

## **VATR 57 (Govt Gazette No. 12 of 12 January 2013)**

### **Facts**

A Ltd is a company incorporated in the British Virgin Islands and is not resident in Mauritius. It aims to provide internet related services in Mauritius and overseas. Its first project is a real estate portal which will offer services to real estate agencies and companies both local and overseas. Users will be able to post their advertisements on the web site. The server hosting the web site is located in the United States. There is no contract between the company and the server operator and fees to the latter are paid yearly through bank transfer.

The revenue of the company will be from advertising fees paid by the real estate agencies and companies, both local and overseas, which advertise on the web site. The company does not charge any commission on business transactions concluded via the web site. The site only provides information with regard to properties available for rent and sale. Users cannot place any orders or transact through the web site.

Marketing of the web site will be done both online and offline. Online marketing will be done mainly through e-mails and offline marketing made in local newspapers which will be VAT registered persons. The company will have no physical presence in Mauritius with respect to the operation of the business.

### **Points at Issue**

- a) Whether the company should be registered for VAT purposes; and
- b) Whether the VAT registered persons in Mauritius should charge VAT in respect of services provided to the company.

## **Rulings**

- a) The supply of services provided through the website to persons in Mauritius will fall within the meaning of a taxable supply as defined in section 2 of the VAT Act. Consequently, if the annual turnover of taxable supplies of the company exceeds the threshold imposed by the Sixth Schedule to the VAT Act, the company should apply for compulsory registration as a registered person in accordance with the provisions of section 15 of the VAT Act. The supply of the internet related services to overseas clients of the company is outside the scope of VAT; and
  
- b) The services provided by the local VAT registered persons are utilised by the company for marketing the web site in Mauritius. The end-users of the services offered by the web site being in Mauritius; therefore, the services of the local VAT registered persons would not qualify as zero-rated supply under the provisions of section 11 and item 6(a) of the Fifth Schedule to the VAT Act. Hence, the local VAT registered persons should charge VAT at the rate of 15% in respect of the supply of services to the company.