



Frequently Asked Questions

For the purpose of FAQ, the Regulation means the DNHVAT Regulation 2005 and the rules means

- 1) Can we avail input credit for all purchases like stationery, consumables, machine parts etc., made in UT of Dadra and Nagar Haveli if our supplier issues a tax invoice, charging VAT?
- 2) In case our input credit is more than our vat tax payable, what will happen? Will you remit the excess amount by cheque and what is the time to claim such excess amount
- 3) Should a dealer opting for Composition scheme furnish the option every month. If not when? Is there any prescribed format for exercising the option of Composition scheme?
- 4) I am a registered dealer in UT of Dadra and Nagar Haveli, and I have a branch in Maharashtra. The raw materials are stock-transferred from that branch to UT of Dadra and Nagar Haveli, and my finished products out of this raw material, are sold in UT of Dadra and Nagar Haveli. Am I eligible for a rebate?
- 5) Please confirm whether Credit Notes in respect of rebates and allowances to dealers are eligible for reduction from turnover of sales under the DNH VAT Regulation 2005.
- 6) We are a company where raw materials such as paper and strawboards are procured to manufacture student notebooks for sale. We also buy and sell stationery products. All our procurements are made within the State. The products dealt by us are listed under category of restricted goods under Schedule 6. Since we procure all materials for the purpose of resale, we would like to know whether we are eligible for input tax set off.
- 7) Please clarify the rate of tax applicable under VAT for manufacture & supply of electronic equipment to Indian Defence establishments against 'Declaration Form'.
- 8) I understand that a hotelier, restaurateur or caterer has to pay composition tax at 1%. In this connection, I wish to mention that some of the hotels are still collecting 12.5% VAT on the pretext that hotels which are attached with bar, do not come under Composition scheme and, hence, their output VAT is at 12.5%. Please clarify.
- 9) We are dealing in lab apparatus, chemicals and other equipment required by schools, colleges, industries etc., for their labs. We know that our items are scheduled in two types, one at 4% and the balance items under 12.5% as VAT. Our problem is we deal in a number of chemicals which are used in labs for testing, research etc. As per your notification, certain chemicals are put under one category which is used as industrial input for which the tax is 4% and buyers can take advantage of rebate on such taxes. It is okay if it is used as industrial input, but what if used in pathology labs, college & School labs, hospital labs etc?
- 10) In what circumstances the tax credit is not allowed to a dealer?



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- 11) I am a civil contractor I have purchased building material for construction building for my customer by making use of these material and I charge extra labour charge , am I entitled for tax credit ?**
- 12)Our unit is registered under DNH VAT regulation 2005. I have been filing the returns regularly .My input tax credit for the year 2007-2008 id Rs 10,000/- and that for the year 2008-09 is Rs 1, 15,000/-. Can I carry forward the said tax credit in balance to next financial year?**
- 13)My input tax credit amount used to be a large amount. Can I claim the refund from VAT department on a monthly basis?**
- 14)What is the impact of interstate stock transfer of finished goods?**
- 15)Who is liable to pay the tax? What are different prescribed forms available for saying the Tax?**
- 16)What are the different tax periods and tax returns?**



ANSWERS

For the purpose of FAQ, the Regulation means the DNVAT Regulation 2005 and the rules means

1) Can we avail input credit for all purchases like stationery, consumables, machine parts etc., made in UT of Dadra and Nagar Haveli if our supplier issues a tax invoice, charging VAT?

Subject to the restriction mentioned in the 6th schedule to the VAT Act, i.e. except non creditable goods and subject to Section 9 of the DNVAT Regulation 2005, all the goods purchased in the course of business for use in business would be eligible for input tax rebate. If those goods purchased find entry under the 6th schedule, then it would not be eligible for input tax credit. In fact, the return Form in VAT 16 clearly specifies the purchases other than those coming under schedule 6 of the VAT Act. An extract of Sub-section (1) and sub section (2) and of sub section (7) of section 9 of the regulation clarifies the condition of tax credit.

