

VAT404

Value-Added Tax

Guide for Vendors

10 IMPORTANT PRINCIPLES

1. **All prices charged, advertised or quoted by a vendor must include VAT at the applicable rate.** (Presently 14% for standard rated supplies).
2. **Vendors collect VAT on behalf of the State** – please make sure that you pay it over on time, otherwise penalties and interest will be charged.
3. VAT charged on supplies made (output tax) less VAT paid to your suppliers (input tax) = the amount of **VAT payable/refundable**.
4. You need a **valid tax invoice** with your **VAT number indicated** on it as proof of any input tax claims which you want to make. You must also keep **records** of all your tax invoices and other records of transactions for **at least five (5) years**.
5. **Goods exported** to clients in an export country are charged with VAT at 0%. However, if delivery takes place in RSA, you must charge VAT at 14% to your client. If your client is a vendor, the VAT charged may be claimed as input tax. If your client is not a vendor, and the goods are subsequently removed from the country, a refund claim may be lodged at the point of exit.
6. **You may not register for VAT or claim any input tax** on goods or services acquired to make **exempt supplies or for private use or other non-taxable purposes**. Also, as a general rule, **input tax may not be claimed** where the expense incurred is for the acquisition of a **motor car or entertainment**, even if utilised for making taxable supplies.
7. You are required to **advise the South African Revenue Service (SARS) within 21 days of any changes in your registered particulars**, including any change in your authorised representative, business address, banking details, trading name, or if you cease trading.
8. If you have **underpaid VAT as a result of a mistake**, report it to your **SARS branch office** as soon as possible, rather than leaving it for the SARS auditors to detect.
9. You can **pay your VAT by using various electronic methods**, including e-filing, internet banking, debit order and electronic funds transfer (EFT). You may also pay at any of the four major banks instead of carrying cash to your local SARS cash office.
10. **Report fraudulent activities** to SARS by calling the **toll-free number 0800 00 2870**. You may report an incident anonymously if you wish.

FOREWORD

The VAT 404 is a basic guide where technical and legal terminology has been avoided wherever possible. Although fairly comprehensive, the guide does not deal with all the legal detail associated with VAT and is not intended for legal reference.

All references to “the VAT Act” or “the Act” are to the Value-Added Tax Act, 1991 unless the context otherwise indicates. The terms “Republic”, “South Africa” or the abbreviation “RSA”, are used interchangeably in this document as a reference to the sovereign territory of the Republic of South Africa, as set out in the definition of “Republic” in section 1 of the VAT Act. You will also find a number of specific terms used throughout the guide which are defined in the Value-Added Tax Act, 1991 and listed in **Chapter 19** in a simplified form for easy reference.

The information in this guide is based on the VAT legislation (as amended) as at the time of publishing and includes the amendments contained in the Revenue Laws Amendment Act (Act No 60 of 2008) and the Revenue Laws Second Amendment Act (Act No 61 of 2008), both of which were promulgated on 8 January 2009 (as per GG 31781 and GG 31782 respectively).

Below is a brief synopsis of some of the most important changes since the previous issue of this Guide:

- 1. Increase in compulsory VAT registration threshold** – The previous threshold of R300 000 for compulsory VAT registration increased to R1 million from 1 March 2009. The VAT payable upon deregistration for vendors opting out of voluntary registration for VAT may be paid in six equal monthly instalments or in so many monthly instalments as the Commissioner may allow.
- 2. Micro businesses** – The increase in the VAT registration threshold coincides with the introduction of a simplified tax system for micro businesses (Turnover Tax) as an alternative to the current income tax and VAT systems. Micro businesses may therefore choose between the normal VAT rules, or to deregister for VAT and to participate in the new tax regime. To encourage participation in the new tax regime, provision was made for the value of assets upon deregistration for VAT to be reduced by up to R100 000 and for the VAT upon deregistration to be paid off over six months in equal monthly instalments without incurring penalty and interest. Various other provisions were also introduced or amended as a consequence of the introduction of this new tax regime.¹
- 3. Land reform and land restitution transactions** – Certain supplies of fixed property are subject to VAT at the zero rate to the extent that the property is paid for by the Department of Land Affairs in terms of the Provision of Land Assistance Act, 1993 and the Restitution of Land Rights Act, 1994. These properties are excluded from the definition of “*second hand goods*” and therefore a notional input tax deduction may not be claimed if the property is applied for taxable supplies.
- 4. Sale of imported goods in storage warehouses** – The supply of any imported goods stored in a licensed Customs and Excise storage warehouse, before being entered for home consumption is subject to VAT at the zero rate. Non-residents now have an option to be exempt from VAT, or to register and charge VAT at the zero rate on these transactions. Certain transactions involving the supply of goods by an inbound duty and tax free shop are also zero-rated.
- 5. Refunds, interest and banking details** – Only non-resident companies may request that VAT refunds be paid into a bank account of a nominated person. However, in the case of an RSA subsidiary company or holding company, VAT refunds may be paid into the bank account of either the subsidiary company or holding company, on condition that SARS is indemnified against any loss which may occur. The 21-day interest free period for VAT refunds will only commence from the date that the vendor’s updated banking particulars have been received by SARS.

¹ For detailed information on Turnover Tax, refer to the *Comprehensive Guide to Turnover Tax and the the Revenue Laws Amendment Act, 2008* which are available on the SARS website www.sars.gov.za.

- 6. New registration procedures** – New VAT registration procedures have been introduced to combat the incidence of fraudulent VAT registrations and VAT refunds. Applicants are now subject to a risk-based process which may involve an interview with the applicant and other measures to verify that the applicant conducts a *bona fide* enterprise.
- 7. Returns and payment dates** – The Minister of Finance (the Minister) may prescribe another date for the submission of returns and payments for any particular tax period, which may not be more than two business days before the date that the vendor would usually be required to do so. A notice must be published in the *Government Gazette* at least 30 days before the date prescribed by the Minister.
- 8. Rulings** – Certain information must be supplied when applying for a VAT ruling or VAT class ruling. The Commissioner also has a discretion in determining whether VAT class rulings and VAT rulings should be published. Refer to *VAT News 32 (August 2008) edition for more information.*

The following guides have also been issued and may be referred to for more information relating to the specific VAT topics:

- AS-VAT-08 - Guide for Registration of VAT Vendors
- Trade Classification Guide (VAT 403)
- Guide for Fixed Property and Construction (VAT 409)
- Guide for Accommodation, Catering and Entertainment (VAT 411)
- Share Block Schemes (VAT 412)
- Deceased Estates (VAT 413)
- Guide for Associations not for Gain and Welfare Organisations (VAT 414)
- Diesel Refund Guide (VAT 415)
- Guide for the Small Retailers VAT Package (VAT 416)
- Guide for Small Vendors (VAT 417)
- AS-VAT-02 - Quick Reference Guide (Diplomatic Refunds) (VAT 418)
- Guide for Municipalities (VAT 419)
- Guide for Motor Dealers (VAT 420)

The information in this guide is issued for guidance only and does not constitute a binding general ruling as contemplated in section 76P of the Income Tax Act, No. 58 of 1962 and sections 41A and 41B of the VAT Act unless otherwise indicated.

All previous editions of the Guide for Vendors (VAT 404) are withdrawn with effect from 10 March 2009.

Should there be any aspects relating to VAT which are not clear or not dealt with in this guide, or should you require further information or a specific ruling on a legal issue, you may:

- contact your local South African Revenue Service (SARS) branch;
- visit the SARS website at www.sars.gov.za;
- contact your own tax advisors;
- if calling locally, contact the SARS National Call Centre on 0860 12 12 18; or
- if calling from abroad, contact the SARS National Call Centre on +27 11 602 2093.

Comments and/or suggestions regarding this guide may be sent to the following e-mail address: policycomments@sars.gov.za.

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CHAPTER 1

INTRODUCTION

1.1 WHAT IS VAT?

VAT is an abbreviation for the term value-added tax. It is an indirect tax based on consumption in the economy. Revenue is raised for the government by requiring certain traders (vendors) to register and to charge VAT on taxable supplies of goods or services. Vendors act as the agent of the government in collecting the VAT charged on taxable transactions. SARS is a government agency which administers the VAT Act and ensures that the tax is collected and that the tax law is properly enforced.

Many countries apply a form of indirect or consumption tax like VAT, and although these tax systems might be known by different names, for example, GST (Goods and Services Tax), the characteristics of the tax are normally quite similar. The generally accepted **essential characteristics** of a VAT-type tax are as follows:

- The tax applies generally to **transactions** related to **goods and services**.
- It is **proportional to the price** charged for the goods and services.
- It is **charged at each stage** of the production and distribution process.
- **The taxable person (vendor) may deduct the tax paid during the preceding stages** (that is, the burden of the tax is on the final consumer).

VAT is only charged on **taxable supplies** made by a vendor. Taxable supplies include supplies for which VAT is charged at **either the standard rate or zero rate**, but does not include:

- salaries and wages;
- hobbies or any private recreational pursuits (not conducted in the form of a business);
- occasional private sale of personal or domestic items;
- exempt supplies. (*Refer to **Chapter 6***).

1.2 HOW DOES VAT WORK?

The South African VAT is destination based, which means that only the consumption of goods and services in South Africa is taxed. VAT is therefore paid on the **supply of goods or services in South Africa** as well as on the **importation of goods into South Africa**. VAT is presently levied at the **standard rate of 14%** on most supplies and importations, but there is a limited range of goods and services which are either exempt, or which are subject to tax at the **zero rate** (for example, exports are taxed at 0%). The **importation of services** is only subject to VAT where the importer is not a vendor, or where the services are imported for private or exempt purposes. Certain imports of goods or services are exempt from VAT. *Refer to **Chapters 5 and 10** for more details.*

Persons who make **taxable supplies in excess of R1 million²** in any 12-month consecutive period are **liable for compulsory VAT registration**, but a person may also **choose to register voluntarily** provided that the **minimum threshold of R20 000³** has been exceeded in the past 12-month period. Persons who are liable to register, and those who have registered voluntarily, are referred to as vendors. *Refer to **Chapter 2** for more details.*

² Section 23 of the VAT Act was amended by section 113 of the Revenue Laws Amendment Act, 2008 to increase the threshold for compulsory registration from R300 000 to R1 million. This amendment came into effect on 1 March 2009.

³ The minimum threshold is R60 000 in the case of persons that supply “*commercial accommodation*”. Note also that the Minister of Finance in his budget speech on 11 February 2009 indicated that the entry level threshold for voluntary VAT registration will be increased from R20 000 to R50 000 with effect from 1 March 2010.

Vendors have to perform certain duties and take on certain responsibilities if they are registered or liable to register for VAT. For example, vendors are required to ensure that VAT is collected on taxable transactions, that they submit returns and payments on time, that they issue tax invoices where required, that they include VAT in all prices advertised or quoted etc. *Refer to **Chapter 16** for more details.*

The mechanics of the VAT system are based on a **subtractive or credit input method** which **allows the vendor to deduct the tax incurred on enterprise inputs (input tax) from the tax collected on the supplies made by the enterprise (output tax)**. There are, however, some expenses upon which input tax is specifically denied, such as the acquisition of motor cars and entertainment. *Refer to **Chapter 7** for more details.*

The vendor reports to SARS at the end of every tax period on a VAT 201 return, where the **input tax incurred for the tax period is offset against the output tax collected for the tax period and the balance is paid to SARS** (normally by no later than the 25th day after the end of the tax period concerned). The VAT collected by vendors is usually paid over to SARS every two months, but where the value of taxable supplies in a 12 month periods exceeds R30 million, the vendor must account for VAT on a monthly basis. Certain farming enterprises are allowed to pay VAT on a bi-annual basis and small businesses with taxable supplies less than R1.5 million in any consecutive period of 12 months may pay their VAT every four months. *Refer to **Chapter 3** for more details.*

Late payments of VAT attract a penalty of 10% of the outstanding tax. Interest is also charged at the prescribed rate on any late payments made after the month in which the payment for the tax period concerned was due as well as any balance of taxes outstanding for past tax periods. *Refer to **Chapters 7 and 8** for more details.*

It sometimes occurs that the result of the calculation for the tax period is a **refund**, instead of an amount payable to SARS. This happens, for example, where the vendor has incurred more VAT on start-up expenses than has been collected on any taxable supplies made during the tax period, or where the vendor has mainly zero-rated supplies (for example, an exporter, or a business which sells only fresh fruit and vegetables). However, most vendors will not normally be in a refund situation, and should be paying in VAT to SARS at the end of each tax period. Refunds must be paid by SARS within 21 working days of receiving the correctly completed refund return, otherwise interest at the prescribed rate is payable to the vendor. However, interest is not paid if certain conditions are not met, for example, where the vendor has outstanding taxes or returns for past tax periods, or where SARS is prevented from gaining access to the vendor's records to verify the refundable amount.

The fact that there are often refunds under the VAT system and that it is self-assessed makes it tempting for vendors to overstate input tax credits or to underreport output tax. SARS therefore places a great deal of importance on identifying high risk cases, conducting regular compliance visits and promoting a high level of visibility of auditors in the field. *Refer to **Chapters 8 and 17** for more details.*

As VAT is also an invoice-based tax, **vendors are generally required to account for VAT on the invoice (accrual) basis**, but the payments (cash) basis is allowed in some cases. For example, natural persons with a taxable annual turnover of under R2 500 000 as well as public authorities and municipalities are allowed to account for their VAT on the payments basis. Other legal entities such as companies and trusts do not qualify for the payments basis of accounting. *Refer to **Chapters 3 and 4** for more details.*

Tax invoices for supplies made, bills of entry for goods imported or exported and the general maintenance of proper accounting records and documents are all very important aspects of how the whole VAT system operates, as they form an audit trail which SARS uses to verify that the vendor has complied with the law. A tax invoice or bill of entry also serves as the documentary evidence of any VAT claimed by the vendor as input tax. In order for a tax invoice to be valid it must have certain details reflected on the document. Where the consideration for the supply exceeds R3 000, the supplier is required to issue a full tax invoice within 21 days of making a taxable supply (regardless of whether the recipient has requested this or not). *Refer to **Chapters 11, 12, 13 and 15** for more details.*

Example 1 – Mechanism of the VAT system

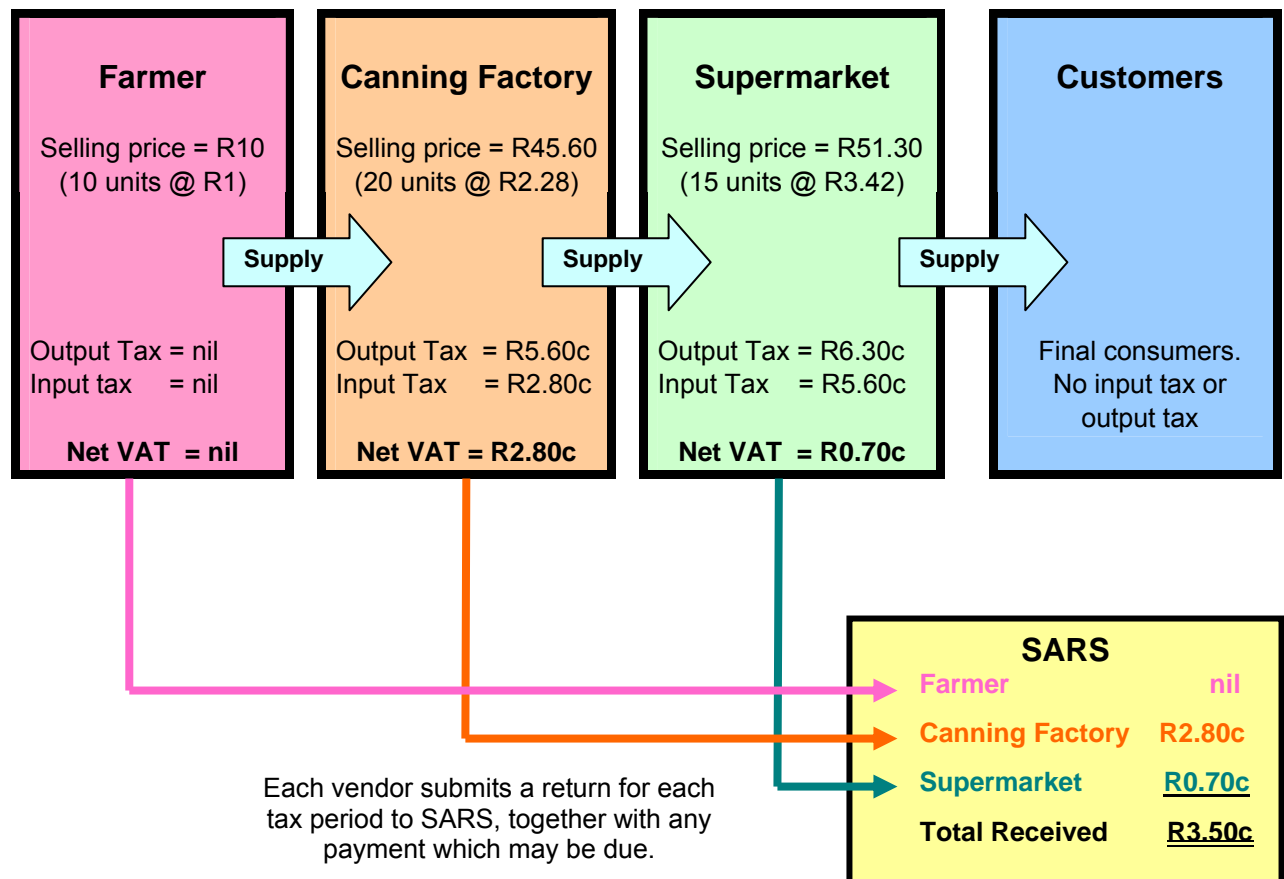
A VAT registered farmer sells 10 pineapples to a VAT registered canning factory for R1 each. No VAT is charged by the farmer to the factory as the supply of fresh fruit is zero-rated.

