Seychelles Revenue Commission

PUBLIC RULING - BTR 2009/1

RECORD KEEPING - TAX RECEIPTS

What constitute "sufficient record keeping" pursuant to Section 181 of the Business Tax Act, 1987 pertaining to the deductibility of expenses

Publication Status: may be released

Preamble

Any enquiries in relation to this Public Ruling can be addressed to the Seychelles Revenue Commission, PO Box 50, Orion Mall, Republic of Seychelles.

What this Ruling is about

1. This ruling describes the Commissioner's interpretation of what constitute "sufficient record keeping" pursuant to Section 181 of the *Business Tax Act, 1987* (the Act) in terms of source documents in evidence of sales and purchases. Issuing a valid tax receipt will enable the deductibility of expenses where these expenses are deductable pursuant to Section 40 of the Act.

Legislation

2. The following Business Tax Act, 1987 legislation relates to record keeping:

181. (1) Subject to subsection (2), a business shall keep sufficient records in the English or the French language of the income and expenditure of the business to enable the assessable income and allowable deductions of the business to be readily ascertained and shall retain such records for a period of at least seven years after the completion of the transactions, acts or operation to which they relate, and any business which fails to do so shall be guilty of an offence and liable on conviction to a fine of not less than one thousand rupees and not more than five thousand rupees.

(2) This section shall not require the preservation of any records -

(a) in respect of which the Commissioner has notified a person liable to tax or a business that their preservation is not required, or

(b) of a company which has gone into liquidation and which has been finally dissolved.

(3) Without prejudice to the obligation contained in subsection (1), the Commissioner may require a business, public body or person liable to tax, or required to deduct

withholding or provisional tax, under this Act to keep such records in such manner and for such time as the Commissioner may specify and the business, public body or person shall comply with such requirement and any business, public body or person who fails to comply with such requirement is guilty of an offence and liable to a fine of not less than one thousand rupees and not more than five thousand rupees.

Ruling

3. Pursuant to subsection 181(3) of the Act, and without limiting the scope of subsection 181(1), the Commissioner requires all business, public bodies or persons governed in any way by the *Business Tax Act, 1987* to issue tax receipts in a manner prescribed in paragraph 4.

4. Any business, public body or person mentioned in paragraph 3 must:

    (a) issue a valid tax receipt when making sales of goods or services of more than SR 2,500 (including GST) and the purchaser requests it, and

    (b) hold a valid tax receipt for an expense of more than SR 2,500 (including GST) to be deductable pursuant to Section 40 of the Act.

5. Any business, public body or person who fails to comply with this requirement is guilty of an offence and liable to a fine of not less than one thousand rupees and not more than five thousand rupees.

Date of Effect

6. This ruling applies from 1 April 2009.

Explanations

7. Tax receipts are key integrity measures under our taxation system. They form an essential part of the audit trail and are important evidence that sales have been made and expenditure has occurred. A recipient of a supply of goods or services will rely on the tax receipt in fulfilling their own tax obligations under this ruling.

8. Businesses are required to keep sufficient records so that assessable income and allowable deductions of the business can be readily identified. Without these records, a business cannot deduct any expenses from their assessable income to derive at a taxable income.

9. Having no records to substantiate business expenses, or having incomplete records, will lead to a higher taxable income and therefore more business tax may be due.

10. To avoid disallowing business deductions, the business is required to adhere to minimum record keeping standards. In the context of issuing tax receipts, these standards are explained in detail below.

Suppliers' obligations to provide tax receipts

11. Suppliers of goods or services are obliged to issue tax receipts to recipients within 14 days after the recipient requests them.

12. Suppliers who fail to issue a tax receipt as required are liable to a penalty under paragraph 181(3) of the Act. If a tax receipt is not provided by the supplier as a normal incident of the transaction, the recipient should make a reasonable attempt to request one.

13. If a tax receipt is not received within 14 days after the request, the recipient should contact the Seychelles Revenue Commission for assistance, providing details of the transaction and any attempt(s) to request the document. Suppliers do not need to issue tax receipts if the value of the supply is SR 2,500 (including GST) or less.