Where a dealer has purchased goods intended to be used for the purposes specified in sub-section (1) of section 9 and the goods are subsequently used fully or partly for other purposes as specified in sub-section (4) of section 9 or the goods manufactured out of such goods are exported from Dadra & Nagar Haveli by way of transfer as specified in sub-section (6) of section 9, the reduction of tax credit claimed shall be done in the following manner:

(i) in case commodity-wise accounts are maintained by the dealer clearly correlating use of goods for making sales under sub-section (1) of section 9 and for other purposes [sub- section (4) of section 9], the tax credit shall be reduced by the amount of input tax paid on the purchases used for such other purposes.

(ii) in case commodity-wise accounts are maintained by the dealer clearly correlating use of goods for making sales referred in sub-section (1) of section 9 and for transfer of goods or goods manufactured out of such goods [sub-section (6) of section 9], the tax credit shall be reduced in the manner specified in rule 7.

(iii) in case commodity-wise accounts are not maintained by the dealer clearly correlating use of goods for making sales referred to in clause (1) of this rule, the reduction of tax credit for the purpose of sub section (4) of section 9 shall be calculated on the basis of the purchase price of such goods immediately preceding their use for other purposes [sub- section (4) of section 9] or their fair market value whichever is higher.

(iv) in case commodity-wise accounts are not maintained by the dealer clearly correlating use of goods for making sales referred to in clause (2) of this rule, the reduction of tax credit for the purpose of sub section (6) of section 9 shall be calculated on the basis of the purchase price of such goods immediately preceding to their transfer as envisaged in sub- section (6) of section 9 or their fair market value whichever is higher and the input tax credit shall be reduced in the manner specified in rule 7.

2) In case our input credit is more than our vat tax payable, what will happen? Will you remit the excess amount by cheque and what is the time to claim such excess amount

If the input tax paid is in excess of output tax payable the credit would be carried forward to the next tax period within the same financial year or you would be eligible for refund of the excess input tax. The refund can also be claimed quarterly.

3) Should a dealer opting for Composition scheme furnish the option every month. If not when? Is there any prescribed format for exercising the option of Composition scheme?

The option for Composition would be a permanent feature till the option is revoked by either a law or by a dealer on his own volition. In the first instance, the total turnover exceeding Rs. 50 lakh or tax liability exceeds Rs. 1 lakh in a year would make him ineligible to continue under the Composition. Or else, the dealer could choose to opt out due to change of circumstances in business; for instance, if he intends to buy from outside the State etc.



4) I am a registered dealer in UT of Dadra and Nagar Haveli, and I have a branch in Maharashtra. The raw materials are stock-transferred from that branch to UT of Dadra and Nagar Haveli, and my finished products out of this raw material, are sold in UT of Dadra and Nagar Haveli. Am I eligible for a rebate?

As for the raw materials received from a branch outside UT of Dadra and Nagar Haveli, the input tax paid on them in that State would not be eligible for input tax rebate in the UT of Dadra and Nagar Haveli. If the inputs are purchased within the UT of Dadra and Nagar Haveli and are used in the manufacture of goods for sale, then the input taxes paid on the raw materials would be eligible for rebate. Further clarification is given in subsection (6) of section 9 of DNHVAT Regulation 2005.

5) Please confirm whether Credit Notes in respect of rebates and allowances to dealers are eligible for reduction from turnover of sales under the DNH VAT Regulation 2005.

Details regarding 'credit and debit notes' are given under section 10 and section 51 of the VAT Regulation under Rule 6 and 45 of the VAT Rules, the query would be answered if you follow those Rules.

Please refer Section 10 (1) of DNH VAT Rules , 2005 for further information.

6) We are a company where raw materials such as paper and strawboards are procured to manufacture student notebooks for sale. We also buy and sell stationery products. All our procurements are made within the State. The products dealt by us are listed under category of restricted goods under Schedule 6. Since we procure all materials for the purpose of resale, we would like to know whether we are eligible for input tax set off.

The Sixth schedule read with Section 9 (1) is intended to prevent rebating of input tax paid on certain business inputs which are not for resale or for manufacture or any other process of other goods for sale. Generally in the VAT concept, all the purchases made in the course of business would be entitled to input rebate. In the VAT design set out by the 'Empowered Committee', certain business inputs could be restricted for input rebate. For example, if a dealer buys an air conditioner for use in his business premises, the input tax paid on such business input is not rebatable as per the sixth Schedule. But if a dealer in air conditioner buys for resale he would be entitled for input tax rebate. Similarly if you procure all the materials for resale you would be entitled to rebate on input paid on the locally purchased goods.