The canning factory also buys canning metal from another vendor for R22.80 (including 14% VAT). It manufactures 20 cans of pineapple pieces and sells them to a supermarket for R2.28 each (including 14% VAT). The selling price of each can of pineapples includes 28c VAT. The factory must therefore pay output tax of 28c on each can sold, which in turn, will be claimed as input tax by the supermarket.

The supermarket sells 15 of the 20 cans to its customers for R3.42 each (inclusive of 42c VAT). The supermarket must declare output tax of 42c on each can of pineapple pieces sold. Since the supermarket's customers are the final consumers and are not registered for VAT, there is no input tax claimed on the 42c VAT charged.

Note that for the sake of simplicity, it is assumed that the farmer has no other input tax to claim.

The effect in this example is illustrated in the diagram below.



CHAPTER 2

REGISTERING YOUR BUSINESS

2.1 WHEN DO I BECOME LIABLE TO REGISTER FOR VAT?

You will be liable to register for VAT if the income earned from selling goods or fees earned from services supplied is more than R1 million in any consecutive period of 12 months, or is reasonably expected to exceed that amount. If liable, you must complete a form VAT 101 and submit it to your local SARS office not later than 21 days from the date of liability. This type of registration is referred to as a **compulsory registration**.⁴

A person who is registered, or who is obliged to register is referred to as a “*vendo*”. [Note: it is the **legal person** and not the trading name of a business which is required to register. Refer to **paragraph 2.7** for more details].

The term **person** includes the following:

- Individuals.
- Partnerships and bodies of persons.
- Private and public companies, share block companies and close corporations.
- Public authorities⁵ and municipalities (previously called local authorities).
- Associations not for gain such as clubs and welfare organisations.
- Insolvent and deceased estates.
- Trusts.
- Foreign donor funded projects.

The following are circumstances where you will **not** be required or allowed to register:

- Where it is unlikely that your sales (taxable supplies) will exceed R1 million per annum.
- If only exempt supplies are made (refer to **Chapter 6** for examples).
- Employees who earn a salary or wage from their employers (excluding independent contractors).
- Where the supplies are made from outside RSA (for example, a foreign branch located in another tax jurisdiction).
- Hobbies or any private recreational pursuits (not conducted in the form of a business).
- Private occasional transactions, namely, occasional sale of domestic/household goods, personal effects or a private motor vehicle.

If your sales or fees earned from making taxable supplies are more than R20 000,⁶ but do not exceed R1 million, you can register for VAT voluntarily if you meet certain conditions. Refer to **paragraph 2.5**. This type of registration is referred to as a **voluntary registration**.⁷

2.2 WHERE MUST I REGISTER?

You should submit your application for registration to the SARS branch office nearest to the place where your business is carried on. Where you have several enterprises/branches/divisions which will operate under one VAT registration number, you should register in the area where the main enterprise/branch/division is located.

⁴ The R1 million compulsory VAT registration threshold applies to the total value of taxable supplies (turnover) and not the net income (profit) that your business has made for the period.

⁵ Public authorities are generally not registered as vendors. Refer to **paragraph 6.8** for more information on this topic.

⁶ Note that the threshold for voluntary registration where the supplies consist of “*commercial accommodation*” is R60 000 and not R20 000.

⁷ Certain types of vendors do not have to meet the R20 000 minimum threshold of taxable supplies for voluntary registration, for example, certain share block companies, welfare organisations, foreign donor funded projects and municipalities.

2.3 WHAT DOCUMENTS MUST I SUBMIT WITH MY APPLICATION?

It is very important that you submit the correct documents with your application to register; otherwise there may be a delay in obtaining your VAT registration number. Refer to AS-VAT-08 - Guide for Registration of VAT Vendors on the SARS website for a comprehensive list of documents that must be submitted.

Once you have been registered, you will receive a VAT registration certificate (VAT 103). You can also check if your registration has been processed by entering your details under “VAT vendor search” on the SARS website.

[Go to ⇨ www.sars.gov.za ⇨ e-filing ⇨ select **VAT Vendor Search** in the drop-down box on the right hand side of the screen].

SARS employees are not allowed to advise you verbally of your VAT registration number. If you have not yet received your certificate and require some proof of registration, you can request the local SARS office to give you a letter confirming this fact. Allow at least 10 working days for the local SARS office to process your documents. The certificate will be posted to the postal address given on your registration application and should be received within two weeks of your application being processed.

2.3.1 Foreign donor funded projects

Various International Development Agencies (IDAs) provide assistance to South Africa in six principal areas or sectors, namely Democracy and Governance, Education, Health, Economic Policy Capacity Building, Private Sector Development and Housing and Urban Development. All work takes place under the auspices of the Economic, Technical and Related Assistance Agreement signed by both governments (viz. the South African Government and the IDA Government).

The definition of “*person*” in section 1 of the Act was amended to include a foreign donor funded project. The income received from the international donor is deemed to be in respect of services supplied by the foreign donor funded project to the international donor in terms of section 8(5B). The effect is that the funds received will be subject to VAT at the zero rate in the hands of the project in terms of section 11(2)(q).

This allows the person who is responsible for administering and managing the payment of project expenses, to register voluntarily as a vendor, so that the VAT incurred on the project deliverables may be claimed back as input tax. Section 17(2) of the Act provides that all expenditure incurred on which VAT was paid by the internal donor funded project can be claimed as input tax, including expenses such as the acquisition of motor cars and entertainment where such expenses were paid from funds received under an international donor fund agreement to which the Government of the Republic is a party.

The representative of the foreign donor funded project may apply for VAT registration and forward it to the SARS branch office in the area together with the following documents:

- Original certified copy of latest bank statement or original cancelled cheque or original letter from your bank.
- Original certified copy of passport / identity document of the representative person.
- Agreement between International Donor Fund and the RSA Government.

2.3.2 Diesel refund applicants

If you have an enterprise which consumes diesel in carrying on an enterprise involved in primary production activities such as agriculture, mining, fishing and coastal shipping, you can also register for the Diesel Refund Scheme which is being administered through the VAT system.

In order to claim a diesel refund, any qualifying diesel user may register at their local SARS office for the scheme by completing form VAT 101D and attaching it to the other documents required above for your VAT registration. VAT-registration is a pre-requisite for participation in the scheme.

Application forms and booklets providing details of the rules and procedures of the scheme are available at your local SARS office or from the SARS website: www.sars.gov.za under “TAX TYPES” ⇒ “VAT” or “Customs”.

Make sure that you actually qualify for the Diesel Refund Scheme before registering, as any incorrect refunds claimed would have to be paid back to SARS, together with penalty and interest (plus additional tax in the case of evasion). *For more details refer to the Diesel Refund Guide (VAT 415) for more information in this regard.*

GENERAL NOTE REGARDING DOCUMENTARY REQUIREMENTS

Please make sure that where a certified copy of a specific document is required (for example, ID document), that the actual document which has been certified as a true copy of the original is submitted with the registration application, and not merely a photocopy thereof.

2.4 HOW DO I CALCULATE THE VALUE OF TAXABLE SUPPLIES?

The value of taxable supplies (turnover) is calculated on an ongoing basis. When closing off your books for the month, you need to keep a running total of your turnover for the past 12 months. If this total has exceeded R1 million in any particular month, you must register from the first day of the next month. You also need to consider the next 12 months, because if it is likely that you will exceed the limit, you must register immediately or at least within 21 days of becoming aware that you will be liable to register.

Example 2 – Calculating the total value of taxable supplies for registration purposes

Bongi Zulu trades as “Bongi Construction”. He tenders for a building contract of R5 million. Presently the fees earned from construction activities average R10 000 per month (R120 000 per 12-month consecutive period).

If Bongi Construction is not awarded the contract, he has an option to register voluntarily, or he can elect not to register. However, if awarded the contract, he would immediately know that he is going to exceed the R1 million compulsory VAT registration threshold, and in this case, he would be required to register his enterprise immediately. He would have 21 days in which to do this.

The table below gives a general indication of what to **include** and what to **exclude** when calculating the value of taxable supplies, to determine if you are liable for VAT registration.

Include	Exclude
<ul style="list-style-type: none"> • Sales/fees earned from goods and services supplied in the RSA • Sale of goods exported to an export country • Services rendered outside the RSA • Sales from all branches and divisions falling under that person inside the RSA • Deemed supplies (<i>refer to Chapter 5</i>). 	<ul style="list-style-type: none"> • Sales from stock or capital assets when closing down your business or substantially reducing (permanently) the scale of your business • Sales from old plant, machinery or other capital assets when replacing them with new assets • Any exempt supplies • Donations received by associations not for gain and welfare organisations • VAT

2.5 VOLUNTARY REGISTRATION

2.5.1 General

As mentioned in **paragraph 2.1** above, a person can apply for voluntary registration even though the total value of taxable supplies is less than R1 million. There is however a requirement that the value of taxable supplies already made must have exceeded R20 000 in the past 12-month period.

Note that it may be advantageous for a person to register voluntarily where goods or services are supplied mainly to other vendors and where the customer concerned will be able to claim the input tax thereon. It will generally not be advantageous for a person to register voluntarily where –

- the main or only supplies consist of the supply of services, where there are only a small amount of taxable expenses on which input tax would be claimed; or
- the enterprise's main expense is for salaries and wages (an expense on which no input tax may be claimed); or
- most of the supplies are made to final consumers (who are not registered for VAT).

Remember that if you choose to register, you will have to carry out all the duties of a vendor. For example, you will have to charge VAT, submit returns, make VAT payments on time and keep proper records for at least five years from the date of liability. Also note that you may only be registered in respect of any taxable supplies made, so if you decide to register, you can only charge VAT on taxable supplies. You may not charge VAT on supplies which are exempt from VAT. Refer to **Chapter 6** for more details and for examples of exempt supplies.

2.5.2 Small Retailers VAT Package (SRVP)

What is the SRVP?

The SRVP is intended to simplify and reduce the costs of compliance and administration for small retail businesses that sell both standard-rated and zero-rated goods, without compromising the verification by SARS of the vendor's VAT liability. A principle of VAT is that a vendor has to separately calculate the VAT due in respect of sales and purchases made in a particular tax period. The SRVP, however, is designed to calculate the VAT due by reference to the daily gross takings and purchases made by the vendor. The SRVP therefore determines the split between standard-rated and zero-rated supplies without requiring the vendor to keep the prescribed sales documentation. In short, the sum of all zero-rated purchases for the tax period is calculated and an industry markup percentage is applied to calculate the total zero-rated sales. The vendor has to calculate the daily gross takings for the same tax period and thereafter deduct the total zero-rated sales to determine the total of the standard rated sales. The tax fraction is then applied to the total of the standard rated sales to determine the VAT due on sales.

Who can use the SRVP?

The Commissioner will approve any application from a vendor to participate in the SRVP provided the applicant is registered for VAT and sells standard rated goods as well as zero-rated foodstuff from the same business premises. Refer to **paragraph 5.3.1** for examples of the basic foodstuffs that qualify to be zero-rated. Some examples include brown bread, dried mealies, samp, fresh eggs, fresh fruit and vegetables, rice and milk. (Refer to 11(1)(j) read with Schedule 2, Part B of the Act.)

Once the vendor satisfies these requirements, the vendor can apply to SARS to be registered on the SRVP. A vendor must apply in writing to the Commissioner on form VAT SRVP1 for permission to calculate the output tax liability using the SRVP. Upon the Commissioner's approval of the vendor's application, the vendor will be regarded as an approved vendor. The approved vendor will obtain written approval from the Commissioner on form VAT SRVP2 to account for the output tax in terms of the SRVP. Only approved vendors can use the SRVP to calculate their output tax liability. For further information about the SRVP, you can visit the SARS Website www.sars.gov.za.

2.5.3 Turnover Tax for micro businesses

The increase in the VAT registration threshold from R300 000 to R1 million on 1 March 2009 coincides with the introduction of a simplified tax system for micro businesses as an alternative to the current income tax and VAT systems. Micro businesses that make taxable supplies in excess of the minimum threshold of R20 000 (or R60 000 in the case of suppliers of “*commercial accommodation*”) may therefore choose to register voluntarily for VAT, or to participate in the Turnover Tax regime. However, associations not for gain, welfare organisations and certain other types of persons may not register as micro businesses. Also, a person cannot simultaneously be registered as a VAT vendor and as a micro business. Refer to **paragraph 2.8** for more information as well as *Comprehensive Guide to Turnover Tax* which is available on the SARS website www.sars.gov.za.

2.6 REFUSAL OF A VOLUNTARY REGISTRATION APPLICATION

The Commissioner may refuse to register a person for voluntary registration if the applicant –

- has no fixed place of residence or business in RSA; or
- does not keep proper accounting records; or
- has not opened a banking account in the RSA; or
- has previously been registered as a vendor under VAT or General Sales Tax (GST) and failed to perform the duties of a vendor; or
- has not met the minimum threshold requirement of R20 000 turnover for the past 12 months, or is registered as a micro business (as discussed in **paragraphs 2.3** and **2.5** above).

2.7 SEPARATE REGISTRATION (BRANCHES, DIVISIONS AND SEPARATE ENTERPRISES)

A vendor may register separately any enterprises, branches or divisions carried on by him/her for VAT purposes. This means that it is possible for a vendor to have more than one VAT registration number if the enterprise is carried on in branches or divisions. A separate form VAT 102 must be completed for each enterprise/division/branch for which a separate registration is required.

It is important to note that a person who operates several enterprises, or who operates an enterprise in branches or divisions cannot avoid the liability to register for VAT by considering the turnover of each branch or division individually. In such cases, the turnover of all the enterprises/divisions/branches must be added together to determine the total value of the supplies. Only associations not for gain can apply to be excluded from this rule.

There are **two conditions** under which separate registration can be granted for any separate enterprise, division or branch, namely:

- An **independent system of accounting** for each business must be maintained.
- The entity must be **capable of being separately identified** (that is, either by the nature of the activities or the geographic location).

The implication of separate registration is that each separately registered enterprise/division/branch is treated as a vendor in its own right. Each enterprise/division/branch will therefore be required to –

- retain the **same tax period** as the main branch (except farmers in certain cases);
- submit **separate returns and payments**;
- retain the **same accounting basis** as the parent body and keep its **own accounting records**; and
- remain registered until cancelled by the parent body or until the parent body's registration is cancelled.

In addition, any transfers of taxable goods or services between the separately registered enterprises/divisions or branches must be accounted for on a VAT 201 return covering that period. As with any other supply, the recipient will require a tax invoice to claim the applicable input tax.

Example 3 – Separate registrations and the liability to register

Mrs N is a sole proprietor and trades under the following three trading names:

N's Curry Den	Speedy Florists	Bobby's Shoe Retailers
Turnover of R510 000	Turnover of R390 000	Turnover of R220 000

The combined turnover of the three businesses is R1 120 000. Since the type of supplies being made are not exempt (*Refer to **Chapter 6** for examples of exempt supplies*), they will constitute "**taxable supplies**".

The "**person**" carrying on all three businesses is Mrs N, a sole proprietor. Since she is liable for VAT registration, she is referred to as a "**vendor**" and must account for VAT @ 14% on all the sales in each business from the date of liability. Mrs N will only be issued with one VAT registration number, but she can apply for three separate VAT registration numbers if she meets the two conditions for separate registration, as mentioned in *paragraph 2.7* above.

If SARS agrees to allocate separate VAT registration numbers, each separate business is deemed to be a **separate person** and VAT must be charged on supplies between the separate businesses, as well as to any other person.

2.8 CANCELLATION OF REGISTRATION

A vendor **may** apply for cancellation of registration if the value of taxable supplies falls below the limit of R1 million in any consecutive period of 12-months.

The Commissioner **will** also deregister a vendor if –

- the enterprise closes down and will not commence again within the next 12 months; or
- the enterprise never actually commenced or will not commence within the next 12 months; or
- the person opts out of the VAT system and migrates to the Micro Business Turnover Tax.

Whether you want to voluntarily deregister, or your circumstances have changed so that you are no longer liable to be registered as a vendor, you should inform the SARS branch office where you are registered in writing of your situation.

