

PUBLIC RULING – 2025- 2

Subject Heading: Clarification with respect to Value Added Tax implications as per the Value Added Tax Act, 2010 (As amended) and its respective regulations.

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Any enquiry in relation to this Public Ruling can be addressed to the Seychelles Revenue Commission, PO Box 50, Maison Collet, Republic of Seychelles.

Preamble

1. This document is a ruling for the purposes of Section 58 of the Revenue Administration Act 2009 (RAA). You can rely on the information presented in this document on how to assess input Value Added Tax on returns submitted in the particular instance as outlined below for the financial tax year 2024 onwards.

Purpose

2. The purpose of this public ruling is to address the below queries:
 - (a) Whether a new business which is still in the construction phase and intends to derive taxable supplies is eligible to be registered for VAT?
 - (b) Whether an existing business which has suspended operation due to renovation is eligible to be registered for VAT?

Legislative Framework

3. As per the Value Added Tax Act, 2010:

- Part I – “taxable supply” means (a) a supply, other than exempt supply, made in Seychelles by a person in the course of furtherance of an enterprise; or (b) a deemed taxable supply under this Act.
- Section 6(1) which reads “Subject to this Act, value added tax at the rate specified in subsection (3) is levied on–
(a) taxable supplies made by a taxable person;
(b) taxable imports.”
- Section 7 pertaining to Compulsory Registration reads:
 - (1) A person must apply to the Revenue Commissioner for registration for VAT–

(a) at the beginning of any 12 month period, if there are reasonable grounds to expect that the person will exceed the registration threshold in that period; or
(b) at the end of any 12 month or lesser period, if in that period the person exceeds the registration threshold.
 - (2) A person exceeds the registration threshold in a particular period if the total value of taxable supplies made or reasonably expected to be made by the person during the period is equal to or greater than the amount specified in the Fifth Schedule.
 - (3) In determining whether a person exceeds the registration threshold for a period, the value of the following taxable supplies is ignored–
(a) a taxable supply by way of the sale of a capital asset of the person; and
(b) a taxable supply made solely as a consequence of the person selling the whole or a part of the person's enterprise or permanently ceasing to carry on the person's enterprise.
 - (4) For the purposes of determining whether a person exceeds the registration threshold, the Revenue Commissioner may treat the value of taxable supplies made by the person as including the value of taxable supplies made by an associate of the person if the Revenue Commissioner is satisfied that it is appropriate to do so having regard to–
(a) the enterprises carried on by the persons;
(b) the way in which those enterprises are carried on;
(c) the connections between the persons and their enterprises; or
(d) any other relevant matter.
 - (5) An application for registration made by a person must be in the prescribed form and must be lodged with the Revenue Commissioner within fourteen days of the person becoming required to apply for registration.
 - (6) A capital asset is a tangible or intangible asset of an enterprise having a useful life of longer than one year, but does not include trading stock
- Section 9 relating to Voluntary Registration reads:

(1) "Notwithstanding section 7, any person who, in the course of his enterprise makes or intends to make taxable supplies may apply to the Revenue Commissioner in prescribed form for voluntary registration.

(2) "(a) where the value of taxable supplies is equal to or greater than the amount specified in the Fourth Schedule, the person has –(i) at the beginning of the 6 month period, if there are reasonable grounds to expect that the person will exceed the voluntary registration threshold in that period; or (ii) at the end of any 12 month or lesser period, if in that period the person exceeds the voluntary registration threshold;"

"(2A) A person exceeds the voluntary registration threshold in a particular period if the total value of taxable supplies made or reasonably expected to be made by the person during the period is equal to or greater than the amount specified in the Fourth Schedule.

(2B) Notwithstanding subsection (1) , the Commissioner General may refuse the registration of any person, if –

(a) the person has not met the threshold or criteria specified under section 9 (1) to (2)(d) of the Act; or

(b) the person has no bank account; or

(c) the person has previously been registered for VAT on a voluntary basis but has failed to fulfil the conditions stated under this Act; or

(d) the Commissioner General has concerns about potential abuse or fraud pursuant to section 8(7)(c).

(3)The Revenue Commissioner must issue a person registered under this section with a VAT registration certificate in the prescribed form.

(4)Registration under this section takes effect from the date set out in the person's VAT registration certificate.

Ruling

4. This Private Ruling seeks to provide clarity on the Value Added Tax (VAT) treatment applicable to the following scenarios:

1. A newly registered taxpayer that is currently within the investment phase—for instance the construction of a building that will be deriving taxable supplies—and is applying for VAT registration for the purpose of claiming input tax credits on VAT-incurred expenses.
2. A registered taxpayer that is temporarily suspending its business operations due to renovation activities;
3. A registered taxpayer that was previously not engaged in a taxable business activity but is now undertaking a new venture, such as the development of a commercial building, which will generate taxable supplies.

The Private Ruling also aims to clarify the eligibility to claim input VAT on construction materials and services acquired for the development of a commercial building, even in cases where taxable supplies have not yet

commenced. The primary objective of this ruling is to offer guidance to taxpayers who are in the process of constructing commercial properties but have not yet begun deriving taxable revenue from such assets.

