



Tax and Legal News

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VAT & Transfer pricing adjustments

In terms of the OECD transfer pricing guidelines, intergroup transactions across jurisdictions are required to be at arm's length prices. This often necessitates adjustments to the values of the initial cross-border transactions entered into.

While transfer pricing adjustments impact on profitability of companies, one also needs to consider the potential VAT implications.

Transfer pricing adjustments are usually done at year-end and may be prospective/retrospective and upward/downward depending on the circumstances.

Prospective adjustments

Generally, no action would be required from a VAT perspective since an increased transfer price for future sales/supplies will be reflected on the relevant future invoices and VAT will be accounted for accordingly.

Retrospective adjustments

Transfer pricing adjustments on imported goods

In instances where the adjustment is in respect of goods previously imported into South Africa, it is necessary to adjust the customs value declared for purposes of the import. This is usually done by passing (a) voucher of correction/s.

An upward adjustment in the value of goods previously imported, will result in additional VAT being payable and, if applicable, customs duties. As with the original import of the goods, the additional VAT incurred will be recoverable if it qualifies as input tax and if the required documentation is obtained and retained.

Since the customs legislation requires such an adjustment to be made immediately when you become aware thereof, any adjustment not made timeously will result in penalties and interest.

Transfer pricing adjustments on 'imported services'

Transfer pricing adjustments on services acquired from a non-resident do not follow the above route since the customs legislation is only concerned with the cross-border movement of goods.

However, if you are liable for VAT on imported services (i.e. you acquired services from a non-resident and the services are used for non-taxable or partially taxable purposes) it is important to note that:

- An upward adjustment will result in additional VAT being payable on such imported services;
- A downward adjustment may mean that VAT on imported services was overpaid and an adjustment may be made.

Again, if additional VAT is payable and the adjustment is not made timeously, you will also incur penalties and interest.

Transfer pricing adjustments on goods or services supplied by a South African entity

In some instances, a South African entity will effect an adjustment on goods or services supplied to group entities outside of South Africa.

While logic dictates that if you zero-rated the original supply, any subsequent adjustments should follow the same tax route, one must consider the supporting documents. The South African entity must ensure that the relevant prescribed documentation relating to the adjustment is obtained and retained, e.g. proof of payment, voucher of correction, debit/credit notes, etc, within the prescribed period. If the documentation is not obtained or not obtained timeously, you may incur penalties and interest.

Should you have any queries regarding the above, please do not hesitate to contact us.

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