Cancellation of registration normally takes effect from the last day of the tax period in which the vendor ceases trading. However, in the case of a voluntary deregistration, the Commissioner will decide the date of deregistration and the final tax period. Remember though, that SARS cannot completely deregister you until all outstanding liabilities or obligations incurred under the Act have been settled or resolved. For example, you can not be taken off the VAT register if you still owe SARS returns for past tax periods or if any VAT payments are outstanding.

The Commissioner may also decide to deregister a person who has successfully applied for voluntary registration and it subsequently appears that the requirements mentioned under *paragraph 2.6* above have not been complied with. Any of a vendor's separately registered enterprises/divisions/branches may also be cancelled if –

- the vendor applies in writing;
- the main registration is cancelled; or
- it appears to the Commissioner that the duties under the VAT Act have not been carried out properly. The effect of the cancellation of a branch registration is that all duties under the VAT Act revert to the vendor (parent body/main branch). *Refer to **paragraph 5.4**: "Deemed Supplies" for the VAT implications of cancelling any VAT registration number.*

With effect from 1 March 2009, the VAT registration threshold increased from R300 000 to R1 million. If a vendor's total value of taxable supplies did not exceed R1 million in the previous 12-month period and is not likely to exceed that amount in the next 12-month period, that vendor may apply to deregister for VAT.⁸ Vendors that want to deregister voluntarily have two options. The first is to simply deregister from VAT as the value of taxable supplies is less than R1 million where the vendor has no intention to continue as a voluntary VAT registrant. Alternatively, the vendor can apply to migrate to the Turnover Tax for micro businesses which will require that vendor to deregister for VAT purposes. Some of the implications of these two options are discussed briefly below:

(a) *Ordinary deregistration*

- Form VAT 123 must be completed and submitted to the SARS branch office where the vendor is registered and must indicate clearly on the form or in a separate letter, the circumstances under which the deregistration application is made.
- A letter of acknowledgement will be sent to the applicant with further instructions regarding the deregistration process. Vendors must continue to charge and declare VAT on supplies made up to the last day of the final tax period as advised by SARS in the letter of acknowledgement.
- The applicant must declare output tax in Field 1A of the final VAT return (as advised by the Commissioner) on the total value of assets held by the business upon deregistration (exit VAT). This exit VAT must be declared together with any other VAT which is due for that tax period.
- If the application for deregistration is received by SARS **on or before 30 June 2009**, the applicant will be entitled to pay the exit VAT declared upon deregistration in six equal monthly instalments (or longer period which may be allowed by the Commissioner in the circumstances). If an arrangement to pay off the exit VAT is required, separate application in this regard should be made together with, or prior to, the submission of the final VAT return. Defaulting on the payment arrangement will result in interest being charged.
- Applications received **after 30 June 2009 will not qualify** for the payment arrangement.
- The applicant will be deregistered from the VAT system, but will remain in the normal income tax system.

(b) *Deregistration and migration to the Turnover Tax*⁹

- To register for the Turnover Tax, the applicant must **complete and submit the relevant registration form TT01 to SARS before 30 April 2009 for the 2009/10 year of assessment**.¹⁰
- Successful applicants will be notified that they have been registered for the Turnover Tax and will automatically follow the normal process to be deregistered for VAT and for income tax.
- After approval and notification of the successful registration for Turnover Tax, a letter of acknowledgement will be sent to the applicant with further instructions regarding the VAT deregistration process. Vendors must continue to charge and declare VAT on supplies made up to the last day of the final tax period as advised by SARS in the letter of acknowledgement.
- The applicant must declare output tax in Field 1A of the final VAT return on the total value of assets held by the business upon deregistration (exit VAT). Where the declared value of assets (including VAT) is less than, or equal to R100 000, no VAT will be payable upon deregistration. Where the value of assets exceeds R100 000, VAT is only payable on the amount by which the assets exceed R100 000. This VAT must be declared in the final VAT return together with any other VAT which is due for the final tax period.
- The applicant will be entitled to pay the exit VAT in six equal monthly instalments (or longer period which may be allowed by the Commissioner in the circumstances). Separate application in this regard should be submitted together with the application form TT01, or prior to, or together with, the submission of the final VAT return. Defaulting on the payment arrangement will result in interest being charged.

⁸ Vendors that are under the threshold of R1 million that want to continue as voluntary VAT vendors are not required to do anything. However, it should be noted that a separate exercise is being conducted by SARS to ensure that vendors on the register actually meet the minimum requirements.

⁹ Refer to the *Comprehensive Guide to Turnover Tax* which is available on the SARS website www.sars.gov.za for more information.

¹⁰ In subsequent years of assessment, new applicants that want to convert to Turnover Tax must apply by 1 March of the year of assessment concerned (or by a specified later date as the Commissioner may allow).

For example, if the assets are worth R500 000 (including VAT), the VAT payable on deregistration is calculated as follows:

$$\begin{aligned}\text{VAT on deregistration} &= [(R500\ 000 - R100\ 000) \times 14/114] \\ &= R400\ 000 \times 14/114 \\ &= \mathbf{R49\ 122.80}\end{aligned}$$

(Only this amount may be paid over six months and not the total VAT which is due for the final tax period).

CHAPTER 3

TAX PERIODS

3.1 WHICH TAX PERIODS ARE AVAILABLE?

You are required to submit returns and account for VAT to SARS according to the tax period allocated to you. Tax periods cover one, two, four, six or 12 calendar months. On acceptance of your registration by SARS, you will be allocated one of these categories.

Tax periods end on the last day of a calendar month. You may, however apply to the SARS branch office in writing for your tax period to end on another fixed day or date, which is limited to 10 days before or after the month end (the 10-day rule). This must be approved in writing and can only be changed with the written approval of SARS.

3.1.1 Two-month tax period (Category A or B)

This is the standard tax period, which is generally allocated at the time of registration. Under this category you are required to submit one return for every two calendar months.

- Category A is a two-month period ending on the last day of January, March, May, July, September and November.
- Category B is a two-month period ending on the last day of February, April, June, August, October and December.

3.1.2 One-month tax period (Category C)

Under this category you are required to submit one return for each calendar month. You will be registered according to Category C when –

- your turnover exceeds or is likely to exceed **R30 million** in any 12-month consecutive period. Where you operate more than one business, or operate a business with branches, the sales of all the businesses or branches must be added together to determine a total turnover. This applies, whether or not the other businesses or branches have separate VAT registration numbers;
- you have applied in writing for this category; or
- you have repeatedly failed to perform any obligations as a vendor.

You will cease to be registered under Category C if you apply in writing to be allocated to a different tax period and SARS is satisfied that you meet the requirements of the relevant category. Should your turnover exceed R30million subsequent to your registration for VAT, you are required to notify SARS to amend your registration to a Category C tax period within 21 days of becoming liable to register for a Category C tax period. Failure to notify SARS may result in interest and penalties being levied.

3.1.3 Six-month tax period (Category D)

Under this category you are required to submit one return for every six calendar months. This is a category solely for farmers, farming enterprises or associations not for gain that are carrying on a farming activity, with a total turnover of less than R1.5 million per consecutive period of 12 months. Your allocation under this category means that you are required to submit your returns for a six-month period usually ending on the last day of February and August. You may, however, apply to the local SARS office to alter the end of the period to another month. An individual's six-month period will be on the last day of February and August. A company or close corporation's financial year-end date will determine on which months their tax periods will end.

Section 25 of the VAT Act now requires a farmer to notify SARS once his/her total value of taxable supplies has exceeded R1.5 million in any 12-month consecutive period.

3.1.4 Twelve-month tax period (Category E)

Under this category you are required to submit one return for 12 calendar months. This category is for vendors whose tax periods are periods of 12 months ending on the last day of their "*year of assessment*" as defined in section 1 of the Income Tax Act or where any vendor falling within this category makes written application therefore on the last day of such other month as the Commissioner may approve. The vendor applying for registration under this category must comply with the following:

- The vendor must be a company or a trust fund.
- The supplies by the vendor applying for Category E must consist solely of
 - the letting of fixed properties; or
 - the renting of movable goods; or
 - the administration or management of such companies, made to a connected person in relation to that vendor.
- The connected person who receives the supply must be registered for VAT and must be entitled to claim the full amount of input tax in respect of those supplies.
- The vendor must agree with the recipients that tax invoices are issued only once a year at the end of the year of assessment of the vendor making the supplies.

3.1.5 Four-month tax period (Category F)

With effect from 1 August 2005, a new tax period (Category F) was introduced to assist small businesses. The four-month tax periods for each year are as follows:

- March to June to be submitted in July.
- July to October to be submitted in November.
- November to February to be submitted in March.

Category F tax periods are only available to vendors (including companies and close corporations) that –

- have a taxable turnover (that is, standard and zero-rated sales) which is less than R1.5 million in any consecutive period of 12 months, or which is not expected to exceed that amount during the period; and
- do not conduct their business under different VAT registered branches, even if the combined taxable turnover of those branches is less than R1.5 million in the 12 month period.

3.2 ALLOCATION AND CHANGE OF TAX PERIODS

3.2.1 New registrations

The Commissioner will determine whether the vendor falls within Category A or Category B. If a tax period other than Categories A, B or C are required, the vendor needs to meet the requirements for that tax period.

3.2.2 Vendors already registered for VAT

A request for a change of category can only be implemented with effect from a future date, and cannot be backdated, except in the following instances:

- if the wrong category has been captured in the registration process; or
- if the circumstances of the vendor have changed such that it is required for that vendor to be registered within another category. (For example, if the taxable supplies exceed R30million in any consecutive period of 12 months, Category C is applicable).

3.2.3 Change of vendor's circumstances after registration

As mentioned in **paragraph 3.2.1** above, the Commissioner determines whether the vendor falls within Category A or Category B. A change of category from two-monthly (A or B) to monthly (C) can generally only be effected from a future date and cannot be backdated unless the vendor has already exceeded the R30million threshold in a prior tax period.

If the total value of the taxable supplies of the vendor has in any consecutive period of 12 months ending on the last day of any month of the calendar year exceeded R30 million, the system will programmatically change the tax period from Category A or B to Category C and the vendor will be informed of this by means of a form VAT 103 of the change of category. Furthermore, the vendor is also required to inform SARS when the turnover exceeds R30million in any consecutive period of 12 months. If however, the tax period has been changed to Category C and in the next 12 months the taxable supplies will be less than R30 million, the vendor must inform the SARS branch office in writing thereof.

When the vendor falls within Category D (applicable to farmers), and the total value of the taxable supplies for the past 12 months has exceeded R1.5 million, the system will programmatically change the tax period from Category D to Category A or B. The vendor will be informed by means of a VAT 103 of the change of category. If however the category has been changed to A or B and in the next 12 months the taxable supplies should be less than R1.5 million** the vendor must inform the SARS branch office in writing thereof.

3.3 THE 10-DAY RULE

Whilst the tax period normally ends on the last day of the month, there is provision for vendors to adopt a date ending on a day other than the end of the month. If a vendor has an accounting date within 10 days before or after the end of the month in which the tax period ends, the vendor may use that date as the last day for the tax period. A vendor who wishes to apply this option must ***select a fixed day or date approved by the Commissioner before or after the end of the tax period and to apply the date consistently from one tax period to the next.***

For example, a vendor may select the 27th day of a month (fixed date), or the last Friday in the month (fixed day but not a fixed date). The election by the vendor to utilise a cut-off date allowed under the 10-day rule does not affect the due date for submitting the return (which remains the 25th day after the end of the month covered by that tax period).

CHAPTER 4

ACCOUNTING BASIS

4.1 INTRODUCTION

One of the underlying principles of the South African VAT system is that it is an invoice-based tax. This means that vendors are generally required to account for VAT on the basis of invoices being issued or received. This method of accounting is referred to as the “invoice basis” or “accrual basis”. However, certain vendors may qualify to use a different method referred to as the “payments basis” or “cash basis” of accounting. The differences between these two methods, as well as the requirements for each are discussed below.

4.2 INVOICE BASIS

Under this method of accounting vendors must account for the full amount of VAT included in the price of the goods or services supplied in the tax period in which the **time of supply** has occurred. This applies to the output tax liability on cash and credit sales as well as the input tax that may be claimed on cash and credit purchases.

According to the **general time of supply rule**, a supply occurs at the **earlier of** the following events:

- At the time that an invoice is issued.
- At the time any payment is received by the supplier.

Section 9 of the VAT Act also contains special time of supply rules. Where a special rule applies, the general rule will not apply. Examples include rental agreements, fixed property, coin operated vending machines etc. Refer to **Chapter 5** for more details.

All vendors must account for VAT on the invoice (or accrual) basis unless application has been made and permission has been received from the Commissioner to use the payments basis of accounting. (Note however that fixed property transactions are treated on the payments basis – refer to **paragraph 4.5.2** below).

Vendors must therefore account for the full amount of output tax on any supplies made in the tax period, even where payment has not yet been received from the recipient. Similarly, the full amount of input tax may be claimed on supplies received in the tax period, even where payment has not yet been made. A tax invoice must however be held by the vendor claiming the input tax. Furthermore, the vendor also needs to consider if the input tax on any particular supply is specifically denied before claiming it. Some of the advantages and disadvantages of the invoice basis of accounting are set out in the table below.

Advantages	Disadvantages
<ul style="list-style-type: none"> • Claim VAT incurred on purchases prior to payment. • Fewer adjustments required when reconciling for income tax purposes. • Easy to calculate and implement accounting systems (based on invoices issued/received for sales and purchases). 	<ul style="list-style-type: none"> • Account for VAT on sales prior to receiving payment from debtors. • List of debtors and creditors must be retained at the end of each tax period. • Can lead to cash flow problems.

4.3 PAYMENTS BASIS

The payments basis (or cash basis) uses the same time of supply rule mentioned above, but the vendor only accounts for VAT on actual payments made and actual payments received in respect of taxable supplies during the period. The payments basis is therefore intended to help small businesses. (Note however the special cases discussed in **paragraphs 4.5.1** and **4.5.3** below which are to be treated as if the vendor is registered on the invoice basis).

A vendor must apply in writing to SARS before being allowed to apply the payments basis, which, if approved, will only apply from a future tax period as specified by SARS. A vendor who no longer qualifies for the payments basis must also notify SARS within 21 days of the end of the tax period concerned and use the invoice basis from that date onwards.

The payments basis is only available to –

- Vendors who are **natural persons** (or partnerships consisting only of natural persons) whose total taxable supplies at the end of a tax period have **not exceeded R2.5 million** in the previous 12 months, and not likely to exceed R2.5 million in the next 12 months;
- **Public authorities, water boards; regional electricity distributors; municipal entities; municipalities (previously known as local authorities), associations not for gain, welfare organisations** – irrespective of their value of taxable supplies.

Juristic persons such as companies and trusts do not qualify for the payments basis unless they are the type of entity included in any of those listed below (for example, a section 21 company which is also a welfare organisation).

A few advantages and disadvantages of the payments basis of accounting are set out in the table below.

Advantages	Disadvantages
<ul style="list-style-type: none"> • Suits small business • Facilitates cash flow • Advantageous when the vendor allows lengthy periods of credit 	<ul style="list-style-type: none"> • Not available to everyone • Claim VAT only after payments made to suppliers • More difficult to implement accounting systems to manage, administer and calculate accurately (for example, reconciliation with income tax returns and adjustments).

Example 4 – Comparison of invoice basis vs payments basis of accounting

Assume the following sales and purchases figures (including VAT) for the tax period Jan to Feb 2006. Input tax and output tax is calculated by applying the tax fraction 14/114 to the relevant amounts – that is, amounts invoiced (invoice basis) and cash amounts (payments basis).

	<u>Invoice basis</u>	<u>Payments basis</u>
Output tax		
Total sales R57 000 (cash received R11 400)	R7 000	R1 400
Input tax		
Total purchases R22 800 (paid full amount in cash)	<u>R2 800</u>	<u>R2 800</u>
VAT payable/(refundable)	R4 200	(R1 400)

4.4 CHANGE OF ACCOUNTING BASIS

A change of accounting basis may occur where the vendor voluntarily wants to adopt a more suitable system for the type of business concerned (provided the requirements are met). This could involve a change from the invoice to the payments basis, or vice versa, depending on the advantages and disadvantages for that particular business. The vendor can apply to change the basis of accounting by completing form VAT 117.

Alternatively, SARS may require a vendor to change from the payments basis to the invoice basis because the vendor ceases to qualify for the payments basis. For example:

- A vendor who is an individual may have achieved business growth over time and managed to exceed R2,5million, which is the threshold prescribed in the VAT Act; or
- A vendor who is an individual may decide to conduct the business activities under a different legal entity such as a company, and so, be disqualified from utilising the payments basis of accounting. (This will also require a new registration to be processed and a new VAT registration number issued).

However, if the increased turnover is solely as a result of selling off your enterprise assets, permanently reducing the size of your business or due to abnormal circumstances of a temporary nature, the payments basis may be retained with the permission of SARS. Whatever the reason for changing accounting bases, the vendor must submit a calculation and a list of debtors and creditors to the SARS branch office where registered and make the necessary adjustment on the return for the period concerned. SARS will send the vendor a form VAT 118 which will indicate the tax period from which the change will apply as well as how to do the required calculation.