In this context, taxpayers who are engaged in the construction of a commercial building—regardless of the stage of development, including the preliminary phase—may be entitled to claim input VAT on payments made to contractors and suppliers who charge output VAT, provided that such goods and services are directly linked to the activity that will be driving taxable supplies. The future generation of taxable supplies from the completed commercial building establishes the nexus required for input VAT deduction. Accordingly, the construction-related expenditure is deemed to be directly associated with the taxpayer's intended taxable business activities in respect of VAT and is therefore allowable for input VAT purposes.

5. Eligibility:

1. The taxpayer must be registered for VAT with the Seychelles Revenue Commission. If the taxpayer is not yet registered but intends to use the commercial building for taxable activities, as per S.I. 97 of 2024, Value Added Tax (Amendment of Fourth Schedule) Regulations, 2024, imposes the following registration thresholds:
 - a) The compulsory registration threshold for the purposes of section 7 is SCR 2,000,000.
 - b) The voluntary registration threshold for the purposes of Section 9 of the Value Added Tax Act is SCR 100,000.

As per Section 9 of the VAT Act, 2010 (as amended), any person who is engaged or intends to engage in taxable supplies in the course of their enterprise may apply for voluntary registration for VAT purposes. Subsection (2) of aforementioned Section states that the Commissioner General must register a person who applies for VAT registration, provided the Commissioner is satisfied that the person meets one of the following criteria:

- **Criteria 1:** At the beginning of the 6-month period, there are reasonable grounds to expect that the person will exceed the voluntary registration threshold specified in the Fourth Schedule.

Example: A startup person is in the process of constructing a commercial building intended for lease to various retail tenants. Based on signed lease agreements and market analysis, the person projects that rental income will reach SCR 150,000 within the next six months. Although the building is not yet operational, these projections provide reasonable grounds to expect that the business will exceed the voluntary registration threshold. Therefore, the person can apply for voluntary VAT registration at this stage.

- **Criteria 2:** At the end of any 12-month or shorter period, the person has exceeded the voluntary registration threshold as defined in the Fourth Schedule.

Example: An investment firm has completed the construction of a commercial property and has begun leasing office spaces. Over the past 12 months, the firm has generated SCR 120,000 in rental income from these leases. Having now exceeded the voluntary registration threshold, the firm is eligible to apply for voluntary VAT registration.

However, the timeline in criteria 1 and 2 may not apply for substantial investment projects which goes beyond a period of 12 months. Hence, investment projects are excluded from such criteria and can still apply to be in VAT provided that the intention based on the activity description is to derive taxable supplies.

SRC may request that the person submits a forecast of income for taxable supplies for the next 12 months after commencement of operation together with the registration form.

2. The taxpayer must demonstrate that the building is intended for use in making taxable supplies (e.g. commercial rent, commercial operations such as tourism accommodation subject to VAT).
3. The VAT registered contractor/supplier has issued a valid VAT invoice showcasing the VAT component payable

6. VAT Registration Status:

An existing business that has temporarily suspended operations for renovations can still be eligible for VAT registration and claim input VAT, subject to conditions, as per below:

- If the business was previously VAT-registered, it may remain registered even during temporary closure.
- If the business was not VAT-registered before closure, it may still apply for voluntary VAT registration (if it intends to continue making taxable supplies post-renovation).

7. Claiming Input VAT during Renovation:

- Input VAT can be claimed if the renovation costs are incurred for the purpose of resuming taxable activities.
- Key conditions for input VAT claims:
 - The expenses must be related to taxable supplies (e.g., renovation work, contractor fees, new equipment).
 - The business must retain proper documentation (invoices, receipts).

If the business was deregistered from VAT before the renovation, it cannot claim input VAT until it is re-registered.

8. Process for Claiming input VAT:

Section 24(1) and (2) of the VAT Act respectively reads *"Subject to this Act, a taxable person is allowed an input tax credit for the input tax imposed on a creditable acquisition by the person to the extent that the acquisition was for the purposes of making taxable supplies."*

(2) A creditable acquisition made in a VAT period relates to making a particular kind of supply is determined on the basis of the taxable person's intention at the time of the acquisition, when—

(a) a change in intention occurs before the date on which the VAT return for that period is required; or

(b) the taxable person takes account of actual use.

If input tax exceeds output tax, the VAT return shows a VAT credit. In most cases, the credit is carried forward to the next period. In some cases, this credit may be refunded. As per Section 26 relating to input tax credit for newly registered person, *"Subject to this Act, a taxable person may claim, in the first VAT return furnished by the person after the person is registered, an input tax credit determined in accordance with sections 24 and 25 for the input tax paid in respect of goods held at the date of registration for the purpose of making taxable supplies, if—*

(a) at the end of the last day before the date of the person's registration, the person held the goods as trading stock;

(b) the trading stock was acquired by the person in a creditable acquisition by the person;

(c)the creditable acquisition occurred no more than six months prior to the date of registration; and

(d)the person can provide documentary evidence satisfactory to the Revenue Commissioner that input tax has been paid on the creditable acquisition.”

Date of Effect

This ruling applies from the 23rd of April 2025.



**Commissioner General
Seychelles Revenue Commission
2025**