7) Please clarify the rate of tax applicable under VAT for manufacture & supply of electronic equipment to Indian Defence establishments against 'Declaration Form'.

The concessional rate of tax under declaration in form D is not available under the VAT regime; the supplies would be liable to regular rate of tax on the commodity under question. Further, even for inter-state sale, the concessional rate is not available from 1-4-2007 as Form D is abolished. The rate of tax applicable for interstate sale to the Defence establishment is the rate applicable under the VAT Regulation.

8) I understand that a hotelier, restaurateur or caterer has to pay composition tax at 1%. In this connection, I wish to mention that some of the hotels are still collecting 12.5% VAT on the pretext that hotels which are attached with bar, do not come under Composition scheme and, hence, their output VAT is at 12.5%. Please clarify.

The payment of taxes by way of composition at the rate of 1% on the total turnover is an option available to a hotelier, restaurateur or caterer under Section 16 of the Regulation. The conditions set out under the provision are:

A dealer opting to pay tax by way of composition under section 16, shall satisfy the following conditions.

(i) He shall be a dealer registered under the Regulation or a dealer who has made an application for registration under the Regulation.

(ii) He shall not have any goods in stock which are brought from outside the UT on the date he opts to pay tax by way of composition and shall not sell any goods brought from outside the UT after such date.



(iii) He shall not be a dealer who has claimed tax rebate on stock in hand under section 18 as at the date of commencement of the Act.

(iv) The Annual Turnover should not exceed Rs.50 lakh and annual tax amount should be less than Rs. 1 lakh.

(v) He shall not be a dealer selling goods in the course of inter-State trade or commerce or in the course of export out of the territory of India.

(vi) He shall not be a dealer who has withdrawn his option to pay tax by way of composition and (a) has paid tax under section 3 for a period of less than twelve months; or (b) was not registered under the Act during the preceding period of twelve months.

9) We are dealing in lab apparatus, chemicals and other equipment required by schools, colleges, industries etc., for their labs. We know that our items are scheduled in two types, one at 4% and the balance items under 12.5% as VAT. Our problem is we deal in a number of chemicals which are used in labs for testing, research etc. As per your notification, certain chemicals are put under one category which is used as industrial input for which the tax is 4% and buyers can take advantage of rebate on such taxes. It is okay if it is used as industrial input, but what if used in pathology labs, college & School labs, hospital labs etc?

Please refer to the list of industrial inputs published vide note no. DNH/VAT/2005/05-06/456 dated 24/08/2005. In that list items with sub-items have been identified as industrial input for the rate of tax at 4%. Those goods would be liable for rate of tax of 4% irrespective of the end-user identification, that is irrespective of whether the buyer is an industry, retailer or consumer, etc.. The earlier system of declaration to identify the industrial user has been done away with. The list of chemicals mentioned by the Commercial Taxes department is quite vague. There are hundred and thousands of other chemicals originated from Ammonia, Chlorine, Oxygen and a number of metals such as iron, manganese, lead and so on. Not only that, there are a number of chemical compounds in Organic Chemistry. We cannot enlist that here. The VAT is at 4% on the chemicals you have pointed out, but what about other chemicals which are not enlisted by the department. In our opinion, if it is a chemical whether it is organic or inorganic the rate of tax should be one type, either 4% or 12.5%. The industrial input list released in August 2005 is quite exhaustive and it deals with a wide range of chemicals with Central Excise classification codes. Those goods not identified in that list are taxable at 12.5%. As regards the filter paper, litmus paper etc, the rate of tax is 12.5%.

10) In what circumstances the tax credit is not allowed to a dealer?

The following are reasons:

In the case of purchase of goods from a person who is not a registered dealer.

For the purchases of non creditable goods specified in the sixth schedule.

For the purchases of good by a person which are to be used as a part of the structure of a building owned or occupied by such person.

For the purchase of goods which are used exclusive for the manufacture, processing or packing of goods specified in the first schedule.

For the goods purchase from a dealer who has opted to pay tax under section 16.