Example 5 – Change in accounting basis adjustment

Sam is a sole proprietor and trades under the name “Sam’s Discount World”. He is registered on the payments basis and noticed that the turnover for the previous 12 months has increased to R2.9 million. He now has to make the required adjustment in respect of debtors and creditors. SARS sends Sam a form VAT 118, which indicates that he must change to the invoice basis as from 1 August 2008.

On the 31 July 2008, Sam draws up the list, which reflects the balance of debtors to be R250 000 (including VAT) and the balance of creditors to be R215 000 (including VAT). The following calculation must now be performed:

Debtors:	R250 000
Less Creditors	<u>R215 000</u>
Difference	<u>R 35 000</u>

VAT on the difference is:
 $R35\,000 \times 14/114 = R4\,298.25$
 Sam declares this amount in block 12 on his VAT return (output tax).

If the amount owing to creditors was greater than the amount owing by debtors, the difference would represent input tax. For example, if Sam's creditors amounted to R300 000 and the debtors amounted to R200 000, the calculation would have been as follows:

Debtors:	R200 000
Less Creditors	<u>R300 000</u>
Difference	<u>(R100 000)</u>

VAT on the difference is:
 $R100\,000 \times 14/114 = R12\,280.70$
 which would be deducted in block 18 on the VAT return (input tax).

Note:

Remember to exclude any amounts included in debtors and creditors which do not include VAT at the standard rate (for example, debtors and creditors for exempt or zero-rated supplies)

4.5 SPECIAL CASES

The accounting basis will determine **how much** output tax must be paid or input tax claimed on a particular supply. There are, however, special provisions which treat certain supplies differently, irrespective of the accounting basis. These are as follows:

4.5.1 Instalment credit agreement (ICA)

Suppliers of taxable goods and/or services under an ICA must account for the full amount of output tax irrespective of the accounting basis on which they are registered. Similarly, the recipient will be able to claim the full input if the goods were acquired for making taxable supplies (that is, these supplies are treated as if on the invoice basis).

4.5.2 Fixed property supplied on or after 6 June 1996

Vendors making taxable supplies (sales) of fixed property on or after 6 June 1996 must account for output tax only insofar as the consideration for the supply has been received, irrespective of the accounting basis on which they are registered. Similarly the recipient may only claim input tax to the extent that payment of the consideration has been made (that is, these supplies are treated as if on the payments basis). This rule does not apply where the purchaser is a vendor and a “*connected person*” in relation to the supplier, if the purchaser is able to claim a full input tax credit on the supply.

4.5.3 Consideration more than R100 000

Where the supply is made on or after 5 June 1997 for a consideration of R100 000 or more, vendors registered on the payments basis (other than municipalities and public authorities) must account for the full amount of output tax in the period in which the supply occurs (that is, the supply is treated as if on the invoice basis.) This rule does not apply to the sale of fixed property as there is a special rule for these supplies as discussed in **paragraph 4.5.2** above.

CHAPTER 5

TAXABLE SUPPLIES

5.1 INTRODUCTION

As mentioned in **Chapter 1**, VAT is levied on the supply by any vendor of goods or services in the course of any enterprise carried on by a vendor. The term “*enterprise*” as defined, basically follows the lines of a business activity test (which excludes exempt supplies). Where the income from “*taxable supplies*” exceeds R1 million in any 12-month consecutive period, that person must register as a vendor for VAT (*refer to Chapter 2*). A “*vendor*” is a person who is liable to charge VAT on taxable supplies, whether that person has actually applied for VAT registration with SARS or not.

The term “*taxable supplies*” includes all supplies made by a vendor in the course of an enterprise on which VAT should be levied, and includes supplies which are subject to VAT at the zero-rate. Exempt supplies are not taxable supplies, and therefore no input tax be claimed on any expenses incurred to make exempt supplies, nor may output tax be levied thereon. *For more information regarding exempt supplies and input tax, refer to Chapters 6 and 7 respectively.*

A person will be considered to be carrying on an “*enterprise*” if **all** of the following requirements are met:

- An **enterprise or activity** must be carried on **continuously or regularly** by a **person in the Republic** or partly in the Republic.
- In the course of the enterprise or activity, **goods or services** must be **supplied** to another person.
- **Consideration** must be payable for the goods or services supplied.

The term “**supply**” is widely defined in the Act to include transactional performance under any sale, rental agreement, instalment credit agreement and all other forms of supply, whether voluntary, compulsory or by operation of law, irrespective of where the supply is effected, and includes any derivative of the term.

5.2 STANDARD RATED SUPPLIES

A standard rated supply is a supply of goods and/or services which is subject to VAT at the rate of 14%. As explained in **Chapter 1**, as a general rule, the supply of **all** goods and services are taxable at the standard rate, unless it is specifically zero-rated in terms of section 11 (*refer to paragraph 5.3*), or exempt in terms of section 12 of the VAT Act (*refer to Chapter 6*).

The following are some examples of standard rated supplies (the list is not exhaustive):

- Land and buildings (fixed property) – commercial or residential property bought from property developers, building materials, vacant land bought from a vendor etc.
- Fees for professional services – construction/building, estate agents, consultants, architects, engineers, project managers, doctors, private hospital services, lawyers, plumbers, electricians and accountants.
- Household consumables and durable goods – most grocery items and foodstuffs such as meat, fish, white bread, snacks, most canned foods, cigarettes, perfume, medicines, cool drinks, cleaning materials, clothing, footwear, microwave ovens and other household consumables and appliances.
- Municipal services such as the supply of electricity, water and refuse removal. Various non-taxable supplies by municipalities became taxable at the standard rate on 1 July 2006. (*Refer to VAT News No 28 and the VAT 419 Guide for Municipalities on the SARS website for more details*).
- Accommodation, hospitality, tourism and entertainment – restaurant meals, hotel accommodation, liquor sales, arcade amusements, casino slot machines and gambling services, entrance fees to sporting events, theatre performances and film shows, tour guides, game drives and game hunting expeditions.
- Capital assets such as furniture, production machinery, installations, motor vehicles and equipment.

- Local transport of goods (all modes of transport) and transport of passengers by air or sea.
- Telephone, internet, computer and other telecommunication services.
- Rental of goods and commercial property such as office space.
- Motor vehicles, repair services, lubrication oils and spare parts.

When a standard rated supply is made, VAT (output tax) must be charged at the prescribed rate (presently 14%). The vendor may claim input tax on goods and services acquired in the course of making those taxable supplies. The net VAT due by a vendor is calculated by subtracting the input tax incurred during the tax period from the output tax charged during the tax period. *Refer to **Chapter 8** for more details about calculating your VAT.*

5.3 ZERO-RATED SUPPLIES

Zero-rated supplies are taxable supplies on which VAT is levied at a rate of 0%. The application of the zero rate must be supported by documentary proof acceptable to the Commissioner. These requirements are set out in Interpretation Note No. 30 (consignment or delivery of movable goods) and Interpretation Note No. 31 (zero-rating of goods and services) respectively. *Refer also to **Chapter 10** for more details on exports and documentation required.*

Some examples of zero-rated supplies are briefly explained in *paragraphs 5.3.1 to 5.3.11* below:

5.3.1 Certain basic foodstuffs

Certain basic foodstuffs are zero-rated, provided it is not supplied for immediate consumption (that is, as a meal or refreshment) or added to a standard rated supply.

These include the following:

- | | |
|---|---|
| • brown bread | • dried mealies and mealie rice |
| • brown bread flour (excluding wheaten bran) | • samp |
| • hens eggs (that is, not from ostriches, ducks etc) | • fresh fruit and vegetables |
| • dried beans | • lentils |
| • maize meal | • rice |
| • pilchards in tins or cans | • vegetable cooking oil (excluding olive oil) |
| • milk, cultured milk, milk powder and dairy powder blend | • edible legumes and pulses of leguminous plants that is, peas, beans and peanuts |

The zero rate will **not apply** where –

- Zero-rated foodstuffs are prepared for immediate consumption, for example –
 - a glass of milk served in a restaurant;
 - salad or fruit salad which is ready to eat; and
 - sandwiches and other take-away foods.
- A standard rated product or ingredient is supplied with a zero-rated foodstuff, for example –
 - a pack of vegetables containing a pack of flavoured butter;
 - a pack of rice or beans containing a sachet of flavouring;
 - a gift hamper consisting of a basket of fruit;
 - flavoured cooking oil; and
 - a pack of salad to which salad dressing has been added.

Vendors that sell standard rated and zero-rated foodstuffs from the same premises may apply for the Small Retailers VAT Package (SRVP) provided certain requirements are met. The SRVP is a simplified method for determining the total value of taxable supplies, and the standard rated portion thereof. *Refer to **Chapter 2** for more details.*

5.3.2 Fuel levy goods

Most motor fuels are subject to taxes such as the General Fuel Levy, the Road Accident Fund Levy as well as Excise duty. The VAT Act therefore provides that certain specified “*fuel levy goods*” are subject to the zero rate. These include crude oil and certain petrol and diesel based products (including biodiesel from 1 April 2006), which are used as fuel in internal combustion engines. Examples include fuels used in motor cars, trucks, buses, ships, fishing boats, railway locomotives, farming and production machinery. Petroleum oils and crude oil which are refined for the production of fuel levy goods are also zero-rated; however, aviation kerosene, motor oil and oil lubricants are subject to the standard rate.

From 1 April 2001 the sale of illuminating kerosene (paraffin) intended for use as fuel or for heating is subject to VAT at the zero rate. However, with effect from 1 April 2006 the zero rate only applies to illuminating kerosene which has been “marked”. Any “unmarked” illuminating paraffin or other forms of paraffin which are blended or mixed with any other products are subject to the standard rate of VAT.

5.3.3 Going concern

The sale of a business or part of a business which is capable of separate operation as a going concern qualifies for the zero rate if **all** of the following requirements are met at the time of entering into the agreement:

- **Both parties must be VAT vendors** (if not yet registered at the time of concluding the contract, the purchaser can backdate the registration liability date to the date of the contract).
- It must be clearly evident, and stated in the wording of the **written agreement** that –
 - the **enterprise** is sold as a going concern¹¹;
 - the business is, or will be **an income-earning activity** on the date of transfer;
 - the whole business or a part of it which is capable of separate operation is disposed of to the purchaser, including **all the assets necessary for carrying on the enterprise** or part thereof; and
 - the consideration **includes VAT at the rate of 0%**.

Where any of the above requirements are not met, the supply of the enterprise will be subject to VAT at the standard rate of 14%.

Some examples of where an income-activity is not disposed of are:

- The sale of a bakery business without the ovens.
- The sale and leaseback of a commercial building.
- The transfer of the bare dominium of an asset.
- The disposal of a business yet to commence.
- The disposal of a dormant business.

For more information on the VAT treatment of fixed property and construction services, refer to the *Guide for Construction and Fixed Property (VAT 409)* on the SARS website.

5.3.4 Farming goods

The supply of certain goods acquired and used for agricultural, pastoral or farming purposes may be zero-rated in certain circumstances. Some examples are animal feed, animal remedies, fertilizer, pesticide and plants and seeds in a form used for cultivation. *Refer to **Chapter 9** for more information.*

¹¹ It is important to note that the **subject of the agreement** must be an “**enterprise**” as a going concern. In other words, the *merx* of the contract must be the business or enterprise itself (usually referred to as “lock, stock and barrel”) where the buyer steps into the shoes of the seller so that the business continues to operate with minimal interruption whilst being transferred to the new owner. This provision is not intended to allow the sale of individual physical assets such as **fixed property** to be subject to the zero rate. Where the contract is structured as the supply of fixed property (instead of the sale of an enterprise together with all the necessary assets and the income earning activity), the supply is subject to VAT at the standard rate, whether income is earned from that fixed property or not.

5.3.5 Goods temporarily imported for repairs

VAT is a tax on local consumption. Where consumption is outside of the RSA, the zero rate applies. Where goods are temporarily admitted into the RSA for processing, repair, cleaning or reconditioning, the services supplied directly in connection with those goods are zero-rated. Any goods which are consumed or permanently affixed to those goods as a consequence of the services being rendered will also be zero-rated. This also applies to foreign-going ships or aircraft. The foreign importer must furnish the Controller of Customs and the supplier with a completed VAT 262 form.

Example 6 – Foreign-going aircraft temporarily imported for repairs

A foreign-going aircraft needs repairs to be carried out to its landing gear while stationed at the Cape Town Airport. A local vendor is contracted to do the repairs. The services (labour) and spare parts (welding rods, gas, welding plates etc.) used in the repairs may be zero-rated, provided the necessary documentary requirements are met.

5.3.6 Exports

The direct export of goods may be zero-rated. In certain instances, the indirect export of goods may also qualify for the zero rate. In both cases certain documentary and other requirements must be met to support the application of the zero rate. Refer to **Chapter 10** for more information on exports.

5.3.7 International transport

The international transport of goods or passengers is zero-rated. This includes the cross-border transport of goods or passengers from a place outside the RSA into the RSA or vice versa. The transportation of goods or passengers from two places outside the RSA also qualifies for the zero rate. The vendor supplying the service must be responsible for the total movement of passengers or goods from the starting point to the final destination. Furthermore, the transport by air of passengers is zero-rated to the extent that it constitutes “international carriage”. This term refers to the local leg of a flight that forms part of an international journey.

The transport of goods between two places in the RSA is zero-rated to the extent that the supply is by the same supplier, and the local transportation service is an integral part of the international transportation service. The contractual arrangement for the local and international portion of the transportation service must accordingly be between the same supplier and recipient. This does not necessarily mean that the service must physically be performed by the same supplier. The supplier may sub-contract part of the transport service, but must still be contractually liable to the recipient for that part of the transportation.

5.3.8 Land situated in an export country

Any service supplied directly in connection with land situated outside the RSA is zero-rated. For example, where a South African resident contracts with a South African vendor to paint a house situated in Botswana, the zero rate will apply.

5.3.9 Services physically performed outside the Republic

The supply of services physically rendered or performed outside the RSA qualifies for the zero rate. This provision will apply to both residents and non-residents. For example, if a South African vendor conducts a market survey in California in the USA for South African wine producers who want to export wines to the USA, those services are subject to VAT at the zero rate. This provision also applies to services physically performed for a vendor in a customs controlled area.¹²

¹² A customs controlled area is a designated area within an Industrial Development Zone (IDZ) in the Republic and is described in section 21A of the Customs and Excise Act. Refer to [Interpretation Note 41 \(Issue 2\) - 31 March 2008](#) for more details in this regard.

5.3.10 Certain services supplied to non-residents

Where services are supplied to a non-resident who is not in the RSA at the time the services are rendered, the supply will qualify for the zero rate. Note that the standard rate will apply where the services are directly in connection with land (or improvements thereto) which is situated in the RSA, or movable property which is situated in the RSA at the time the services are rendered. Where the movable property is subsequently exported to the non-resident, or it forms part of a supply by a non-resident to a registered vendor (resident), the zero rate will apply.

The supply of services in respect of a restraint of trade in the RSA is standard rated.

Example 7 – Services supplied by a vendor as part of a supply by a non-resident

Company A, a non-resident supplies a machine to a Company B, a resident vendor. Company A contracts with Company C (resident vendor) to do the installation at Company B's premises.

The supply of the service by Company C to Company A will be zero-rated, as it forms part of the supply by the non-resident (Company A) to a registered vendor in the RSA (Company B).

5.3.11 Municipal property rates

With effect from 1 July 2006, any municipal property rates charged by a municipality will be subject to the zero rate. However, the municipal rates charge must be separate and distinct from other charges levied for goods or services by that municipality. Therefore, where a municipality charges a "flat rate" which includes a charge for municipal rates, plus other charges for water, electricity, refuse removal, or other standard rated goods or services supplied, the entire charge is subject to the standard rate.

5.4 DEEMED SUPPLIES

As a registered vendor, you may sometimes be required to declare an amount of output tax even though you have not actually supplied any goods or services. The VAT Act contains deeming provisions which both widen the range of transactions subject to VAT and clarify the instances where certain transactions will be deemed to be taxable or not. Deemed supplies will generally attract VAT at the standard rate. However, in some instances the zero rate will apply.

Examples of deemed supplies on which a vendor has to account for output tax at the **standard rate** include –

- trading stock taken out of the business for private use;
- certain fringe benefits provided to staff;
- assets retained upon ceasing to carry on an enterprise;
- short-term insurance claims that have been paid in connection with the enterprise (for example, insurance payout received for damaged or stolen stock);
- the receipt of payments from government by designated entities for the purposes of taxable supplies;
- change in use adjustments (*Refer to Chapter 13*).

Grants or subsidies received from government give rise to a deemed supply by the recipient to the public authority or municipality making the payment. The deemed supply is subject to VAT at the **zero rate** in the hands of the recipient, **unless the receipt constitutes payment for the actual procurement of goods or services** by the public authority or municipality making the payment.

