



GRA

GHANA REVENUE AUTHORITY

Practice Note on Supplies that are exempt at Importation but taxable in the Domestic Market under the Value Added Tax Act, 2013 (Act 870)

Practice Note Number: DT/2021/004

Date of Issue: 30th September, 2021

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1.0 PREAMBLE

The Commissioner-General of the Ghana Revenue Authority is empowered under Section 100 of the Revenue Administration Act, 2016 (Act 915) to issue Practice Notes setting out the interpretations placed on provisions of the tax laws.

The presumption by some stakeholders is that goods that are exempt at importation must necessarily be exempt when supplied in the domestic market. However, the tax status of domestic supplies may vary because whilst exempt supplies (domestic) are restricted to the First Schedule to Act 870, exempt import is governed by a combination of the First Schedule to Act 870 and the Harmonised System. Accordingly, this Practice Note is issued in respect of supply of goods which is exempt at importation, but taxable in the domestic market.

2.0 INTERPRETATION

In this Practice Note, the word “Act” means the Value Added Tax Act, 2013 (Act 870). Definitions and expressions used in this Practice Note have the same meaning as they have in the Act.

3.0 THE PURPOSE

This Practice Note is issued to provide direction and guidance to officers of the Ghana Revenue Authority, Tax Practitioners, Consultants, Taxpayers and the general public on the acceptable tax treatment of supplies which are exempt at importation but taxable in the domestic market.

4.0 APPLICATION OF THE LAW

Sections 1, 33, 35 and 37 of Act 870 and Customs Act, 2015 (Act 891) provide the legal basis for:

- a) supply of goods that are exempt both at importation and within the domestic market,

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- b) supply of goods that are exempt at importation, which is taxable in the domestic market and
- c) supply of goods that are taxable both at importation and in the domestic market.

5.0 TAX TREATMENT OF IMPORTED GOODS IN THE DOMESTIC MARKET

5.1 Goods classified as exempt import under the Harmonised System and specified in the First Schedule to Act 870.

Goods specifically exempted under the Harmonised System and the First Schedule to Act 870, would not be subject to VAT both at importation and in the domestic market.

Example

Obiba JK imports fishing boats from China to sell. He is confused as to whether or not the supply of fishing boats in Ghana is taxable under Act 870.

What advice will you give Obiba JK?

Suggested solution

Under Heading 3C 2.4 of Part C(II) of the Third Schedule to Act 891, the fishing boat is an exempt import. Also, under item 7(a) of the First Schedule to Act 870, the supply of fishing boat is exempt. Therefore, the importation and domestic supply of fishing boats are both exempt from VAT.

5.2 Goods classified as exempt import under the Harmonised System but NOT specified in the First Schedule of Act 870 is taxable in the domestic market.

Supply of goods that are not specified in the First Schedule of Act 870 but

exempt under the Harmonised system is taxable when supplied in the domestic market, even though the supply would have been exempted at importation.

Nkokomba Enterprise imports generator sets of 375 KVA and above from Dubai to sell within the domestic market. The supply of the generator set was exempted from payments of VAT at importation. Woarabeba Ventures, a manufacturer of plastics buys generator sets from Nkokomba Enterprise. Woarabeba Ventures insists that in line with Item 16 of the First Schedule to Act 870, it should not be charged VAT because the generator set is used exclusively in its manufacturing activities.

What will be your advice to Nkokomba Enterprise?

Suggested Solution

The supply of generator set is not specified in the First Schedule of Act 870 as machinery specifically designed for use for manufacturing activities. Nkokomba Enterprise should charge and account for VAT on the sale of the generator set.

5.3 Import of goods which are neither specified in the First Schedule of Act 870 nor classified as an exempt good under the Harmonised System.

Supply of any good that is neither specified in the First Schedule of Act 870 nor classified as exempt under the Harmonised System is taxable at importation and in the domestic market.

Example 1

Ponkijoe, a VAT registered limited liability company, intends to import telephone handsets from China for sale in the domestic market. What would be the VAT implication of this transaction?

Suggested Solution

Under the Harmonised System and the First Schedule of the Act, telephone handsets are not specified as exempt.

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From the above, Ponkijoe will be charged VAT at importation and will also be required to charge and account for VAT on the sale of handsets in the domestic market.

Example 2

Kokorokoo Poultry Services imports day old chicks from Togo for sale to poultry farmers in Ghana.

What is the VAT implication at importation and in the domestic market?

Suggested Solution

Imported live animals including poultry are not classified as exempt in the Harmonised system and also not specified in the First Schedule to the Act 870.

Kokorokoo Poultry Services is thus required to pay VAT at importation and also charge and account for VAT on the sale of day-old chicks to poultry farmers.

Signed
Date 4/10/21

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