

LEXICON ATTORNEY'S INTERPRETATION ON ISSUANCE OF EFD AS PER TAX
ADMINISTRATION ACT CAP 438 R.E 2019

Section 3 of the TAA (Tax Administration Act), Cap. 438 R.E 2019 on Time of supply

" b). in relation to supply of services the time at which the services are rendered, provided or performed"

In the context of the above law, the terms "rendered," "provided," and "performed" are used to pinpoint the exact time when the services are considered to be supplied. They are in present simple passive tense.

This is important for determining when a transaction is recognized for legal and tax purposes.

1. Rendered:

Emphasizes that the services have been fully completed.

2. Provided:

Indicates that the services have been made available or given to the customer.

3. Performed:

Focuses on the act of carrying out the services.

All three terms in the quoted section above (rendered, performed and provided) essentially mean the same thing in this legal context as they mark the completion of the service.

The time of supply is the point at which the services have been fully executed, which is critical for invoicing, taxation, and other legal obligations.

So, according to the law, the time of supply for services is the moment when the services have been fully completed, regardless of whether you use the term rendered, provided, or performed.

Failure to issue fiscal receipt upon receiving payment, you will be charged for an offence under Section 86(1)(b) of the TAA.

Section 3 of the TAA defines payment to include 'the transfer of asset or money, the transfer or decrease of liability, the provision of services, the use or availability for use of money or an asset and the creation of an asset in another person.

Our analysis:

Section 3 of the TAA (Tax Administration Act), as described above, defines payment broadly to include various forms of consideration, such as the transfer of assets, the decrease of liabilities, the provision of services, and the use or availability of money or assets. This broad definition of payment covers many scenarios, but its relevance to the COMPLETION OF SERVICES, needs to be examined in light of the specific rules governing the time of supply.

In situation, where the supply of services is not yet completed, the broad definition of payment might still be relevant in terms of understanding what constitutes a payment.

However, it does not override the principle that the time of supply for services, as per initial definition, is when the services are rendered, provided, or performed.

Here's how Section 3 of the TAA might intersect with your situation:

1. Advance Payments or Deposits:

If an advance payment or deposit is made before the services are completed, it could be considered a payment under the TAA's broad definition. However, this does not change the

fact that the time of supply, for tax purposes, is when the service is actually rendered, provided, or performed. The advance payment might need to be accounted for, but the tax receipt should ideally be issued when the service is completed.

2. Invoices and Receipts:

The issuance of an invoice or receipt for the full service should reflect the time when the service is rendered, provided, or performed. If a payment is made before completion, the receipt should indicate that it is an advance payment or deposit.

In summary, while Section 3 of the TAA provides a comprehensive definition of what constitutes a payment, it does not alter the requirement that the time of supply for services is when those services are completed.

Therefore, demanding a tax receipt before the completion of services would generally be inconsistent with the principle that the time of supply is when the services are rendered, provided, or performed.

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