Example 8 – Insurance indemnity payment

Peter's Deliveries' driver was involved in an accident on 25 March 2006 in which the delivery van was damaged. Peter's insurance company issues him with a cheque for R57 000 on 1 June 2006, to compensate for the loss. As he is registered under Category B tax period, and the indemnity payment is deemed to be received in the course of his enterprise, Peter must account for output tax in his June 2006 return. The VAT is calculated on the amount received, therefore $R57\ 000 \times 14/114 = R7\ 000$.

5.5 TIME OF SUPPLY

Generally, the time of supply is the earlier of the time an invoice is issued by the supplier (or the recipient) in respect of that supply, or the time any payment of consideration is received. However, specific time of supply rules applies to certain transactions. A few examples are dealt with in *paragraphs 5.5.1 to 5.5.5* below.

5.5.1 Connected persons

Where the supplier and the recipient are connected persons, a supply of goods or services is deemed to take place as follows:

- Where the supply is of goods to be removed, at the time of removal.
- Where the supply is of goods not to be removed, at the time the goods are made available to the recipient.
- Where the supply constitutes services, at the time the services are performed.

Where an invoice is issued or payment is received on or before the date that a return was submitted (covering the tax period in which the goods or services are deemed to be supplied as stated above), or the last day for submitting a return for that tax period, the normal time of supply rule will apply.

Example 9 – Time of supply for connected persons

Farmer A is a vendor registered under Category B. He rents a harvesting machine to his son during the peak season from January to March. His son collected the machine on 10 January 2006. Farmer A submits his return for February on 25 March 2006.

If no payment was received, and no invoice was issued by 25 March 2006, the time of supply will be at the time that the goods were removed, as Farmer A and his son are connected persons. Farmer A will, therefore, have to account for the supply in his February return.

If Farmer A issues an invoice for the rental on or before 25 March 2006, the normal time of supply rules apply. Farmer A will accordingly declare the VAT on the supply in his April return.

5.5.2 Progressive, successive and periodic supplies

Where goods are supplied under a rental agreement or services are supplied where provision is made for periodic payments, they are deemed to be supplied successively. The time of supply is deemed to take place on the earlier of the date when payment is due or is received. Some examples are office or car rentals, maintenance or management contracts and cleaning services.

Where goods are supplied periodically or progressively and the agreement provides for the consideration to be paid in instalments, or according to the progress made in relation to the supply, the time of supply is the earliest of the date when payment is due or is received, or any invoice relating to the payment is issued. An example is an agreement whereby goods are to be supplied monthly over a stated period at an agreed price.

Where goods or services are supplied directly in the construction, repair, improvement, erection, manufacture, assembly or alteration of goods and the agreement provides for the consideration to become due and payable in instalments or periodically in relation to the progress made, the time of supply is the earliest of the date when payment is due or is received, or any invoice relating to the payment is issued.

Example 10 – Progressive supplies (construction)

Joe's Construction is registered for VAT under Category C tax period (monthly) and enters to a contract to build 50 residential units for a total contract price of R6 500 000 (VAT inclusive). The agreement provides for monthly progress payments to be made over a period of 12 months. At the end of January and February 2006, the work certified as completed by the appointed Project Manager was 10% and 23% respectively. Joe issued two tax invoices as follows:

Invoice 1357 - 31 January 2006	R650 000 (10% of R6 500 000)
Invoice 1358 - 28 February 2006	R845 000 (23% of R6 500 000 less R650 000 already invoiced)

As the goods are deemed to be supplied progressively, Joe will not account for the full contract price at the time the agreement is entered into. Joe will account for VAT of R79 824.56 ($14/114 \times R650\ 000$) in his January 2006 return and R103 771.93 ($14/114 \times R845\ 000$) in his February 2006 return.

5.5.3 Instalment credit agreement (ICA)

Where goods are supplied under an ICA, the supply is deemed to take place the earlier of the time the goods are delivered or any payment of the consideration is received by the supplier. Goods supplied under an ICA are not regarded as being supplied successively as discussed in **paragraph 5.5.2** above.

5.5.4 Fixed property

Goods consisting of fixed property or any real right therein are deemed to be supplied upon registration of transfer of the property in a deeds registry, or the date upon which any payment is made in respect of the consideration (whichever occurs first). Note that a "deposit" is not considered to be "any payment" until the seller is able to apply that payment as consideration for the supply. Similarly, where the payment is held in a trust by an estate agent or attorney, it does not constitute payment made, as the seller cannot apply the amount against the outstanding debt at that time. *Also refer to the Guide for Fixed Property and Construction (VAT 409) on the SARS website.*

5.5.5 Fringe benefits

Where the cash equivalent of the benefit is required to be included in the remuneration of the employee who has received a benefit or advantage in terms of the 4th Schedule to the Income Tax Act, the time of supply is the end of the month in which such benefit is required to be included as remuneration. Where the cash equivalent is not required to be included monthly or weekly in the amount of remuneration, the time of supply is the last day of assessment of the employee in terms of the said Act.

5.6 VALUE OF SUPPLY

Where a price is charged for goods or services, the consideration for the supply will normally be equal to the money charged. The consideration for a supply is represented by the value plus the VAT charged. Where the consideration is not in money, the consideration will be the open market value thereof. Note that the open market value includes the VAT element. Specific value of supply rules apply to certain transactions. Some examples follow in **paragraphs 5.6.1 to 5.6.5** below.

5.6.1 Connected persons

The normal value of supply rules apply to connected persons. However, the consideration in money will be deemed to be the open market value if –

- the supply is for **no consideration** or for a **consideration which is below the open market value**;
- the recipient **does not acquire the goods or services wholly in the course of conducting an enterprise**; and
- the recipient **would not have been entitled to a full input deduction** on the goods or services acquired, had the open market value been charged on the supply.

5.6.2 Instalment credit agreement (ICA)

The consideration in money is deemed to be the cash value of the supply. The cash value includes the cost of acquisition of the goods and VAT. The cash value is normally the amount which is capitalised to the cost of an asset, for example the purchase price, import duties, transportation, installation costs, and any other costs directly attributable to bringing the asset to the location and condition necessary for it to be used as intended. The cash value does not include the cost of providing credit (that is, interest or finance charges).

5.6.3 Commercial accommodation

The supply of commercial accommodation is a taxable supply. Commercial accommodation includes board or lodging supplied together with domestic goods or services (for example, meals, laundry services, the use of a telephone) in a house, flat, apartment, room, hotel, guest house etc. The total receipts for the supply of the commercial accommodation must exceed R60 000 for a period of 12 months before the activity will fall within the definition of an “*enterprise*” as defined. For example, a guest house which does not supply (or is not likely to supply) accommodation together with domestic goods and services in excess of the R60 000 threshold in a 12-month consecutive period, will not be able to register as a VAT vendor. Commercial accommodation excludes the letting or hiring of a dwelling which constitutes the place of residence of a natural person or the supply of employee housing, both of which are exempt supplies. *Refer to **Chapter 6** for more details.*

Where a person stays in an establishment which provides commercial accommodation for an unbroken period of more than 28 days, only 60% of the all-inclusive charge for the accommodation and the domestic goods and services is subject to VAT at the standard rate. Where a person stays for a period less than 28 days, the full amount charged is subject to the VAT at the standard rate. Any domestic goods or services which are charged separately and are not included in the all-inclusive tariff for the accommodation, are also taxed in full at the standard rate. *Refer to the VAT Guide: Accommodation, Catering and Entertainment (VAT 411) for more information in this regard.*

5.6.4 Barter transactions

In barter transactions, goods or services are exchanged for other goods and/or services. Payment may also be partly in money, and partly in goods and/or services exchanged. Where payment is in money, the consideration for the supply will be the amount of money. To the extent that payment is not in money, the consideration is the open market value (OMV) of goods and/or services received.

Example 11 – Barter transaction

Farmer A supplies 10 cattle (OMV = R200 each) to Farmer B. In exchange, Farmer B supplies Farmer A with 1 horse (OMV = R1 000), and a cash payment of R1 000. The VAT effect is shown as follows:

<u>Farmer A</u>		<u>Farmer B</u>	
<u>Output tax:</u> (On the cattle supplied)		<u>Output tax:</u> (On the horse supplied)	
Money received as payment	R1 000	Money received as payment	R Nil
OMV of horse received as payment	R1 000	OMV of cattle received as payment	R2 000
Total consideration received	<u>R2 000</u>	Total consideration received	<u>R2 000</u>
VAT (14/114 x R2 000)	<u>R245.61</u>	VAT (14/114 x R2 000)	<u>R245.61</u>
<u>Input Tax :</u> (On the horse acquired)		<u>Input Tax :</u> (On the cattle acquired)	
Input tax (14/114 x R1 000)	<u>R122.80</u>	Input tax (14/114 x R2 000)	<u>R245.61</u>

Input tax is allowed on goods or services acquired for making taxable supplies. As cash (“money” as defined), is neither goods nor services, Farmer A is only entitled to claim input tax on the OMV of the goods acquired (that is, the horse). However, Farmer B acquired only goods and no cash.

5.6.5 Fringe benefits

The consideration in money is deemed to be the cash equivalent of the benefit granted to the employee as determined in the 7th Schedule to the Income Tax Act. Where the benefit consists of a right to use a motor vehicle, the consideration is determined in terms of Regulation No. 2835 dated 22 November 1991.

Example 12 – Motor vehicle supplied as a fringe benefit

David’s Wholesalers (a vendor registered under Category B tax period) purchases a “motor car” for R114 000 (including VAT of R14 000) on 1 March 2008. David’s Wholesalers is not entitled to claim an input tax credit on the acquisition of the “motor car” as it is a prohibited deduction. An employee of David’s Wholesalers (who is paid monthly) is granted the right to use the motor car with effect from 1 March 2008, and David’s Wholesalers bears the full cost of maintaining the vehicle.

David’s Wholesalers must account for output tax on the supply of the fringe benefit as follows:

- Step 1** Consideration in money = determined value of the motor car x 0.003 (0.3%)
 = (R114 000 - R14 000) x 0.003 = R300
- Step 2** The amount of output tax payable **per month** will be = R300 x 14/114 = **R36.84**
- Step 3** The first tax period covers the months of March 2008 and April 2008 and output tax on the fringe benefit must be declared in Field 12 of the VAT 201 return and paid on 25 May 2008 and for every tax period thereafter as follows:
 R36.84 x 2 months = **R73.68**

Note that where the input tax on acquisition of the vehicle was allowed (for example, a bakkie) the consideration in money is calculated by applying a factor of 0.006 (0.6%) instead of 0.003 (0.3%).

Where the employee bears the full cost of the repairs and maintenance, and receives no compensation, the consideration as determined above must be reduced by the lesser of R85 or the consideration for the fringe benefit determined monthly.

CHAPTER 6

EXEMPT SUPPLIES

6.1 INTRODUCTION

The definition of “*enterprise*” as discussed in **paragraph 5.1** is an **activity based test** which is applied to determine whether certain supplies are taxable or not. Exempt supplies are supplies of goods or services where VAT is not chargeable at either the standard rate or the zero rate, and will not form part of taxable turnover. If a person makes only exempt supplies, that person cannot register as a vendor or charge VAT on those supplies. Accordingly, VAT incurred on any expenses in order to make exempt supplies may not be claimed as input tax.

Some examples of exempt supplies include –

- financial services (such as, interest earned for the provision of credit, life insurance, the services of benefit funds such as medical schemes, provident, pension and retirement annuity funds);
- donated goods or services sold by non-profit bodies (such as, religious and welfare organisations);
- residential accommodation in a dwelling (but not holiday accommodation);
- passenger transport in South Africa by taxi, bus, or train;
- educational services provided by recognised educational institutions which are exempt from income tax in terms of section 10(1)(cN) of the Income Tax Act, 1962 (such as, primary and secondary schools, universities and universities of technology (previously known as technikons)); and
- certain childcare services (that is, crèches and after-school care centres).

Note that generally the liability to register for VAT does not depend on the status of the organisation itself, but rather on the type of supplies made. There is, however, an exception which is applied in the case of public authorities. The term “*public authority*” is defined in the VAT Act and refers to government departments and certain other non-business public entities listed in the Public Finance Management Act, 1999 (the PFMA). Public authorities are generally not liable to register for VAT and therefore any charges for supplies by these entities will not be taxable. (*Refer to **paragraph 6.8** for more details*).

6.2 LETTING AND SUB-LETTING OF DWELLINGS

VAT is not levied on the rent charged by a lessor to a lessee for the supply of a dwelling under a lease agreement. This rule also applies to employee housing supplied by an employer, whether a rental is charged or not. A “*dwelling*” is basically defined as a building or a part of a building which is used, or intended to be used, as the residence of a natural person, and includes any fixtures and fittings enjoyed with the supply of the dwelling. The definition excludes the supply of “*commercial accommodation*”. *Refer to **paragraph 5.6.4***.

Where a number of residential dwelling units are let to a person who in turn sub-lets them to other persons, as long as the nature of the supply under both the main lease and the sub-leases constitutes the supply of a “dwelling” (or dwellings), the exemption in terms of section 12(c) of the Act will apply. However, if the nature of the supply under the sub-lease is different from the main lease, for example if one of the dwellings is let as office premises, the exemption will not apply and VAT must be levied in respect of the office premises.

6.3 PASSENGER TRANSPORT (ROAD AND RAIL)

The supply of public transport by road or rail is exempt from VAT if the transportation –

- is between two places within the RSA;
- is of fare-paying passengers and their personal effects; and
- is supplied in the course of a transport business in a vehicle operated by the supplier of the transportation service or a person acting as the supplier’s agent.

The following points should also be noted in regard to exempt passenger transportation:

- A charge or fee levied for a game-viewing drive does not fall within the ambit of this exemption.
- The transportation of goods does not fall within the exemption, except to the extent that it relates to the transportation of the personal effects and baggage accompanying the fare-paying passenger.
- Transportation of passengers by air and sea constitutes a standard rated taxable supply and does not fall within the exemption.
- Where an international transportation service is supplied, the zero rate will apply instead of the exemption. (Refer to **paragraph 5.3.7**).

6.4 FIXED PROPERTY SITUATED OUTSIDE THE REPUBLIC

The supply of land (together with any improvements) by way of sale or letting is exempt from VAT if the land is situated outside the RSA.

6.5 EDUCATIONAL AND CHILDCARE SERVICES

The supply of educational services by the following entities is exempt from VAT:

- All State schools or schools registered under the **South African Schools Act, 1996** or a further education and training institution registered under the **Further Education and Training Act, 1998**.
- Universities, universities of technologies (previously known as technikons), colleges and other institutions providing higher education which are registered under the **Higher Education Act, 1997**.
- Institutions which are approved Public Benefit Organisations (PBOs) in terms of section 30 of the Income Tax Act which supply and of the following –
 - adult basic education (ABET);
 - education and training of religious or social workers ;
 - educating and training of persons with permanent physical or mental impairment; or
 - bridging courses to indigent persons to enable them to enter a higher education institution.

Prior to 1 March 2002, crèches and after-school care centres were treated as exempt educational institutions, and thus exempt from VAT registration. However, from 1 March 2002 crèches and after-school care centres are specifically exempt from VAT in terms of section 12(j) of the VAT Act.

Example 13 – Crèche and after-school care

Mrs B runs a crèche and an after-school care centre. She charges R300 per month for each of the 100 children which are enrolled at the centre. Her monthly expenses amount to R11 400, of which R1 400 is VAT.

Annual Income (R300 x 100)	R30 000 x 12 = R360 000
Annual expenses (including VAT)	R11 400 x 12 = R136 800

Mrs B will not register as a vendor even though her annual income is in excess of the threshold for registration (namely, R1 million). This is because she is providing an exempt service of caring for children in a crèche. As Mrs B may not register for VAT, the R1 400 VAT incurred cannot be claimed as input tax, and consequently, the amount will form part of the business costs of running the facility.

6.6 FINANCIAL SERVICES

Some examples of financial services which will normally be exempt are –

- the exchange of currency – for example, the Rand value given for Dollars, but this excludes any fee charged for the service will be standard rated;
- equity or participatory securities – for example, the sale of an interest in a close corporation, the creation and selling of company shares; and the sale of a share in a unit portfolio of a unit trust scheme;
- the provision of credit under an agreement – for example, the amount payable (that is, interest) for the provision of a home loan or an overdraft on a cheque account; and the finance charges on an instalment credit agreement;
- premiums payable on long term insurance policies – for example, life policies, sinking fund policies or disability policies; and
- the buying or selling of derivatives – for example, options, futures and interest-rate swaps.

From 1 October 1996 all fees, commissions, merchant's discount and similar fee-based charges relating to financial services, became subject to VAT. Banks and other suppliers of financial services are therefore normally in a position where they make both taxable and exempt supplies. It follows that in such cases the input tax must be apportioned where goods or services acquired cannot be directly and wholly attributed to either taxable or exempt supplies. Refer to **paragraph 7.4** for more details.

Where the financial service is supplied to a non-resident who is not in the country at the time that the service is rendered, the zero rate will apply instead of the exemption.