Obtaining a tax receipt for your purchase

14. If you want to claim your business purchase as a deductable expense but your supplier does not give you a valid tax receipt within 14 days, you can seek our permission to claim the expense by providing us with the following information:

    (a) your name and contact details,

    (b) documents relating to the purchase,

    (c) the name and address of the supplier,

    (d) the nature, purpose and quantity of the purchase,

    (e) the amount paid or payable, and

    (f) the steps you’ve taken to obtain a tax receipt.

The Commissioner's discretions to treat a particular document as a valid tax receipt

15. If a particular document does not meet the requirements of a valid tax receipt, subsection 181(3) of the Act give the Commissioner discretion to treat the document as a valid tax receipt.

16. The discretions must be exercised in a balanced way that is consistent with the Taxpayers' Charter and should give due weight to the importance of tax receipts as key integrity measures. The discretions are not intended to allow taxpayers to repeatedly avoid complying with clear requirements if they have already been made aware of those requirements. The SRC's aim is to have suppliers and recipients aware of, and complying with, the requirements under this public ruling.

What is meant by 'a reasonable attempt to request a tax receipt'?

17. SRC officers must use their judgment in deciding what is reasonable after considering all the circumstances of the case. The SRC expects the recipient to make a genuine attempt to contact the supplier and request the tax receipt. However, the recipient is not expected to go to extraordinary lengths or great expense to pursue the supplier for the document. The SRC will not necessarily require a written request to be made to the supplier. However, such a document would provide clear evidence of the attempt and would provide more reliable proof than recollections of verbal requests, if action

was later taken against the supplier. SRC officers should obtain details of the recipient's efforts, including copies of any letters sent to the supplier.

18. SRC officers may need to make enquiries of the supplier or other parties in order to obtain the necessary information about a transaction.

Tax receipts for sales of more than SR 2,500

19. Tax receipts for sales that total more than SR 2,500 (including GST) must include:

    1) the words ‘tax receipt’ stated prominently,
    2) the date of issue of the tax receipt,
    3) the name of the seller,
    4) the business telephone number of the seller,
    5) the name of the buyer,
    6) the business telephone number of the buyer,
    7) a brief description of the things sold, and
    8) the price of the sale.

Sample valid tax receipt

TAX RECEIPT			Date: **12 December 2010**
From:	XYZ Pty Ltd Victoria, Mahé		PH - 123456789
To:	ABC & Co. Beau Vallon		PH - 987654321
1	12 Green Widgets @ SR 100		SR 1,200.00
2	6 Red Widgets @ SR 120		SR 720.00
		Total:	SR 1,920.00

What if you claimed a deductable expense without having a valid tax receipt?

20. If you claimed a deductable expense without having a valid tax receipt, you can write to us explaining your circumstances and ask that the invoice or receipt be treated as a valid tax receipt.

21. If we discover a claim of this nature, for example during an audit, we will usually treat the invoices or receipt as a valid tax receipt and allow its deductibility if you:

(a) are entitled to the deduction, and

(b) have made a genuine attempt to comply with the requirement to hold a tax receipt in accordance with paragraph 14 of this public ruling.

Do I require any documentation for purchases of SR 2,500 or less?

22. If you claimed a deductable expense of SR 2,500 or less you are still required to keep records. However, these records do not have to comply with the same criteria governing valid tax receipts as described in paragraph 19.

23. For expenses of SR 2,500 or less, you are still required to keep records that show a clear audit trail if you want the expenses to be deductable. The required audit trail could be satisfied by, for example:

    (a) dockets, receipts or invoices which do not satisfy the criteria of a valid tax receipt, and in limited circumstances

    (b) contemporaneous notes, or

    (c) diary entries.

24. Nevertheless, any audit trail must as a minimum be able to identify the supplier, the date of issue of the goods or services and a description of the goods or services purchased. It is unlikely that any expense will be deductable under Section 40 if these elements cannot be readily verified.

Compliance

25. Any business, public body or person who fails to comply with this public ruling is guilty of an offence pursuant to subsection 181(3) of the Act and liable to a fine of not less than one thousand rupees and not more than five thousand rupees.

Commissioner of Revenue

Date of issue: 1 January 2009