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VAT PROCEDURES

Learning objectives

After reading this chapter you will be able to understand:

- .. the provisions relating to registration under VAT laws.
- .. what is tax payer identification number (TIN).
- .. the general provisions relating to VAT invoice.
- .. the type of records to be maintained under VAT laws.
- .. the basic provisions relating to filing of returns under VAT laws.
- .. the general provisions relating to assessment and audit as provided under VAT laws.
- .. the tax rates as prescribed under VAT laws.

1. Registration

Registration is the process of obtaining certificate of registration (RC) from the authorities under the VAT Acts. A dealer registered under the VAT Acts is called a registered dealer. Any dealer, who intends to carry on the business of purchase and sale of goods in the State and is liable to pay tax, cannot carry on the business unless he is registered and holds a valid registration certificate under the Act.

1.1 Eligibility for registration : As per the provisions contained in the White Paper, registration of dealers with gross annual turnover above ₹ 5 lakh will be compulsory. There will be provision for voluntary registration. All existing dealers will be automatically registered under the VAT Act. A new dealer will be allowed 30 days time from the date of liability to get registered. An application for registration should be made to the VAT Commissioner.

The White Paper specifies that registration under the VAT Act will not be compulsory for the small dealers with gross annual turnover not exceeding ₹ 5 lakhs. However, the Empowered Committee of State Finance Ministers subsequently allowed the States to increase the threshold limit for the small dealers to ₹ 10 lakhs with the condition that the concerned State would bear the revenue loss, on account of increase in limit beyond ₹ 5 lakhs.

Generally, a dealer means any person, who consequent to, or in connection with, or incidental to, or in the course of his business, buys or sells goods for a consideration or otherwise.

6.2 Taxation

All sales or purchases of goods made within the State except the exempted goods would be subjected to VAT.

1.2 Compulsory registration : If an assessee fails to obtain registration under the VAT Act, he may be registered compulsorily by the Commissioner. The Commissioner may assess the tax due from such person on the basis of evidence available with him. In this event the assessee shall have to forthwith pay such amount of tax. Further, failure to get registered shall result in attracting default penalty and forfeiture of eligibility to set off all input tax credit related to the period prior to the compulsory registration.

1.3 Voluntary registration : A dealer otherwise not eligible for registration may also obtain registration if the Commissioner is satisfied that the business of the applicant requires registration. The Commissioner may also impose any terms or conditions that he thinks fit.

1.4 Cancellation of registration: The registration can be cancelled on:

- (i) discontinuance of business; or
- (ii) disposal of business; or
- (iii) transfer of business to a new location; or
- (iv) annual turnover of a manufacturer or a trader dealing in designated goods or services falling below the specified amount.

2. Tax Payer's Identification Number (TIN)

TIN (Tax Payer's Identification Number) is a code to identify a tax payer. It is the registration number of the dealer. The taxpayer's identification number will consist of 11 digit numerals throughout the country. First two characters will represent the State code as used by the Union Ministry of Home Affairs. The set-up of the next nine characters will be, however, different in different States. TIN will facilitate computer applications, such as detecting stop filers and delinquent accounts. TIN will help cross-check information on tax payer compliance, for example, the selective cross-checking of sales and purchases among VAT taxpayers.

3. VAT invoice

Invoice is a document listing goods sold with price, tax charged and other details as may be prescribed and issued by a dealer authorized under the Act.

The whole structure of the VAT with input tax credit is founded on the documentation of a tax invoice, a cash memo or a bill. The White Paper mainly provides for the following provisions, which are mandatory, and failure to comply with these attracts penalty:

- (i) Every registered dealer whose turnover of sales exceeds the specified amount shall issue to the purchaser a serially numbered tax invoice, cash memo or bill with the prescribed particulars.
- (ii) The tax invoice shall be dated and signed by the dealer or his regular employee, showing the required particulars.

(iii) The dealer shall keep a counterfoil or duplicate of such tax invoice duly signed and dated.