6.7 DONATED GOODS AND SERVICES

The supply by an association not for gain or a welfare organisation of any goods or services which it receives as a donation is an exempt supply. Furthermore, where the organisation sells goods which it has manufactured, the supply is also exempt from VAT if at least 80% of the value of the supply consists of donated goods or services.

Associations not for gain and welfare organisations do not declare output tax on any donations received by them in the furtherance of their stated aims and objectives. However, the organisation will be liable for output tax if any so-called "donation" is conditional upon some form of reciprocity in the form of a supply of goods or services (identifiable direct valuable benefit) by the association to –

- the "donor"; or
- to a relative or other connected person in relation to the donor.

In such cases, the payment received is viewed as being consideration for a taxable supply made by the organisation.

For further information, refer to the *Guide for Associations not for Gain and Welfare Organisations (VAT 414)* on the SARS website www.sars.gov.za.

Example 14 – Supply of donated goods by an association not for gain

Mr Charity donates his old clothes to a church as well as some off-cuts of wood from his carpentry business (which will be made into chairs by the organisation). The clothes and chairs will be sold at the church's annual bazaar. The church is registered for VAT because in addition to its religious and fundraising activities, it also conducts business activities which involves the purchase and sale of goods where the value of supplies exceeds the VAT threshold of R1 million.

The VAT implications of the supplies made at the annual church bazaar are as follows:

- Even though the church is registered for VAT, the sale of the clothes by the church will be an exempt supply. Therefore, no input tax may be claimed in making these supplies.
- The sale of the manufactured chairs will also be exempt if at least 80% of the value of the materials used in making the chairs consists of donated goods and services. Once again, no input tax may be claimed in respect of making or selling the chairs.
- However, if the value of the wood constituted say 70% of the value and the other 30% of the value of the chairs such as glue, nails, paint, fabric, rubber stoppers, transport and other services had to be purchased, the supply would be taxable at the standard rate (as the church is a vendor). In such a case, input tax could be claimed on the goods or services from vendors which were acquired in order to manufacture and sell the chairs (but not on the wood which was received as a donation).
- If any other goods which the church purchased were sold at the bazaar, those supplies would be taxable at the standard rate, and input tax could be claimed on the VAT incurred on those purchases.
- Where goods or services were acquired to make both taxable and exempt supplies at the bazaar, a reasonable portion of the VAT incurred may be claimed.
- The activities associated with the church itself, for example, efforts to promote the faith and holding church services for its members are outside the scope of VAT and are not enterprise activities.

6.8 PUBLIC AUTHORITIES

As mentioned in **paragraph 6.1** when applying the “*enterprise*” test in respect of the supplies made by a “*public authority*”, special rules apply. Government departments are generally not liable to register for VAT, unless they are specifically notified by the Minister of Finance (the Minister) to do so. This means that, as final consumers, the VAT incurred on capital and operating expenses is regarded as a cost to the department. The VAT Act was amended with effect from 1 April 2005, to make it clear that national and provincial public entities listed in Parts A and C of Schedule 3 to the PFMA will also be treated on the same basis as departments, as they carry on activities which are either similar to those carried out by government departments and/or they are funded mainly by Government.

The amendments to the VAT Act in this regard had widespread implications for departments and non-business public entities, which had registered for VAT as well as for those which should have registered, but did not.

The major implications of these amendments can be summarised briefly as follows:

- *Liability to register*
Generally, national and provincial government departments (listed in Schedules 1, 2 and 3 of the Public Service Act, 1994) and public entities listed in Schedules 3A and 3C to the PFMA (public authorities) are not enterprises and will not be vendors, nor make any taxable supplies, unless specifically notified by the Minister to register for VAT. Constitutional institutions listed in Schedule 1 to the PFMA are excluded from qualifying as an enterprise and will therefore also not be liable to register for VAT. Therefore, as a general rule, where a public authority or constitutional institution charges an amount for any goods or services supplied, that supply will not be a taxable supply and VAT will not be charged.

- *Public authorities and public entities which are regarded as enterprises*

Where (and to the extent that) a public authority is specifically notified by the Minister to register for VAT, it will be a “*designated entity*” and will for all intents and purposes be regarded as a normal business for VAT purposes. Designated entities essentially carry out work which would otherwise be done by government, but compete with other vendors in the economy. The funding that these entities receive is treated on the same basis as the consideration received by other vendors for making the same or similar taxable supplies.

Payments to designated entities are therefore taxable at the standard rate.¹³ Some examples of designated entities include –

- major public entities listed in Schedule 2 of the PFMA;
- national or provincial government business enterprises listed in Parts B or D of Schedule 3 to the PFMA;
- Public Private Partnerships (PPP’s); and
- welfare organisations.

- *Deregistration of public authorities*

Departments and other public entities which no longer qualified as enterprises were required to deregister for VAT. Relief from the output tax which would otherwise have been payable upon deregistration was provided for in the Act.

- *Skills Development Levies (SDL)*

As Sector Education Training Authorities (SETAs) were also required to deregister, SETA grants are no longer regarded as being inclusive of VAT at the standard rate. The law was amended to introduce a provision to zero rate the receipt of SETA grants with effect from 1 April 2005. It follows that vendors will no longer be allowed to claim input tax on any SDL payments made from April 2005 onwards.

- *Grants and transfer payments*

The term “*grant*” replaced the term “*transfer payment*”. To qualify as a grant, the payment must not be in respect of an actual supply of goods by the recipient to the public authority making the payment. In this regard, reference is made to the prescribed procurement procedures applied by public authorities and municipalities (previously known as local authorities). The term “procurement” normally refers to supplies paid for under the budget headings “Current payments” or “Payments for capital assets”. However, it should be noted that this “procurement test” is not the only manner in which a payment may be excluded from qualifying as a “*grant*”.

Where the payment appears to be a grant, but is in fact consideration for a supply which falls outside of the normal procurement procedures or budget headings applied by that public or local authority, the supply must attract VAT in accordance with the normal VAT rules. The following examples illustrate the point:

- Where petty cash payments for supplies are made without following a formal procurement process.
- Where funds are made available to vendors under contractual conditions involving a supply of goods or services in return for the payment.

For more information on this topic, refer to VAT News 25 and 26 as well as Interpretation Note No. 39 on public authorities, grants and transfer payments, which are all available on the SARS website.

¹³ Unless the deemed supply is by a welfare organisation, in which case the zero rate applies.

CHAPTER 7

INPUT TAX

7.1 WHAT WILL QUALIFY AS INPUT TAX

Generally, the VAT charged by a vendor to another vendor on any goods or services acquired for the business will qualify as input tax in the hands of the recipient. It does not matter if the goods or services are acquired for the purposes of consumption or use by the business itself, or for the purposes of making a supply to another person. It is important that input tax is only claimed insofar as the supplies are utilised for the purposes of making **taxable supplies** in the course or furtherance of the **enterprise**.

Input tax may not be claimed where goods or services are acquired for **private purposes** or for **exempt supplies**. Refer to **Chapter 6** for examples of exempt supplies or to section 12 of the VAT Act for a complete list.

To qualify as input tax, **three requirements** must be met, namely –

- a) the goods or services supplied must be acquired by the vendor wholly or partly for consumption, use or supply in the course of making taxable supplies; and
- b) VAT at the standard rate must have been charged on the taxable supply (or “*second-hand goods*” must have been acquired under a non-taxable supply and paid for by the purchaser (*refer to paragraph 7.4 for more details*)); and
- c) the **appropriate documentation** must be held by the vendor, as follows:
 - o Standard rated supplies – a valid tax invoice.
 - o Second-hand goods bought under a non-taxable supply – sufficient records must be maintained by the vendor claiming the input tax as per form VAT 264 and section 20(8) of the Act. (*Refer to also paragraph 7.4*);
 - o Importation of goods – a customs bill of entry DA 500 or other prescribed customs document (for example, a form CCA 1 or SAD) including the relevant proof of payment made to Customs.

The following are typical examples of expenses on which input tax may be claimed by a vendor making taxable supplies:

- Trading stock.
- Raw materials.
- Manufacturing overheads.
- Administrative overheads such as audit and accounting fees.
- Marketing and advertising expenditure.
- Fixed assets such as office furniture and computer equipment.
- Fixed property.
- Delivery vehicles.
- Rental charges for office space or for factory premises.
- Production machinery and maintenance expenses.
- Profession fees such as those charged by architects and engineers.
- Fees charged by VAT registered consultants and other independent contractors (but not salaries and wages of employees).
- Skills Development Levy (SDL) (only up to and including the SDL tax period ending March 2005);
- Regional Service Council (RSC) and Joint Services Board (JSB) levies (only up to and including the RSC/JSB tax period ending June 2006).

7.2 WHEN AND HOW DO I CLAIM INPUT TAX?

The input tax incurred for a supply is claimed in Part B of the VAT 201 for the particular tax period. Most of your claims will be completed in fields 14 and 15 of the return. Field 14 of the return is where you will indicate the VAT claimed on any capital purchases made and field 15 is used for any other goods or services used or consumed in the business in the course of making taxable supplies (including stock). *Refer also to **Chapter 8**.*

The correct tax period in which to make your claim is determined by the time of supply rules as discussed in **Chapter 4**. This will generally be the date that you made any payment for the supply, or the date that the invoice was issued by the supplier (whichever occurs first).

Your claim for input tax is set-off against your output tax liability on the VAT 201 form. The difference between these two amounts can either give rise to a refund, or a liability for that tax period. If your claim for input tax more than offsets the total output tax liability on the VAT 201 form (and any other amounts that you may owe SARS for past tax periods or other taxes), or if you have no output tax for that particular tax period, the excess input tax will be refunded to you. Make sure that SARS has your correct banking details so that any refunds due to you can be paid safely and conveniently into your account without any unnecessary delays.

As mentioned above, it is very important that you ensure that you have the relevant tax invoices for each supply **before** claiming the input tax. If you have not yet received the required tax invoice for a particular supply, you may only claim the input tax in the tax period that you obtain the document. You must, however, claim the input tax within a period of five years from the date of the supply to avoid forfeiting your claim.

7.3 HOW MUCH INPUT TAX CAN I CLAIM?

In **paragraph 7.2** above we dealt with *when and how* you claim your input tax, but you also need to consider *how much* of the VAT incurred you can claim in a particular tax period.

The following factors have an effect on how much input tax you may claim:

- The **accounting basis** on which you are registered and any special rules applicable for the particular supply (*refer to **Chapter 4** for details*).
- Whether the specific inputs are **disallowed** or are **limited** in any way (*refer to **paragraphs 7.4 and 7.5** below*).
- The **extent** to which the supply will be **utilised for taxable supplies** (*refer to **paragraph 7.4** below*).

In order not to disadvantage the **second-hand goods** market or to distort market prices, the VAT Act allows vendors under certain circumstances to claim an input tax credit on second-hand goods acquired from non-vendors (that is, where no VAT is actually payable to the supplier). This is known as a **notional or deemed input tax credit**.

The **conditions** under which a deemed or notional input tax credit may be claimed are –

- The goods must be “*second-hand goods*” as defined in the VAT Act.
- The supply may not be a taxable supply (for example, if the goods are purchased from a non-vendor).
- The supplier must be a South African resident (and the goods supplied must be situated in RSA).
- The purchaser must have paid for the supply or at least made part payment (as input tax is only allowed to the extent that payment has been made).
- The prescribed records must be kept (as set out in **Chapter 15**).

The notional input tax is calculated by multiplying the tax fraction (presently 14/114) by the lesser of the consideration paid or the open market value (OMV). Where the OMV is less than the consideration paid, the OMV will be used to calculate the notional input tax claim.

Example 15 – Limitation of notional input tax to the extent of payment of the consideration

A second-hand dealer buys a used fridge from a non-vendor for R600 for resale. He pays the person R400 immediately and the balance of R200 in the next tax period.

Input tax is calculated as follows:

Claim in Tax period 1 – R400 x 14/114	= R49.12
Claim in Tax period 2 – R200 x 14/114	= <u>R24.56</u>
Total	= <u>R73.68</u>

Where the second-hand goods consist of fixed property, the input tax is limited to the stamp duty or transfer duty payable (as the case may be). The input tax may only be deducted once the time of supply for VAT purposes has occurred and only after the transfer duty has actually been paid to SARS.

Example 16 – Limitation of notional input tax to the amount of transfer duty payable

Devco cc, a property developing enterprise buys vacant land on 10 June 2006 for R50 000 from a non-vendor, on which it intends to develop houses. Devco cc pays the full purchase price on registration of the property into its name. Since the sale of the land is not a taxable supply for VAT purposes, the cc must pay Transfer Duty at the applicable rate – in this case 8% of R50 000 = R4 000.

Therefore input tax = R50 000 x 14/114 = **R6 140.35, but limited to R4 000 (actual transfer duty paid).**

7.4 APPORTIONMENT**7.4.1 Introduction**

Generally, the full amount of VAT incurred on goods and services acquired or imported by a vendor may be claimed as input tax, where those goods or services are for the purposes of making taxable supplies. However, where goods or services are imported or purchased locally for taxable and other non-taxable purposes (mixed purposes), only a portion of the input tax may be claimed. Therefore, when goods and services are not acquired exclusively for taxable supplies, you will be required to determine the part that relates only to taxable supplies.

7.4.2 Direct attribution vs apportionment

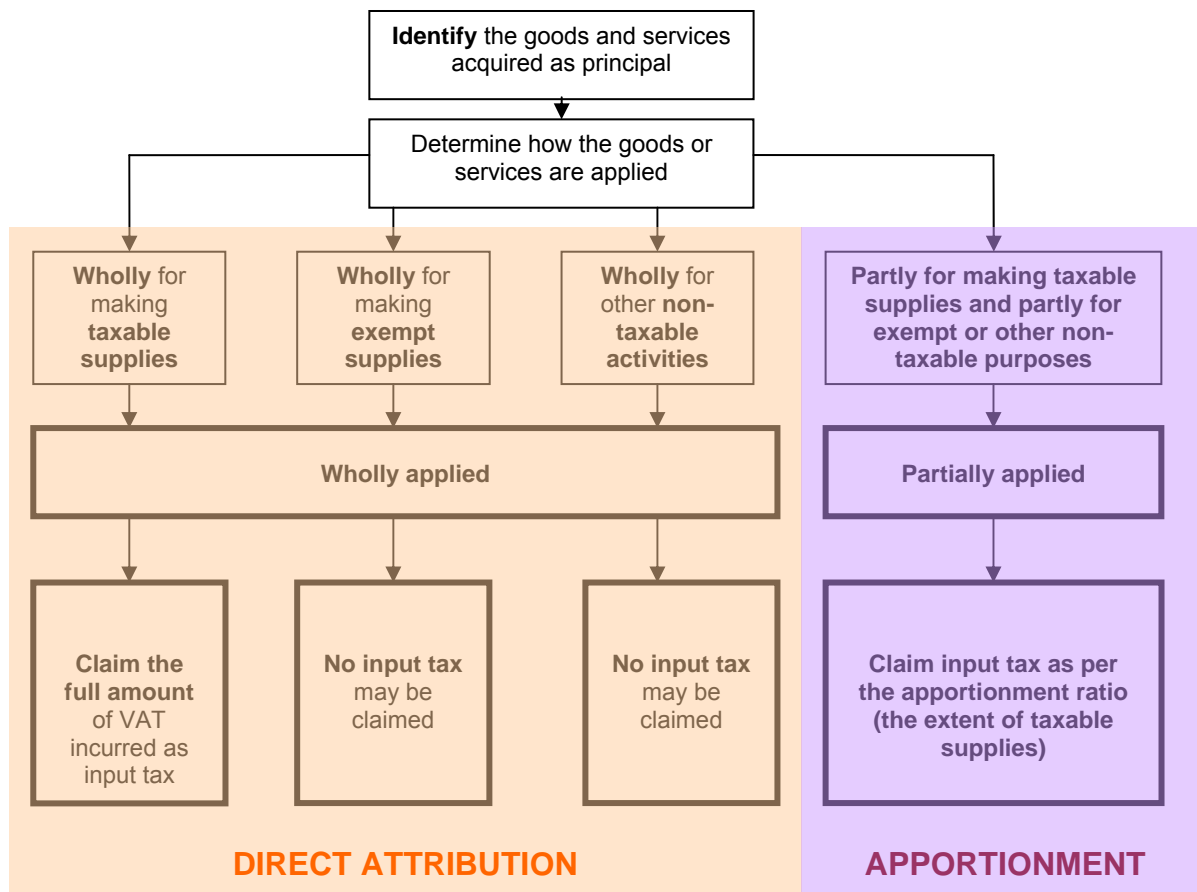
Before attempting to apportion an expense, the first step is to determine if the expense can be **directly attributed**. Direct attribution means that you will be required to **attribute or allocate** the VAT expense according to the intended purpose for which it will be utilised. The application of direct attribution means that the expense is incurred either:

- wholly for making taxable supplies, in which case input tax can be claimed in full; or
- wholly for making exempt supplies or other non-taxable purposes, in which case no input tax can be claimed.

