

VATR 40 (Govt Gazette No.55 of 26 May 2012)

Facts

C Ltd is licensed to carry banking business in Mauritius which includes both Segment A and Segment B business, pursuant to the Banking Act. C Ltd is intending to sell the whole of its sub-custody business on a going concern basis to another bank, viz. S ("the purchaser bank) which is also registered for VAT. Most of the sub-custodian business of C Ltd forms part of Segment B banking business. The proposed transaction would involve the transfer of the following to the purchaser bank:

1. Client custody contracts;
2. Assets under custody held on behalf of clients;
3. Permanent and recurrent records of the business;
4. Current and non-current assets of the business;
5. Third party contracts;
6. Contract of employment for the relevant employees; and
7. Sub-custody relationships

Point at Issue

Whether it can be confirmed that the proposed transaction is within the ambit of Section 63 (3) of the VAT Act.

Ruling

On the facts provided, C Ltd is proposing to sell only part of its business, i.e its sub-custodian business mostly constituting of its Segment B business to another bank, and will not as such cease to carry on business. It cannot therefore be confirmed that the proposed sale of the sub-custodian business falls within the ambit of Section 63 (3) of the VAT Act.