



# Ministry Of Finance

## VAT Department

### VAT RULE 2015-004

### Group Registration



## VAT RULE

### 2015-004 - Group Registration

#### A. Authority

This Ruling is made under Section 17 of the Value Added Tax Act, 2014.

#### B. Legislation

All legislative references are to the Value Added Tax Act, 2014 and/or the Value Added Tax Regulations 2014, unless otherwise stated.

#### C. This Rule applies in relation to:

VAT Act – Section 23 (4) and (5), 23 (7) – Registration; and  
VAT Regulation 7 – Related parties

#### D. Application of Rule

The purpose of this Rule is to set out the requirements for VAT Group registration as of January 1, 2015. The Rule seeks to introduce a VAT Group accounting regime which would provide for a group of entities with the approval of the VAT Comptroller being treated as a single taxpayer for the purposes of the Act. The new regime would achieve cost and resource efficiencies through the optimization of the business structure of a group of entities and cost cutting by the use of shared services. It also seeks to eliminate the risk of incorrect VAT treatment of intra-group transactions as no VAT will be applicable to an intra-group transaction.

#### E. Comptroller's Rule

##### Definitions:

1. The following definitions will apply in these Rules:

*Affiliate* – is defined in accordance with Section 2 of the Companies Act (Ch. 308).

*Entities* – an entity means:

- (a) company;
- (b) any other body corporate that is regulated under any one or more of the regulated companies legislation; or
- (c) Port Licensees defined under Section 2 of the VAT Act

**Parent** – is defined in accordance with Section 2 of the Companies Act (Ch.308).

**Related Persons** – In accordance with Regulations 7 of the VAT Regulations

**Subsidiary** – is defined in accordance with Section 2 of the Companies Act, (Ch. 308).

**VAT Group** – a group of two or more registrants that have been approved to form a group under this Rule and to be treated as a single registrant.

### **Approval of a VAT Group**

1. The VAT Comptroller may grant an application to approve as a VAT Group two or more related entities being treated as a single taxpayer for the purposes of this Act if the Comptroller is satisfied that each entity meets the requirements within a VAT Group.
2. Where the Comptroller approves a VAT Group the Comptroller shall also approve or designate as a representative entity of the VAT Group, a company within the VAT Group

### **Requirements for entities within a VAT Group**

3. The related persons within a group shall:
  - a. be affiliated with each other;
  - b. have a parent/subsidiary relationship or have an identical share structure or is otherwise structured in such a way that satisfies the Comptroller that the VAT Group's financial and operational integration justifies grouping;
  - c. not be grouped with Port Licensees and non-Port Licensees unless the Port Licensees and non-Port Licensees produce consolidated financial statements and the Port Licensees agree to forego any differential VAT treatment for inputs and supplies afforded under Section 3 of the VAT Act;
  - d. not consist of residents and non-residents together;
  - e. not form a VAT Group consisting of regulated companies and non-regulated companies, or regulated companies not regulated by the same regulatory body;
    - i. Regulated activities include securities and investments operations, banking, insurance, telecommunications and web-shop gaming;
    - ii. Regulated companies include Registrants operating under:  
  
*The Banks and Trust Companies Regulation Act (Ch. 316),  
Investment Fund Act (Ch.369A ),  
Insurance Act (Ch. 347)  
Securities Industry Act, 2010,  
The Communications Act (Ch. 304), and  
The Gaming Act, 2014*
  - f. have the same accounting basis for VAT;
  - g. notwithstanding item (f), where the combined turnover of the members of the VAT Group exceeds a threshold of \$1,000,000 the Comptroller shall change the accounting basis to the Accrual Basis;

- h. not be an entity within any other group;
- i. not have any outstanding liabilities for revenue payable under
  - iii. this Act; or
  - iv. any of the following: Business License Act, Real Property Tax Act, and the Customs Management Act; and
- j. not be permitted to file a separate VAT Return.

### **Application for Approval**

- 4. The entities that are desirous of being treated as a VAT Group for the purposes of this Act shall make a joint application to the Comptroller in the prescribed form and manner for approval as a Group.
- 5. The Comptroller may also request in specific instances for any of the entities making the application to furnish such additional information or documents as he may require to further evaluate the application.
- 6. The application under Paragraph 4 shall propose that one of the applicant entities be designated as the representative entity of the Group.

### **Decision by the Comptroller on Application**

- 7. Where the Comptroller approves an application, he shall notify in writing the approved representative entity of the decision and of the date that the approval shall come into effect.
- 8. Where the Comptroller refuses an application he shall notify in writing the proposed entity of the decision, stating the reasons for the refusal.