It is only when the expense cannot be directly attributed as above because it relates to both taxable and exempt supplies or other non-taxable purposes, that the expense must be apportioned. Once it is clear that the expense must be apportioned, the next step is to calculate or determine the proportion of input tax which may be claimed. This is referred to as the apportionment ratio and is expressed as a percentage.

The apportionment ratio must be determined by using an **approved method** so that only a fair and reasonable proportion of input tax is claimed.¹⁴ **The only approved method which may be used to apportion input tax in terms of without specific prior written approval from the Commissioner is the turnover-based method.**

The diagram below illustrates the concepts of direct attribution and apportionment:



As shown above, where the acquisition of goods or services can be identified as being **exclusively or wholly** for a particular purpose, the VAT incurred on those supplies can either be claimed in full (wholly for taxable supplies), or input tax may not be claimed at all (exempt or other non-taxable purposes).

In applying the concept of direct attribution, the manner in which expenses are incurred and the actual application of the goods or services in the business must be examined. Where a vendor makes only taxable supplies, this is a simple exercise in that the VAT incurred will usually be exclusively for taxable supplies, and the input tax can be claimed in full.

However, where a vendor makes both taxable and exempt supplies, this does not mean that when an expense is incurred, that it should apply an apportionment ratio to claim input tax without first investigating whether the expense is directly attributable to exempt or other non-taxable supplies, or to taxable supplies.

The process of applying direct attribution can be facilitated by the way in which an enterprise organises its different activities into divisions or business units. For example, where the individual divisions or business units have control over their own budgets and expenditure decisions, and if they are structured on the basis of exclusively taxable or exclusively exempt activities, it is much easier to apply direct attribution.

This concept is illustrated in **Examples 17 to 19** on the following page.

¹⁴ Refer to section 17(1) of the VAT Act.

Example 17 – Direct attribution: Taxable supplies

ABC Bank buys a building which costs R3 420 000 (including VAT). The building consists of units which are to be rented out to businesses as office space.

Although the bank makes both taxable and exempt supplies, the building was acquired exclusively for making taxable supplies (renting of property as offices). The expense is therefore **wholly attributable to making taxable supplies** the bank can claim the full amount of VAT charged as input tax ($R3\ 420\ 000 \times 14/114 = R420\ 000$).

Example 18 – Direct attribution: Exempt supplies

Jabulani Transport runs a fleet of buses which are used exclusively to provide public passenger transport. It imports a new bus for the exclusive purpose of its local passenger transport business and pays an amount of R32 000 VAT on the value of the bus on importation.

Since the business of transporting fare-paying passengers in a bus is exempt, the VAT paid is **wholly attributable to making exempt supplies**. Jabulani Transport can therefore not claim any input tax in respect of the VAT paid on the importation of the bus.

Example 19 – Direct attribution vs apportionment*Scenario*

ABC Municipality rents a two-storey building under a single lease agreement which houses its public passenger transport and municipal rates divisions. The divisions occupy the ground floor and first floor of the building respectively. The divisions utilise the same software which has been implemented across all of the municipality's different divisions and it gets a single telephone account each month for telephone usage from the building address. The municipality does not maintain separate cost accounts for each division.

Implications for ABC Municipality

The public passenger transport division makes only exempt supplies and the municipal rates division makes only taxable supplies. Although the divisions are organised along the lines of wholly taxable and wholly non-taxable activities, ABC Municipality has not arranged its contracts or implemented accounting methods to specifically allocate costs incurred by each division.

Furthermore –

- the lease agreement does not provide for separate rental amounts for each division;
- the cost of the computer software relates to the organisation as a whole; and
- the account for the use of telephones is not billed to each division separately.

It follows that ABC Municipality would have to apportion all of its input tax in relation to these expenses, since it cannot directly attribute the expenses wholly to taxable or wholly to exempt supplies.

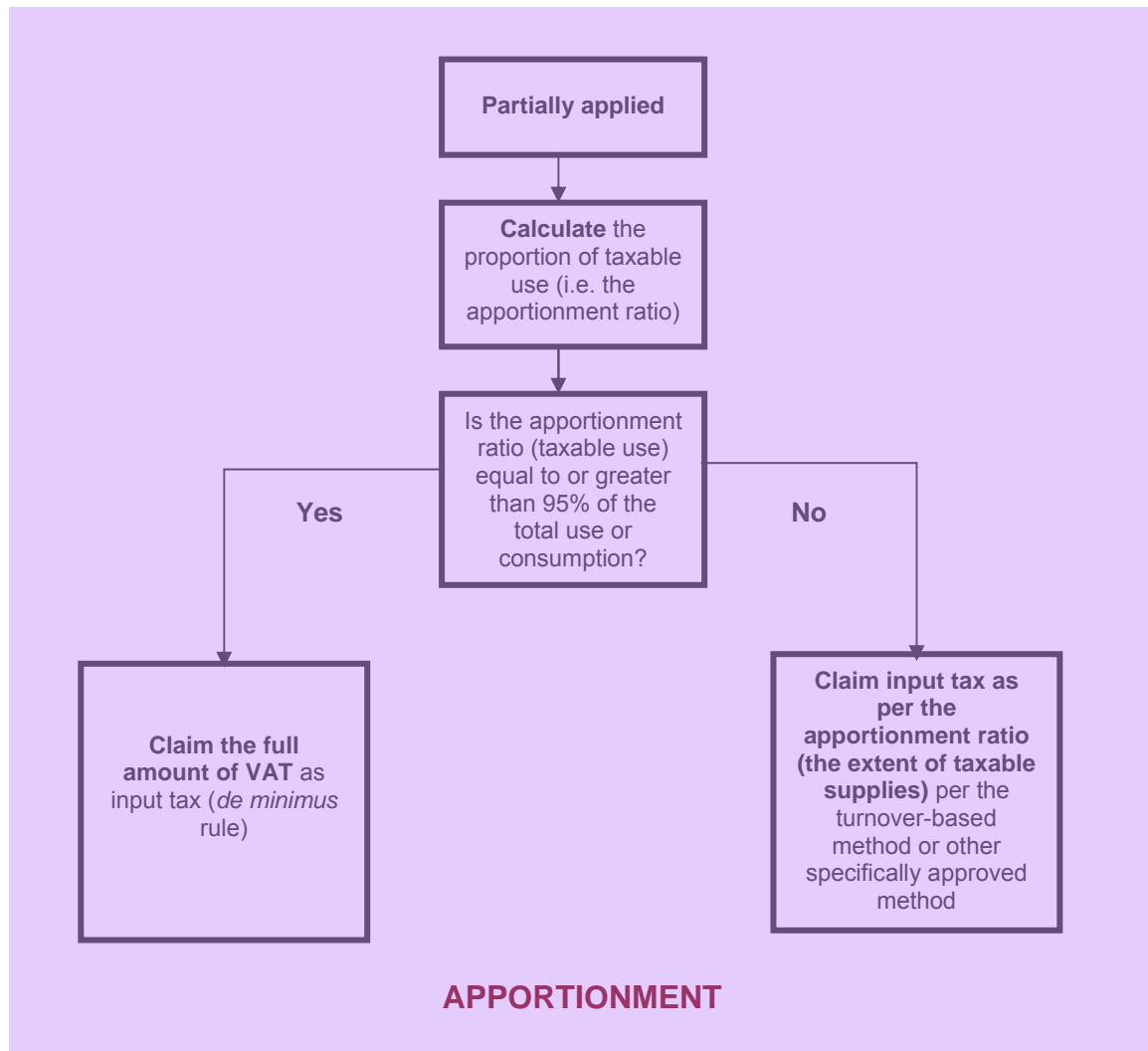
Had ABC Municipality conducted its business in such a manner that separate lease agreements were entered into (or separate rental amounts specified in the lease), and separate telephone accounts been arranged for each division, it would have been able to directly attribute these expenses if it maintained appropriate cost centre accounts for the different divisions.

In either case, the input tax in relation to the expense for the computer software would have to be apportioned since the expense would have been incurred partly for taxable supplies, and partly for exempt or other non-taxable supplies.

7.4.3 Apportionment methodology

Once it has been established that the expense cannot be directly attributed wholly to taxable purposes or wholly to exempt or other non-taxable purposes, the second level of enquiry is to determine the portion of input tax which may be claimed, **based on the extent to which the intended use is for taxable purposes.**

Following on from the diagram on **page 43**, the second level of enquiry in regard to establishing the apportionment percentage is illustrated in the diagram below:



The intended use for taxable purposes (apportionment ratio) is determined by using a formula or method which is approved by the Commissioner. As from the November 2000 tax period, the only standard approved apportionment method which may be used to determine the apportionment ratio is the turnover-based method.

This method applies by default in the absence of a specific ruling obtained by the vendor to use another method.

The turnover-based method is generally calculated using information extracted from the financial statements of the vendor's enterprise. However, there could be a situation where the financial statements do not specify the information that is required for the purposes of calculating the turnover-based method (that is, the income statement reflects an amount of income that is made up of both taxable and exempt supplies). Vendors should therefore ensure that if this is the case, adequate accounting records are maintained to establish the actual value of taxable supplies, exempt supplies and other non-taxable receipts.

The formula for the turnover-based method is as follows:

FORMULA: TURNOVER-BASED METHOD OF APPORTIONMENT

The formula set out below in respect of the turnover-based method of apportionment constitutes a binding general ruling issued in accordance with section 76P of the Income Tax Act, 1962 (Act No. 58 of 1962), read with section 41A of the VAT Act. This binding general ruling is **effective from 1 April 2007** and will remain in force until withdrawn or replaced.

$$\text{Formula: } y = \frac{a}{(a + b + c)} \times \frac{100}{1}$$

Where:

y = the apportionment ratio/percentage;

a = the value of all taxable supplies (including deemed taxable supplies) made during the period;

b = the value of all exempt supplies made during the period; and

c = the sum of any other amounts not included in "a" or "b" in the formula, which were received or which accrued during the period (whether in respect of a supply or not).

Notes:

1. The term "value" excludes any VAT component.
2. "c" in the formula will typically include items such as dividends and statutory fines (if any).
3. Exclude from the calculation the value of any capital goods or services supplied, unless supplied under a rental agreement/operating lease (that is, not a financial lease or instalment sale agreement).
4. Exclude from the calculation the value of any goods or services supplied where input tax on those goods or services was specifically denied.
5. The apportionment ratio/percentage should be rounded off to two decimal places.
6. Where the formula yields an apportionment ratio/percentage of 95% or more, the full amount of VAT incurred on mixed expenses may be claimed (referred to as the *de minimis* rule).

Example 20 – Application of the turnover-based method of apportionment

ABC Bank buys computer software for R456 000 (including VAT). The bank's apportionment ratio is 60% based on the turnover-based apportionment method. The software is used to administer the supplies of all the taxable and exempt divisions of the bank. The software is therefore used by the bank partially in the course of making taxable supplies and partially for making exempt supplies. In this case, 60% of the VAT incurred on the acquisition of the computer software (R33 600) may be claimed as input tax.

Calculation: $[(R456\ 000 \times 14/114) \times 60\%] = R56\ 000 \times 60\% = R33\ 600$

Example 21 – Application of the *de minimis* rule

ABC Municipality buys computer software for R456 000 (including VAT). The apportionment ratio is determined to be 96% based on the turnover-based apportionment method. The software is used to administer the supplies of all the taxable and exempt divisions of the municipality. The software is therefore used by the municipality partly in the course of making taxable supplies and partially for making exempt supplies. However, since the apportionment ratio is calculated as being 96%, the full amount of input tax may be claimed. This is because the *de minimis* rule (where the ratio is 95% or more) may be applied so that the entire expense is regarded as being in respect of making taxable supplies. As a result, the full amount of R56 000 VAT incurred on the acquisition of the computer software may be claimed as input tax.

Calculation: $[R456\ 000 \times 14/114] \times 100\% = R56\ 000$

Example 22 – Apportionment using the turnover-based method – comprehensive example

Company J owns a small double-storey building on the outskirts of a large city. The building is used for mixed purposes in that it has 4 shops on the ground floor (taxable supplies) and 2 large residential apartments on the top floor (exempt supplies).

Shops are rented for R12 000 each (plus VAT @ 14%) and apartments for R8 000 each per month (no VAT). There are no separate meters for water and electricity and these expenses are paid by Company J in terms of the lease agreements. An extract from the company’s annual financial statements for the 2006 financial year (tax year) indicates the following income and expenditure items:

**INCOME STATEMENT OF COMPANY J
FOR THE YEAR ENDING 28 FEBRUARY 2006**

Note 1: Amounts reflected on any financial statements should not include VAT.

	R
Income	
Rental of apartments (exempt)	192 000
Rental of shops (taxable)	576 000
Total income	768 000
Expenses	
New geysers for apartments	5 000
New glass for shopfronts	16 000
Painting of entire building	120 000
Electricity	48 000
Water	63 000
Telephone	6 000
Rates & taxes	100 000
Wages	35 000
Insurance on building	66 000
Total expenses	459 000
Net Profit	309 000

Note 2 : Percentage taxable supplies per turnover-based method:

$$\frac{576\,000}{768\,000} \times \frac{100}{1} = 75\%$$

VAT expense indicator

wholly for exempt
wholly for taxable
mixed
mixed
mixed
mixed
no VAT included
no VAT included
mixed

**VAT ACCOUNT OF COMPANY J
RECONCILIATION FOR THE YEAR ENDING 28 FEBRUARY 2006**

	R
Output tax	
Shop rental 576 000 x 14% (Note 1)	80 640
Input tax	
Glass – shopfronts 16 000 x 14% (Note 1)	(34 055)
	(2 240)
Total mixed expenses (Note 3)	
303 000 x 14% = 42 420 x 75% (Note 2)	(31 815)
Net VAT paid 2006 (Notes 4 and 5)	46 585

Note 3: "Mixed" VAT expenses

120 000 Painting
+ 48 000 Electricity
+ 63 000 Water
+ 6 000 Telephone
+ 66 000 Insurance
303 000

Note 4: Adjustments

See Chapter 12 for details of the VAT implications and adjustments when the calculated apportionment percentage changes.

Note 5: Annual adjustment

Assuming that the vendor used an apportionment percentage of 72% during the year (based on the 2005 financial statements), the vendor would be entitled to claim an input tax adjustment in block 18 of their VAT 201 return for the shortfall of 3% calculated as follows: R42 420 x 3% = R1 272.60.

Similarly, had the 2005 financial statements indicated the percentage to be 80%, the vendor would be required to make an output tax adjustment in block 12 of their VAT 201 return as follows: : R42 420 x 5% = R2 121.00

In practice, it is often difficult to accurately determine the apportionment percentage according to the turnover-based method in each and every tax period. It is therefore acceptable practice to calculate the estimated percentage using the turnover figures from the previous year's financial statements, and to apply that percentage for claiming input tax in each individual tax period for the current year. An adjustment is made annually to account for any shortfall or overestimation in the percentage used for the calculation when the audited financial statements for the current financial year are available and when the correct percentage can be calculated.

This adjustment should be done within a period of three months after the financial year-end. If the audited financial statements have not been completed within a period of three months after the financial year-end, an adjustment should be made using the year-end trial balance figures. This would be followed by a final adjustment when the audited financial statements for that year are eventually finalised. For new enterprises with no past financial statements, an estimate based on expected taxable turnover according to the enterprise's business plan or sales/marketing forecasts could be utilised. As in the situation above, an adjustment would be required within three months of the financial year-end to account for any differences between the estimated apportionment percentage used, and the actual extent of taxable supplies as determined from the most recent financial statements.

Where the turnover-based method does not yield a fair approximation of the extent of taxable supplies, the vendor should approach the local SARS office to obtain consensus on an alternative method which yields a more accurate result.

7.5 DENIAL OF INPUT TAX

The VAT Act provides that input tax is denied on certain expenses even if they are incurred in the course of conducting an enterprise. These include –

- goods or services acquired for purposes of entertainment;
- membership fees or subscriptions of clubs, associations or societies of a sporting, social or recreational nature;
- the acquisition of a motor car by a vendor (who is not a motor car dealer or car rental enterprise); and
- goods or services acquired by medical schemes or benefit funds for the purposes of health insurance or benefit cover.

The specific details as well as the exceptions are detailed below under separate headings.

7.5.1 Entertainment

Common examples of entertainment expenses are –

- Food and other ingredients purchased in order to provide meals to staff, clients and business associates. This includes year-end lunches and parties, hiring of venues for those functions, as well as expenses incurred for the provision of free meals at workplace canteens or complimentary staff refreshments (e.g. tea, coffee and other beverages or snacks provided to staff);
- Business lunches, golf days, or other entertainment of customers and clients in restaurants, theatres, night clubs or sporting events;
- Goods and services acquired for providing employees with subsidised (or free) meals if the direct and indirect costs of providing those benefits and facilities are not covered by the price charged. For example, catering services, furniture, equipment and utensils used in kitchens, canteens and dining rooms;
- Beverages, meals, entertainment shows, amusements or other hospitality supplied to customers and clients at product launches and promotional events; and
- Capital goods such as hospitality boxes, holiday houses, yachts and private aircraft which are used for entertainment.

