upon which the tax invoice is issued;

(d) a description of the goods (indicating, where applicable, that the goods are second-hand goods) or services supplied;

(e) either—

(i) the value of the supply, the amount of tax charged and the consideration for the supply; or

(ii) where the amount of tax charged is calculated by applying the tax fraction to the consideration, the consideration for the supply and either the amount of the tax charged, or a statement that it includes a charge in respect of the tax and the rate at which the tax was charged:

Provided that this subsection shall not apply to a supply that is charged with tax under section 11.

…

(7) Where the Commissioner is satisfied that there are or will be sufficient records available to establish the particulars of any supply or category of supplies, and that it would be impractical to require that a full tax invoice be issued in terms of this section, the Commissioner may, subject to such conditions as the Commissioner may consider necessary, direct—

(a) that any one or more of the particulars specified in subsection (4) or (5) shall not be contained in a tax invoice; or

(b) that a tax invoice is not required to be issued; or

(c) that the particulars specified in subsection (4) or (5) be furnished in any other manner.

Section 21 – Credit and debit notes

(4) Where a recipient, being a registered vendor, creates a document containing the particulars specified in this section and purporting to be a credit note or a debit note in respect of a supply of goods or services made to the recipient by a supplier, being a registered vendor, the document shall be deemed to be a credit note or, as the case may be, a debit note provided by the supplier under subsection (3) where—

(a) the Commissioner has granted prior approval for the issue of such documents by a recipient or recipients of a specified class in relation to the supplies or supplies of a specified category to which the documents relate; and

(b) the supplier and the recipient agree that the supplier shall not issue a credit note or, as the case may be, a debit note in respect of any supply to which this subsection applies; and

(c) a copy of any such document is provided to the supplier and another copy is retained by the recipient:

Provided that—

(i) where a credit note is issued in accordance with this subsection, any credit note issued by the supplier in respect of that supply shall be deemed not to be a credit note for the purposes of this Act;

(ii) where a debit note is issued in accordance with this subsection, any debit note issued by the supplier in respect of that supply shall be deemed not to be a debit note for the purposes of this Act.

(5) Where the Commissioner is satisfied that there are or will be sufficient records available to establish the particulars of any supply or category of supplies and that it would be impractical to require that a full credit note or debit note be issued in terms of this section, the Commissioner may, subject to any conditions that the Commissioner may consider necessary, direct—

(a) hat any one or more of the particulars specified in paragraph (a) or, as the case may be, paragraph (b) of subsection (3) shall not be contained in a credit note or, as the case may be, a debit note; or

(b) that a credit note or, as the case may be, a debit note is not required to be issued.

Section 54 – Agents and auctioneers

(3) Where—

(a) a tax invoice or a credit note or debit note in relation to a supply has been issued—

(i) by an agent as contemplated in subsection (1); or

(ii) to an agent as contemplated in subsection (2); or

…

the agent shall maintain sufficient records to enable the name and address and VAT registration number of the principal to be ascertained and in respect of all supplies made on or after 1 January 2000 by or to the agent on behalf of the principal, the agent shall notify the principal in writing within 21 days of the end of the calendar month during which the supply was made or received, of the particulars contemplated in paragraphs (e), (f) and (g) of section 20(4) in relation to such supplies.

ANNEXURE B

STANDARD CONDITIONS AND ASSUMPTIONS

Basis of this VAT ruling and the rulings given in this letter

1. This ruling letter and the rulings set forth herein are based solely upon the following –

    1.1. the information, documents, representations, facts and assumptions that are included or referenced in this ruling being true and accurate;

    1.2. any legal agreements or contracts entered into (or proposed to be entered into) in connection with the transaction being legally valid and enforceable in accordance with their stated terms, the parties to those agreements timeously satisfying their obligations under those agreements, and those agreements otherwise being carried out in accordance with their terms; and

    1.3. the tax laws, regulations, binding general rulings, and cases in effect as of the date of this VAT ruling. In particular, the rulings set forth in this VAT ruling are based solely upon the interpretation and application of the tax laws as amended and in effect as of the date of this VAT ruling, as well as any applicable regulations, general binding rulings or cases in effect, as of that date.

2. The ruling set forth in this ruling letter only applies to the provisions of the tax laws identified in this VAT ruling in connection with the transaction described herein.

The Commissioner's understanding of the transaction

3. This ruling letter and the rulings set forth herein are based upon the Commissioner's understanding of the transaction as described herein.

    Please note that if you believe that this understanding is incorrect, inaccurate or incomplete, it is your obligation to notify the Commissioner immediately. The failure to rectify a misunderstanding of a material fact may result in the ruling being withdrawn or modified.

Subsequent changes in the tax laws

4. This VAT ruling will cease to be effective upon the occurrence of any of the following circumstances:

    4.1 The provisions of the tax laws that are the subject of this VAT ruling are repealed or amended; or

    4.2 A court overturns or modifies an interpretation of the provisions of the tax laws on which the rulings set forth herein are based unless –

4.2.1 the decision is under appeal;
4.2.2 the decision is fact-specific and the general interpretation upon which the rulings were based is unaffected; or
4.2.3 the reference in the decision to the interpretation upon which the rulings were based is *obiter dicta*.

5. In any of these situations, the ruling letter and any rulings set forth herein will cease to be effective immediately upon –

5.1 the effective date of the repeal or amendment of the provisions in question; or
5.2 the date of the judgment,

whichever is applicable. The Commissioner is not obligated to notify you or to otherwise publish a notice of withdrawal or modification.

Fraud, misrepresentation, or nondisclosure

6. This ruling letter and the rulings set forth herein are void *ab initio* if any of the following circumstances exist or occur –

6.1 any facts stated in your application regarding the transaction are materially different from the transaction actually carried out;
6.2 there is fraud, misrepresentation or non-disclosure of a material fact; or
6.3 any condition or assumption stipulated by the Commissioner in this VAT ruling is not satisfied or carried out.

7. A fact is considered material if it would have resulted in a different ruling had the Commissioner been aware of it when issuing this VAT ruling.

Other requirements and limitations

8. This VAT ruling as set out in paragraph 5, is binding in terms of section 41B of the VAT Act, subject to any other requirements and limitations set forth in Chapter 7 of the Tax Administration Act, No. 28 of 2011 (TA Act), as well as any requirements and limitations set forth in any binding general ruling issued by the Commissioner pursuant to section 90 of the TA Act.

THIS RULING LETTER AND THE RULINGS SET FORTH IN IT ONLY APPLY TO THE APPLICANT IDENTIFIED HEREIN. PURSUANT TO SECTION 82(4) OF THE TA ACT, THIS RULING LETTER MAY NOT BE CITED IN ANY PROCEEDING BEFORE THE COMMISSIONER OR THE COURTS OTHER THAN A PROCEEDING INVOLVING THE APPLICANT IDENTIFIED HEREIN.