3.1 Importance of VAT invoice (tax invoice) : Invoices are crucial documents for administering VAT. In the absence of invoices VAT paid by the dealer earlier cannot be claimed as set off. Invoices should be preserved with full care. In case any original invoice is lost or misplaced, a duplicate authenticated copy must be obtained from the issuing dealer.

A VAT invoice:

- (i) helps in determining the input tax credit;
- (ii) prevents cascading effect of taxes;
- (iii) facilitates multi-point taxation on the value addition;
- (iv) promotes assurance of invoices;
- (v) assists in performing audit and investigation activities effectively;
- (vi) checks evasion of tax.

3.2 Contents of VAT invoice: VAT legislations of all States provide for the contents of the tax invoice. By and large there would be no need for a separate tax invoice, a regular invoice can also be termed as tax invoice if it has the prescribed contents. Generally, the various legislations provide that the tax invoice should have the following contents:

- (i) the words 'tax invoice' in a prominent place;
- (ii) name and address of the selling dealer;
- (iii) registration number of the selling dealer;
- (iv) name and address of the purchasing dealer;
- (v) registration number of the purchasing dealer (may not be required under all VAT legislations);
- (vi) pre-printed or self-generated serial number;
- (vii) date of issue;
- (viii) description, quantity and value of goods sold;
- (ix) rate and amount of tax charged in respect of taxable goods;
- (x) signature of the selling dealer or his regular employee duly authorized by him for such purpose.

3.3 Other invoices: Normally, a VAT dealer is expected to indicate the rate of tax and the amount of tax charged in the invoice issued. However, in case of small dealers or if the sale is to end consumer, other invoices are permitted without the details of tax. Such invoices should contain the following particulars:

- (i) name and address of the selling dealer;
- (ii) registration number of the selling dealer;
- (iii) name and address of the purchasing dealer;
- (iv) registration number of the purchasing dealer;

6.4 Taxation

- (v) pre-printed or self generated serial number;
- (vi) date of issue;
- (vii) description, quantity and value of goods sold;
- (viii) signature of dealer or his/her representative.

However, to ensure that the revenue legally due to the States is realized and remitted, it is advisable that the invoice should contain the details of the rate of tax and the tax charged in an explicit manner.

3.4 Format of a tax invoice : No prescribed statutory format is given for tax invoice in the White Paper or for that matter in any State VAT Act. Only the contents of the tax invoice have been prescribed. However, a standard format of the same may look like the one given below:

TAX INVOICE

ORIGINAL – BUYER'S COPY

Seller's Name Tax Invoice No.
Address Date:
.....
Challan No. and date
Phone No. Buyer's Name & Address
VAT Registration No. Buyer's VAT Registration No., if any
CST Registration No.

S No.	Quantity	Description of Goods	Price per unit	Value (Rs.)	VAT Rate	Tax Amt.	Total (Rs)	

TOTAL _____

Rupees in figures

E & O.E

Signature
(of selling dealer or his authorized employee)

3.5 Composition scheme: The provisions relating to tax invoice do not apply to a selling dealer who has opted to avail the composition scheme under the respective State VAT laws. Thus, a composition scheme dealer cannot issue a 'tax invoice'.

4. Records

The following records should be maintained under VAT system:

- (i) Purchase records
- (ii) sales records
- (iii) VAT account
- (iv) separate record of any exempt sale

Further, the following records should also be kept and produced to an officer:

- (i) copies of all invoices issued, in serial number;
- (ii) copies of all credit and debit notes issued, in chronological order;
- (iii) all purchase invoices, copies of customs entries, receipts for payment of customs duty or tax, and credit and debit notes received to be filed chronologically either by date of receipt or under each supplier's name;
- (iv) details of the amount of tax charged on each sale or purchase;
- (v) total of the output tax and the input tax in each period and a net total of the tax payable or the excess carried forward, as the case may be, at the end of each month;
- (vi) details of goods manufactured and delivered from the factory of the taxable person;
- (vii) details of each supply of goods from the business premises, unless such details are available at the time of supply in invoices issued at, or before, that time;

Failure to keep these records may attract penalty. All such records should be preserved for the period specified in respective State provisions.

