

Tax Alert



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Let's talk

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VAT and loyalty programmes: Draft Interpretation Note

In brief

SARS has issued a Draft Interpretation Note ('IN') dealing with the value-added tax ('VAT') consequences of points-based loyalty programmes. The IN is intended to clarify the VAT implications resulting from participation in loyalty programmes for all parties involved.

In detail

There is, currently, a degree of uncertainty regarding the VAT treatment of loyalty programmes.

Loyalty programmes – Discussion Paper

In 2014, SARS issued a Discussion Paper regarding the different types of loyalty programmes available in South Africa. Discussions were held with stakeholders to gain an in-depth understanding of the business activities associated with different identified structures or types of loyalty programmes. SARS invited the public to comment with a view to provide clear guidance regarding the many uncertainties that face businesses, and identify provisions of the VAT Act that require amendment to give effect to the correct VAT treatment of loyalty programmes.

In addition, in the 2016 National Budget Tax Proposals, National

Treasury proposed that loyalty programmes be analysed and legislative amendments be considered to provide clarity on their VAT treatment.

Draft IN

SARS has now converted the discussion paper into a Draft IN that provides information and guidance on the following:

- The various terms and definitions applicable when dealing with loyalty programmes;
- The characteristics of a loyalty programme;
- The transactional flow of a loyalty programme;
- The different structures of loyalty programmes;
- Loyalty points; and

- The proposed VAT implications of participating in such programmes for all members involved (i.e. the programme operator, members, loyalty partners and redemption partners).

Importantly, the Draft IN does not provide guidance for situations in which loyalty points are considered to be a discount against future purchases. It is not clear why the Draft IN provides no guidance in this regard.

Public comment

SARS has provided an opportunity to comment on the Draft IN.

Businesses involved in loyalty structures are encouraged to consider the Draft IN and to raise any concerns and practical or administrative difficulties. This will assist in ensuring that the final interpretative guidance issued by SARS will be both practical and correct.

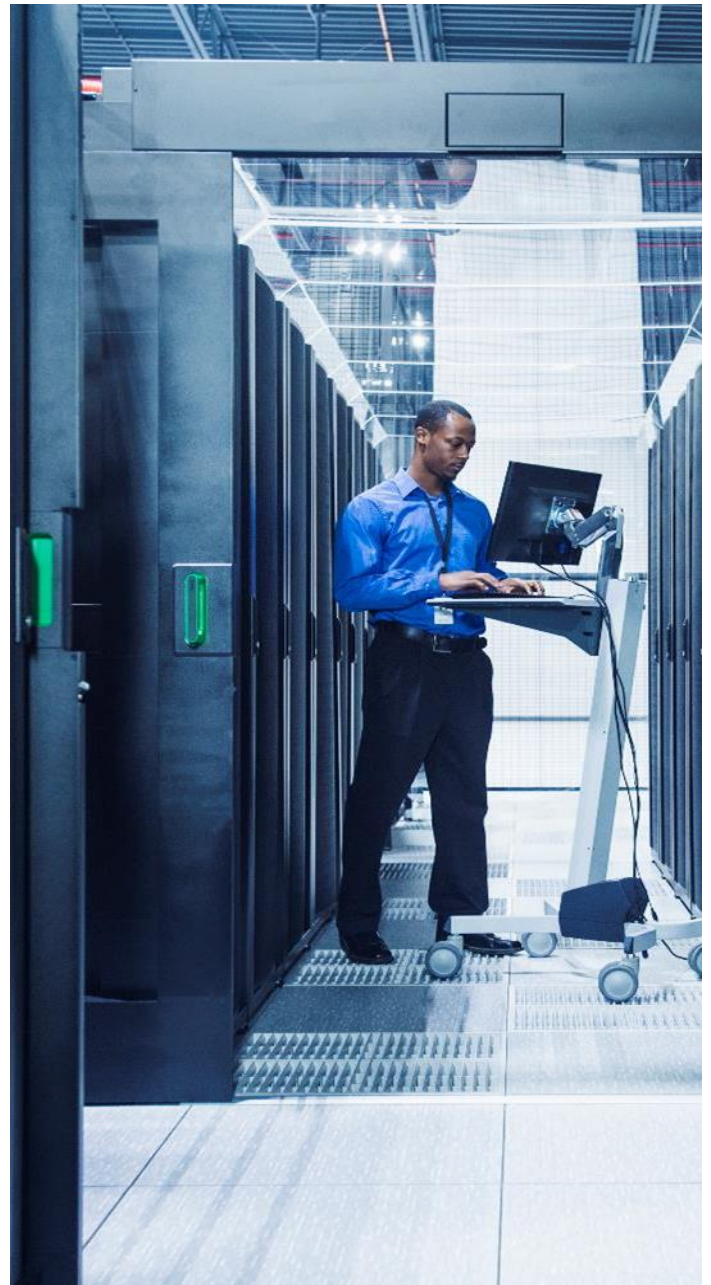
Implications

Once the comment period is closed, SARS will consider the submissions made and, to the extent that SARS accepts the comments, incorporate these into the final document that is issued.

The final IN, once issued, is likely to be followed by the SARS Policy Unit and SARS auditors in considering the VAT implications of loyalty programmes.

It is therefore critical that practical and relevant comments on the Draft IN are submitted in order to ensure and facilitate the correct treatment of loyalty programmes, as well as compliance by businesses and stakeholders. Should stakeholders fail to address any issues with the proposed Draft IN, this could result in complexities or future difficulties when considering the VAT implications of loyalty programmes.

Finally, it is important to note that the final IN may also impact existing private binding rulings dealing with the principles relating to loyalty programmes and loyalty points.



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