Also, the tax credit shall be claimed by a dealer only if he possesses a tax invoice at the time of filing the returns for the tax period.

11) I am a civil contractor I have purchased building material for construction building for my customer by making use of these material and I charge extra labour charge , am I entitled for tax credit ?

As clarified in section 9(2) of the regulation a tax credit shall be allowed in respect of the goods and building materials which are purchased by a person either for the purposes of re-sale without my alteration or for the performance of a works contract in respect of a building owned or occupied by another person.



12) Our unit is registered under DNH VAT regulation 2005. I have been filing the returns regularly. My input tax credit for the year 2007-2008 is Rs 10,000/- and that for the year 2008-09 is Rs 1,15,000/-. Can I carry forward the said tax credit in balance to next financial year?

As per the provision to sub section (3) of section 11 of the regulation, the dealer may opt to adjust the refund under this sub section as a tax credit in any succeeding tax period falling in the next financial year. However, after the amended regulation 2007 came into force (from December 2007), the provision has been amended as under " Provided that the dealer may opt to adjust the refund under this subsection as tax credit in any succeeding tax period within the same financial year. Thus in your case, you cannot carry forward the balance to the succeeding year. You can claim the refund of input tax credit for 2007-08 & 2008-09.

13) My input tax credit amount used to be a large amount. Can I claim the refund from VAT department on a monthly basis?

As per section 3 of amended regulation (2007), the dealer is entitled to claim a refund on a quarterly basis for the quarters of April -June; July- September; October December; January- March.

14) What is the impact of interstate stock transfer of finished goods?

As per provisions under the section 9 (6), the goods purchased locally or goods manufactured out of such purchased goods are transferred to other services outside state, the amount of tax credit shall be reduced proportionately.

15) Who is liable to pay the tax? What are different prescribed forms available for paying the Tax?

Every Registered dealer, who is liable to pay tax under this regulation, shall furnish to the commissioner such returns in the prescribed form for each tax period and by such dates as may be prescribed.

Subject to Sub rule (2) every dealer liable to pay tax under the section 3 shall furnish a return in form of DVAT16 for each tax period. Every dealer who selects to pay the tax under section 16 shall furnish return in form DVAT17. A return in sub rule (1) and (2) shall be furnished within 28 days from the end of the dealer's tax period and shall be accomplished by proof of payment of tax, interest or any other sum in form DVAT20 and documents as may be specified in the return.

16) What are the different tax periods and tax returns?

- a) Subject to Sub rule (2) and (3), the tax period for dealer whose " Turnover in the preceding year is at or below Rs Five Crores or Tax paid or payable in the preceding year is at or below Rs one Lakh shall be at the option of the dealer either one month or quarter".
and
- b) Turnover in the preceding year exceeds Rs Five crores or tax paid or payable in the preceding year exceeds one lakh shall be one month.
- c) Where during the course of a particular year, the dealer's turnover first exceeds Rupees five crore or the tax payable involves Rupees one lakh the dealer shall use a tax period of one month commencing from the first day of the month immediately following the completion of its current tax period.
Where –
 - (a) a dealer has a tax period of one month;
 - (b) the dealer is not prohibited from having a tax period of a quarter and
 - (c) the dealer elects to have a tax period of a quarter,
the election shall take effect from the first day of the next quarter.



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- d) For the purpose of sub-rule (1), the "turnover" of a dealer shall not include turnover from:
- (a) the sale of capital assets;
 - (b) sales made in the course of winding up the dealers activities; and
 - (c) sales made as part of the permanent diminution of the dealers activities.

Explanation: For the purposes of this sub-rule, sufficient proof of a dealer's turnover shall be a copy of the following documents:-

1. The annual audited accounts of the dealer for the three prior years or the annual accounts duly certified by the dealer where the accounts of the dealer are not required to be audited under any law for the time being in force;
 2. Copy of the income tax returns furnished by the dealer for the three prior years duly certified by him or his Accountant.
- e) The tax period of a dealer who ceases to be registered, ceases-
- a) if the registration is cancelled by the Commissioner, on the date specified by the Commissioner as the date on which the dealers registration ceases to have effect;
 - b) where the dealer dies or is wound up, on the date of death or winding up; or
 - c) in any other case, on the date of cancellation of the registration.