4.1 No declaration forms: Most of the declaration forms that existed before the introduction of VAT have been dispensed with. Use of declaration forms is expected to be stopped completely. Lot of time and energy is wasted by the dealer in getting declaration forms from the department.

There is no provision for concessional sale under the VAT Acts since the provision for set off makes the input zero-rated. Hence, there will be no need for declaration form.

5. Returns

Under VAT laws there are simple forms of returns. Returns are to be filed monthly/quarterly/annually as per the provisions of the State Acts/Rules. Returns will be accompanied with the payment challans. Some States have devised return cum challans. In these cases the returns along with the payment can be filed with the treasury.

A registered dealer may be required to file a monthly/quarterly/annual return along with the requisite details such as output tax liability, value of input tax credit, payment of VAT etc. Opportunity may be provided to lodge revised returns.

Every return furnished shall be scrutinized expeditiously within the prescribed time limit from the date of filing the return. If any technical mistake is detected on scrutinizing, the dealer shall be required to pay the deficit appropriately.

Return filing procedures under VAT laws are designed with the objective of:

- (i) reducing the compliance costs incurred by the businesses in completing and filing their returns; and
- (ii) encouraging businesses to comply with their obligations to file returns and pay VAT through the application of penalties in case of late payment of VAT and late filling of returns; and
- (iii) ensuring the efficient processing of the data included in the returns.

6. Assessment

The basic simplification of VAT is with reference to assessment. Under VAT system, there is no compulsory assessment at the end of each year. The VAT liability is self-assessed by the dealer himself in terms of submission of returns upon setting off the tax credit, return forms etc. The other procedures are also simple in all the States.

Deemed assessment concept is a major feature of the VAT. If no specific notice is issued proposing departmental audit of the books of account of the dealer within the time limit specified in the Act, the dealer will be deemed to have been self-assessed on the basis of the returns submitted by him.

VAT pre-supposes that all the dealers are honest. Scrutiny may be done in cases where a doubt arises of under-reporting of transaction or evasion of tax. Honest dealers will be protected and fictitious or dishonest would be penalized heavily.

6.1 System of cross checking: In the VAT system more emphasis has been laid on self-assessment. Hence, a system of cross-checking is essential. Dealers may be asked to submit the list of sales or purchases above a certain monetary value or to give the dealer-wise list from whom or to whom the goods have been purchased/sold for values exceeding a prescribed monetary ceiling.

A cross-checking computerized system is being worked out on the basis of coordination between the tax authorities of the State Governments and the authorities of Central Excise and Income-tax to compare constantly the tax returns and set-off documents of VAT system of the States and those of Central Excise and Income-tax. This comprehensive cross-checking system will help reduce tax evasion and also lead to significant growth of tax revenue. At the same time, by protecting the interests of tax-complying dealers against the unfair practices of tax-evaders, the system will also bring in more equal competition in the sphere of trade and industry.

7. Audit

In the VAT system considerable weightage is placed on audit work in place of routine assessment work.

Correctness of self-assessment will be checked through a system of Departmental Audit. A certain percentage of the dealers will be taken up for audit every year on a scientific basis. If, however, evasion is detected in the course of audit, the previous records of the concerned dealer may be taken up for audit.

Authorized officers of the department will visit the business place of the dealer to conduct the audit. The auditors will examine the correctness of the returns *vis-a-vis* the books of account of the dealer or any other information available with them. They will be equipped with the information gathered from various agencies such as suppliers, income tax department, excise and customs department, banks etc. Officers of the higher rank will supervise to ensure that the audit work is done in a free, fearless and impartial manner.

7.1 Accounts to be audited in certain cases : Under the sales-tax laws, tax evasion is considered to be on a large scale. The sales-tax departments of various States have not been able to effectively check the menace of tax avoidance and tax evasion. Therefore, apart from the departmental audit many States have also incorporated the concept of audit of accounts by chartered accountants. The State of Maharashtra has prescribed an elaborate list of particulars to be furnished by the dealers. These particulars have to be verified by the VAT auditor.

