

**NATIONAL COMMODITY & DERIVATIVES EXCHANGE LIMITED**

Circular to all trading and clearing members of the Exchange

Circular No. : NCDEX/LEGAL-003/2009/185

Date : June 29, 2009

Subject : Tax Inclusive Contracts where the seller is specifically exempted from paying Sales Tax/VAT

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Members are requested to refer our earlier Circular No: NCDEX/OPERATIONS-013/2005/082 dated April 7, 2005 wherein process of VAT invoice has been prescribed for physical deliveries under tax inclusive contracts. The seller is required to issue VAT invoice showing the applicable VAT amount separately as the same is deemed to be included in the Final Settlement Price in case the commodity is subject to VAT. In case the commodity is not subject to VAT, the VAT amount deemed to be included becomes nil.

We have come across certain instances where the seller is exempted under some specific scheme or by virtue of being located in special development zone **even though the relevant commodity as such is subject to VAT**. In such cases with tax inclusive contracts, even though the VAT is deemed to be included in the prices, the seller being exempted under some specific exemption, cannot issue VAT invoice and consequently depriving the corresponding buyers of credit of such VAT which is deemed to be included in the price paid. It is therefore, clarified that the Sellers in such cases shall be liable to refund the VAT amount received by them to the corresponding Buyers as per following procedure:

1. The seller/s will have to refund the VAT/ sales Tax component of the inclusive contract value to the corresponding buyer/s within three days of the VAT settlement date.
2. No such refund will be required to be made by the seller/s to the buyer/s if the commodity is as such exempted from VAT/Sales Tax in the State/s where the delivery centre is located.

3. All Tax Invoice/s issued by the seller entitled to such exemption/s as above, should be made for the amount after deducting the Sales Tax/VAT amount from the Final Settlement Price of the contract.
  
4. If any buyer does not receive the VAT amount as clarified in this circular or a VAT invoice showing VAT amount separately, such buyer should revert to the Exchange within time lines prescribed vide Exchange Circular NCDEX/Clearing-006/2007/027 dated February 09, 2007.

For and on behalf of  
**National Commodity & Derivatives Exchange Limited**

Ravinder Sachdev  
**Head - Legal**

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For further information / clarifications, please contact Customer Service Group at +91-22-66406613 – 15