

## REQUIREMENTS FOR ZERO RATES TRANSACTION

We set out hereunder the legal requirements relating to the raising of VAT at a zero rate. These are:-

1. The seller must be a registered vendor.
2. The purchaser must be a registered vendor. If the purchaser of the supply of an enterprise as a going concern is not a registered vendor, the zero rate cannot apply.
3. The parties must agree in writing that the enterprise is disposed of as a going concern. If the parties have not agreed about this aspect in writing, the zero rate cannot apply, even if the enterprise is indeed transferred as a going concern. Further, the contracting parties must, at the conclusion of the contract, agree in writing that the enterprise will be an income-earning activity on the date the ownership of the enterprise is transferred.
4. Where a leasing activity is conducted by the seller in respect of fixed property, the contract must provide for the leasing activity to be disposed of together with such fixed property in order to constitute an income-earning activity. If the agreement does not provide for a tenanted property to be transferred, an asset is merely sold. The question then arises as to the agreed occupancy level which will give rise to the supply of a going concern. Presently an occupancy level of more than 50% is accepted.
5. SARS will also look closely at whether the past VAT payments / returns submitted by the seller to SARS demonstrate and confirm that the seller is indeed conducting a rental enterprise. This means that VAT returns must be in order.