However, auditing for all types of dealers may not be necessary. The selection of cases for auditing has to be made in accordance with the criteria of the size of dealers. In such a case, the returns supported by the audited statement can be accepted summarily. However, it might indeed be useful to cull out a fixed proportion of large and medium sized dealers for regular assessments on a regular basis. In Maharashtra and Rajasthan, the dealer whose turnover exceeds Rs.40 lakhs in any year is required to get his accounts audited in respect of such year.

8. Penal provisions

Since VAT is purely a State subject, States will have incorporated penal provisions as per their requirements. However, these are in general more stringent than those in the earlier sales tax laws. Since, the State taxation laws have allowed certain additional benefits in the form of input tax credit, which was not available earlier, they have introduced more stringent penal provisions to discourage evasion of taxes.

9. Tax rates under VAT

Under the VAT system, there are only two basic VAT rates of 4% and 12.5% plus a specific category of tax-exempted goods and a special VAT rate of 1 % for gold and silver ornaments,

etc. Thus the multiplicity of rates in the sales-tax system has been done away with under the VAT system.

9.1 Exempted category: Under exempted category, there are about 50 commodities comprising of natural and unprocessed products in unorganised sector, items which are legally barred from taxation and items which have social implications. Included in this exempted category is a set of maximum of 10 commodities flexibly chosen by individual States from a list of goods (finalised by the Empowered Committee) which are of local social importance for the individual States without having any inter-State implication. The rest of the commodities in the list will be common for all the States.

9.2 4% VAT category: Under 4% VAT rate category, there are largest number of goods, common for all the States, comprising of items of basic necessities such as medicines and drugs, all agricultural and industrial inputs, capital goods and declared goods. The schedule of commodities are attached to the VAT Acts of the States.

9.3 12.5% category : The remaining commodities, common for all the States, fall under the general VAT rate of 12.5%.

9.4 1% Category : The special rate of 1% is meant for precious stones, bullion, gold and silver ornaments etc.

9.5 Non-VAT goods : Petrol, diesel, ATF, other motor spirit, liquor and lottery tickets are kept outside VAT. The States may or may not bring these commodities under VAT laws. However, it is agreed that all these commodities will be subjected to 20% floor rate of tax.

10. Miscellaneous

10.1 Coverage of goods under VAT: In general, all the goods, including declared goods are covered under VAT and get the benefit of input tax credit.

The few goods which are outside VAT are liquor, lottery tickets, petrol, diesel, aviation turbine fuel and other motor spirit since their prices are not fully market determined. These will continue to be taxed under the Sales-tax Act or any other State Act or even by making special provisions in the VAT Act itself at uniform floor rates decided by the Empowered Committee.

10.2 Stock transfer: Inter-State transfers do not involve sale and, therefore they are not subjected to sales-tax. The same position continues under VAT.

However, the tax paid on:

- (i) inputs used in the manufacture of finished goods which are stock transferred; or
- (ii) purchases of goods which are stock transferred

will be available as input tax credit after retention of 2% of such tax by the State Governments.

10.3 Compensation for losses: Although the introduction of VAT may, after a few years, lead to revenue growth, there may be a loss of revenue in some States in the initial years of transition. Some of the State Governments were resistant to introduce VAT account of this

reason. The Government of India therefore agreed to compensate for 100 per cent of the loss in the first year, 75 per cent of the loss in the second year and 50 per cent of the loss in the third year of introduction of VAT. The loss would be computed on the basis of an agreed formula. This position was not only reaffirmed by the Union Finance Minister in his Budget Speech of 2004-05, but a concrete formula for this compensation has also been worked out after interaction between the Union Finance Minister and the Empowered Committee. However, in the first year of introduction, only a few States have claimed such compensation.

10.4 Imports into the VAT chain: Presently States do not have powers to levy a tax on imports. It is also essential to bring imports into the VAT chain. This will need a constitutional amendment. Because of the availability of set-off, not only cascading effect would be reduced but tax compliance would also improve. The Empowered Committee is discussing this issue with the Government of India.