### **Treatment of entities for tax purposes and filing of returns**

- 9. Any taxable activity carried on by an entity within a VAT Group shall be deemed to be a taxable activity carried on by the representative entity of the VAT Group and not carried on by any other entity within the Group.
- 10. Any supply of goods or services made to or by an entity within a VAT Group shall be deemed to be a supply made to or by the representative entity of the Group.
- 11. Notwithstanding the above, intra-Group supplies of goods or services shall neither be regarded as taxable or exempt treatment for the purposes of the Act.
- 12. The provisions above shall only apply to an entity within the VAT Group in respect of a supply of goods and services made by or to that entity during the period when that entity is within the VAT Group.

13. Inputs and outputs of members of the Group shall receive a similar VAT treatment irrespective of the place of supply or importation within the Bahamas.
14. The filing period of the VAT Group shall be monthly.
15. A representative entity may claim as a deduction or credit such input tax paid or payable that the entities within the VAT Group would, were they not within the VAT Group, be entitled to claim.
16. Any deduction or credit that is due to an entity within a VAT Group in respect of the period during which the entity is within the VAT Group, shall instead be due to the representative entity of the VAT Group.
17. Members of the Group shall be jointly and severally liable for taxes payable by the representative entity of the Group.
18. The joint and several liability for taxes incurred during the tax periods while an entity was in the VAT Group shall continue, notwithstanding that the entity has ceased to be in the VAT Group.
19. The representative entity of a VAT Group shall be responsible for complying with this Act on behalf of all entities within the VAT Group.
20. The provisions of the Act that apply to each registrant member shall apply equally to the representative entity.

### **Duties of the Representative Entity**

21. The representative entity of a VAT Group shall:
  - a. ensure that proper records of all transactions of entities within the VAT Group are kept in accordance with the Act;
  - b. file returns required under this Act on behalf of all entities within the VAT Group;
  - c. pay any tax or other amount under this Act that the VAT Group or any entity within the VAT Group is liable to pay;
  - d. make records, in respect of the VAT group and entities therein, available for inspection by the Comptroller for the purposes of this Act;
  - e. notify the Comptroller of any circumstances that would require the Comptroller to revoke the approval of the VAT Group;
  - f. notify the Comptroller if an entity ceases to meet the qualifications to be a member of the VAT Group;
  - g. notify the Comptroller of any circumstances of any entity within the VAT Group that would disqualify that entity from being a member of the VAT Group.
  - h. ensure that Business Licenses of the entities within the VAT Group are current and, as far as possible, consolidated within the VAT Group regime.

22. Where the representative entity becomes aware of any circumstances in the preceding paragraph that requires that the Comptroller be notified, the representative shall notify the Comptroller within 30 days of such circumstances. In respect of the tax period in which the Group existed, this obligation to notify the Comptroller will remain notwithstanding the fact that entity may no longer be the representative entity of the VAT Group; however, where a new representative entity has been appointed and the Comptroller is satisfied that the new representative entity is in command of the circumstances referenced in this paragraph, the obligation to notify will be the obligation of the new representative entity.

**Application for Representative to make changes:**

23. The Comptroller upon application of a representative entity of a VAT Group may approve any one or more of the following:

- a. the addition to a VAT Group of an entity that meets the criteria for grouping;
- b. the removal of an entity from the VAT Group;
- c. the designation of another member to be the Group representative;
- d. the dissolution of the Group.

**Revocation of a VAT Group:**

24. Notwithstanding 24 (d) above, the Comptroller may revoke the approval of a VAT Group if he is satisfied that the representative entity has not complied with any its obligations under this Rule or the Act.

25. Where the Comptroller intends to revoke, he shall notify the representative entity within 30 days in writing of his intentions and shall allow the representative entity to respond.

26. Within 14 days, the representative entity shall make representation in any form allowed under the Act to the Comptroller regarding the reasons to maintain the certification of a VAT Group.

27. Where the Comptroller is satisfied that the revocation should not be made, he shall notify the representative entity of his decision.

28. Where the Comptroller decides that revocation should be made, then he shall notify the representative entity of his decision.

29. Any notice delivered to the representative entity of a VAT Group shall be deemed to be delivered to each of the entities within the VAT Group.

**F. The period for which this Rule applies**

This Rule shall apply for the period beginning on January 1<sup>st</sup> 2015, until it is withdrawn or replaced.

**G. Approval and Coming into Force**

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Approved by the VAT Comptroller

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Date