(The above list is not exhaustive; it merely indicates some examples and the scope of the term "*entertainment*").

Exceptions:

In the following circumstances, input tax relating to entertainment expenses incurred may be claimed:

- Vendors in the business of supplying entertainment – the entertainment must, however, be supplied at a charge that at least covers all the costs of supplying the entertainment. This would include genuine client promotions, where the entertainment is of the same sort as that normally provided (for example, two milkshakes for the price of one).
- Personal subsistence for employees – only where the employees incur expenditure on personal subsistence on behalf of their employer and the actual expenditure is reimbursed. It is a condition for the claim that the employee **must be away on business from his/her normal place of work and residence for at least one night**. Where an allowance is paid to the employee for this expense, no input tax credit will be allowed.
- Meals or refreshments supplied in the following cases where the cost is included in the price of the ticket or entrance fee:
 - Operators of **taxable passenger transport services** that supply meals or refreshments to passengers or crew (for example, travel by air or on a ship).
 - Organisers of **seminars and similar events** that provide meals or refreshments to event participants;
- Sport or recreational facilities provided by municipalities.
- Expenses incurred by a welfare organisation in furthering its aims and objectives.

7.5.2 Club subscriptions of a recreational nature

Input tax may not be claimed on VAT paid in respect of any membership fees to sporting, recreational and private clubs. For example, membership of a country club, soccer supporters club, amateur boxing club, holiday club, tea club, stokvel savings club etc.

However, the VAT incurred on subscriptions to magazines and trade journals which are related in a direct manner to the nature of the enterprise carried on by the vendor may be claimed as input tax. The same applies in respect of any VAT incurred on any fees or subscriptions to professional organisations may be claimed to the extent that membership relates to taxable supplies made by the vendor. Examples of these professional organisations can be found in the financial services industry as well as the accounting, auditing, insurance and medical professions. Only if the employer has an obligation in terms of the employee's employment contract to bear the cost of the employee's subscription to the professional organisation may the employer claim the VAT thereon as input tax (subject also to the extent that the employer makes taxable supplies).

7.5.3 Motor cars

The term "*motor car*" is defined in the VAT Act and includes vehicles which –

- have three or more wheels;
- are normally used on public roads; and
- are constructed or adapted mainly or wholly for carrying passengers.

An input tax deduction may not be made by a vendor if a vehicle falling within the definition of a "*motor car*" is acquired, even if it is utilised in the course of an enterprise for making taxable supplies, and regardless the mode of acquisition (for example, be it by way of purchase, importation, leasing, operating rental agreement or casual hire).

An input tax credit may be claimed in respect of any vehicle which does not fall within the definition of a "*motor car*", provided that it is used for taxable supplies.

The term “*motor car*” **includes** the following vehicles (that is, where input tax will generally be denied):

- Double cab bakkies (LDVs).
- Ordinary sedan type passenger vehicles.
- Station wagons.
- Minibuses.
- Sport utility vehicles (SUVs).

The term “*motor car*” **excludes** the following vehicles (that is, input tax will generally be allowed if all the other requirements for input tax are met):

- Goods transportation trucks.
- Single cab light & heavy delivery vehicles.
- Motor cycles.
- Caravans.
- Ambulances, game viewing vehicles and hearses.
- Vehicles capable of accommodating more than 16 persons (for example, a bus).
- Vehicles with an unladen mass of 3500 kg or more.
- Special purpose vehicles constructed for purposes other than the carrying of passengers.
- Equipment such as bulldozers, graders, hysters, harvesters and tractors.

Hearses and game viewing vehicles are specifically excluded from the definition of “*motor car*”, as these vehicles are generally not used for private purposes, but are applied in a specific business (that is, game viewing vehicles for game viewing, and hearses for the transport of deceased persons). From 24 January 2005 input tax on the acquisition of hearses and game viewing vehicles may be claimed where the vehicle is used exclusively for making taxable supplies. The vendor is liable for output tax on the subsequent supply of the vehicle.

However, the VAT incurred on repairs and maintenance and general running costs of a motor car such as insurance, tyres, engine oil and servicing may be claimed as input tax if the vehicle is used exclusively in the course of making taxable supplies. This could also include modification and installation costs (for example, canopy modification for a bakkie or installation of a cell phone kit). Remember that petrol and diesel are zero-rated supplies, and therefore no input tax may be claimed on these running expenses.

There is an exception to the general rule regarding the non-deductible nature of any VAT incurred on the acquisition of a motor car which applies to motor car dealers and car rental enterprises. The reason for this is that in the case of these vendors, the motor cars are acquired for the specific and exclusive purpose of being supplied in the ordinary course of an enterprise which continuously or regularly makes taxable supplies of motor cars. *For more information in this regard, refer to the Guide for Motor Dealers (VAT 420).*

7.5.4 Medical schemes and benefit funds

Normally medical and other benefit schemes are not registered for VAT insofar as they provide medical benefits to their members. Consequently, input tax may not be claimed by these schemes in connection with any supply of goods or services supplied to members, or in respect of any payment or request for reimbursement of expenses incurred by members covered under the scheme in respect of medical and dental services.

7.6 PETTY CASH PAYMENTS

Vendors are not obliged to obtain tax invoices for purchases not exceeding R50. Such purchases are usually petty cash expenses for postage stamps, stationery, parking etc. Even though it is often the case that no tax invoice is required for petty cash purposes, you will need to keep the till slip, cash slip or sales docket with details of the purchase in a petty cash book or similar record in order to claim the input tax. Make sure that the receipt indicates the amount of VAT charged, or alternatively, a statement that the amount charged includes VAT at the standard rate, otherwise any claim in this regard may be disallowed.

7.7 PRE-INCORPORATION EXPENSES

Pre-incorporation expenses are costs which are incurred by a person in registering and setting up the infrastructure of a legal entity such as a company before the entity can legally be viewed as having come into existence (that is, a company which is not yet registered with the Registrar of Companies).

Where a company reimburses a person for the costs and purchases incurred before it was formed, the company is deemed to be the recipient of the goods or services and to have paid any VAT component. Accordingly the company can deduct that VAT as input tax in the tax period during which the reimbursement is made.

This will only be allowed if the person –

- was reimbursed by the company for the **whole amount paid; and**
- acquired the goods or services for the purpose of an enterprise to be carried on by the company and has not used the goods or services for any other purpose.

The company may, however, not claim the deduction where –

- the supply of the goods or services by the person to the company is a taxable supply, or is a supply of second-hand goods (not being a taxable supply);
- the goods or services were acquired more than six months before the date of incorporation; or
- the company does not hold sufficient records.

7.8 ADJUSTMENTS

In the course of trading, it may be necessary for a vendor to make certain adjustments, for example, if bad debts are written off, or there is a change in the extent of taxable use of assets. These adjustments may affect the input tax or output tax.

*Refer to **Chapter 13** for more details.*

7.9 MUNICIPALITIES (LOCAL AUTHORITIES)

Prior to 1 July 2006, many of the supplies made by municipalities were outside the scope of VAT, which means that they were not conducted in the course of the municipality's enterprise and not subject to VAT. Various amendments to the VAT Act came into effect on 1 July 2006 with regard to the VAT treatment of municipalities; the effect being that most of the supplies by municipalities are now subject to VAT at the standard rate (excluding exempt supplies listed in section 12 of the VAT Act – *refer to also **Chapter 6***). Municipal property rates are now subject to VAT at the zero rate if charged separately from other goods or services supplied by the municipality. (*Refer to **paragraph 5.3.11** and **VAT News No 28***).

Another major effect is that municipalities will generally be able to claim a greater proportion of input tax on "mixed" expenses than would have been the case prior to 1 July 2006. The effect is twofold because firstly, it will have an impact on the expenses which are directly attributable to taxable supplies, and secondly, the increase in the value of taxable supplies will ultimately increase the apportionment ratio.

Regulation No. 270 which was published in Government Gazette No. 29741 on 28 March 2007 deals with various transitional arrangements and other aspects to do with the implementation of the amendments.

Two of the most important aspects addressed in the regulation are that –

- (a) Where during the transition period a municipality omits an amount of output tax in error on supplies which became taxable for the first time in their hands on or after 1 July 2006, the municipality may account for the output tax in a later tax period which is due for payment by no later than 25 July 2007; and
- (b) Municipalities are required to calculate their apportionment percentage according to the turnover-based method. The details of the various elements of the formula to be used are explained in the regulation.

For more information on municipalities, refer to the following documents which are available on the SARS website:

- *Regulation 270;*
- *Guide for Municipalities (VAT 419);*
- *Binding General Ruling (VAT) No: 3 – dated 4 December 2007;*
- *Small Business Tax Amnesty and Amendment of Taxation Laws Act, No. 9 of 2006;*
- *Second Small Business Tax Amnesty and Amendment of Taxations Laws Act, No. 10 of 2006; and*
- *Explanatory Memoranda to Regulation 270 and the two Acts referred to above.*

CHAPTER 8

CALCULATION AND SUBMISSION OF VAT

8.1 HOW TO CALCULATE YOUR VAT

Your VAT return will be posted to your postal address as listed on your VAT 101 registration form. Your VAT return will reflect your legal name, trade name, postal details, VAT registration number and the tax period. Your VAT return is a declaration by you of the amounts of VAT you have charged as output tax, and the amounts you are entitled to claim as input tax. The difference between these amounts for that specific tax period could either result in you having to pay the difference to SARS or be entitled to a refund of the difference. If you are registered for VAT, you have to submit returns by the due date, even if you do not owe any money to SARS for that tax period. The basic steps in calculating your VAT liability or refund and completing your return are as follows:

STEP 1: Determine the VAT charged (output tax)

Invoice basis – Add all the sales invoices (cash and credit sales, including the VAT) issued by you, irrespective of whether payment has been received or not. Also include the consideration for supplies not yet invoiced, where payment has already been made for the supply. *Refer to Chapter 4.*

Payments basis – Add all the actual payments (including the VAT) received by you. *Refer to Chapter 4.*

Field 1 – Write your total sales and income, including VAT in field 1. Multiply this amount by 14 and divide it by 114 (that is, 14/114 known as the tax fraction). This will give you the total VAT included in your sales for the period. Write your answer in field 4.

Field 1A – If you sell or trade-in any of your business assets, the amount including VAT must be filled in field 1A. In the event of a trade-in, where the trade-in value is reflected as an amount that is off-set against the purchase price of the new asset, the trade-in amount must be reflected in this field. The same tax fraction as above (14/114) must be applied to determine the amount of VAT that must be filled in field 4A.

Field 2 – Is for zero-rated items sold, for example, certain foodstuffs and zero-rated exports. Your total sales for these zero-rated supplies must be reflected in this field. No output tax is calculated on zero-rated supplies.

Field 3 – Is for exempt supplies and supplies which are not taxable, zero-rated or exempt.

Fields 5-8 - are in respect of accommodation. VAT NEWS No. 12 deals with these areas in detail. Copies are available from SARS or the SARS website.

Field 13 – Is the total of the amounts reflected in field 4, 4A, 9, 11 and 12 and is the total output tax you have charged in a tax period.

STEP 2: Calculate your input tax

Field 14 – Is for the VAT paid on any purchases of fixed or movable assets. You only fill an amount in this field if your business has bought any assets. This will include assets which have been financed via an instalment sale agreement or financial lease. While these assets have not been fully paid for, the VAT can be claimed at the start of the agreement if the agreement complies with the definition of “*instalment credit agreement*”. However, when a notional input tax credit is claimed on the acquisition of second-hand goods from a non-vendor, input tax is claimed on the basis of payments made, and is limited to the amount of transfer duty or stamp duty paid (as the case may be). *Refer to Chapters 4 & 7.*

Field 15 – Compile a list of all claimable purchases which are supported by valid tax invoices and where proper records have been kept in respect of second hand goods acquired under a non-taxable supply. Fill in the VAT amount in field 15 according to the accounting method on which you are registered:

- **Invoice basis** – Add up only the VAT amounts of all your business purchases and expenses for which you have valid tax invoices, irrespective of whether payment has been made or not.
- **Payments basis** – Add up all the valid tax invoices during the period which have been paid in full and invoices that were partly paid only limited to the extent of payment made. Thereafter apply the tax fraction (that is, 14/114) to this amount to obtain the input tax amount claimable.

Note: No input tax can be claimed on zero-rated purchases, because no VAT would have been paid.

Field 19 – Is the total of the amounts in field 14 (if applicable), field 15 and any amounts you may have in fields 16, 17 and 18 (debit or credit notes), which are VAT amounts only. Any working papers and supporting documentation must be kept, and must not be attached to your VAT return. These documents must be kept for a period of five years.

STEP 3: Pay the difference or claim your refund

Field 20 – Is the difference between your totals in fields 13 and 19.

If the amount in field 13 is larger than the amount in field 19, the difference is VAT payable to SARS.

If the amount in field 19 is larger than the amount in field 13, the difference is the VAT refundable to you.

8.2 SUBMITTING YOUR RETURN

Once you have completed the return, check it carefully as you can be held liable for penalties and interest if there are errors which lead to any shortfall in VAT paid. Sign the VAT return and send it with your cheque payment to any SARS office. Alternatively, you may make use of SARS e-filing service to file and pay your VAT electronically. This may be done by registering with SARS e-filing service on www.sarsefiling.co.za.

Your return must be submitted on or before the 25th day of the following month after the end of your tax period. For example, if your tax period ends on 31 March, you have until 25 April to submit the return and payment. Remember: if the 25th of any month is on a Saturday, Sunday or public holiday, your return and payment must reach the SARS office on the last working day before the 25th. Assuming that the 25th is on a Sunday, your return must reach SARS by the Friday or the previous working/business day. The date by which the return must be submitted to SARS is shown on the front of the return.

Section 28 prescribes on what dates VAT returns must be furnished and tax paid. The Commissioner may now also prescribe the time by which any payment made on any business day must be received by him or her and if any payment is received after that time shall be deemed to have been made on the first business day following that day.

8.3 ERRORS ON VAT RETURNS

Returns are legal and binding documents which constitute a declaration made to SARS. Certain errors are made regularly on returns. When amounts are incorrectly inserted in your VAT return, you must cross it out, and fill in the correct amount. **Note that any alterations on a return must be initialled (including alterations where correction fluid has been used).**

Where your VAT 201 return is submitted to SARS and the calculations are incorrect, SARS will send the return back to you for correction. Until such time as you correct the return and send it back to a SARS office, it will be treated as not having been received, even if your payment has been processed. If you make zero-rated or exempt supplies, the total of each of these supplies must be shown on your VAT return. Failure to fill in these supplies (fields 2 and 3 on the return) will result in unnecessary audits and may delay any refunds.

All vendors must ensure that the following important points are noted:

- Mandatory fields must be completed.
- Returns must be signed.
- Only one return must be submitted for a specific tax period.
- Contact details of the person completing the return must be clearly stated in case SARS needs to communicate with the person or clarify anything with regard to the completion of the return.
- Verify on the return regularly that if you pay via debit order, that the “Y” indicator is printed on the return.
- Ensure that the return and/or payment are submitted on time according to the method of submission and/or payment.
- Do not use self generated forms or submit printed e-filing returns if you are not a registered e-filer.
- If a nil return is to be submitted do not merely sign the uncompleted form. The return must clearly indicate that it is a “NIL” return by completing the relevant fields accordingly.
- Do not send in more than one return per tax period by different modes, for example, faxing, posting, hand delivery and e-filing the same return. Only submit another return for a past tax period if it is an amended return, in which case you should also submit a covering letter explaining why the return needs to be amended. In such instances please mark the return clearly as “**AMENDED RETURN**”.

8.4 HOW TO PAY YOUR VAT

The several ways to make your VAT payment are discussed in **paragraphs 8.4.1 to 8.4.4** below:

8.4.1 Payments through the post

You can post a cheque with your return in the reply envelope provided. Cheques must be made payable to the South African Revenue Service (this should be written out in full and not abbreviated to SARS) and be crossed. Do not send cash in the post. Should you prefer to pay your VAT by post, you must ensure that your payment will be received by SARS on or before the 25th or last preceding business day.

8.4.2 Payments at SARS cash office

Payment can be made by means of cash, cheque or postal order during office hours, Monday to Friday between 08:00 and 15:30 at the cash office of any SARS branch. You must ensure that your payment is made on or before the 25th or last preceding business day (where applicable). Drop boxes are available at each SARS branch office where you can submit your cheque or postal order payment together with your VAT return.

8.4.3 Payment by electronic funds transfer (EFT):

Where you make an electronic transfer of funds to SARS, you must ensure that the payment will reach SARS by the due date shown on the VAT 201 return (usually the 25th of the month). Please enquire from your bank whether "same day" transfers are made to SARS. If not, you must make the transfer earlier to ensure that it is in SARS bank account by the 25th or the last preceding day (where applicable). Electronic transfers received in SARS' banking account after the due date will incur penalties and interest as a result of late payment. Should you have any further enquiries relating to these limits, please contact your bank. You can obtain more information from your nearest SARS office or SARS website.

(a) Debit orders

Payment of VAT to SARS by means of a debit order, results in the vendor's bank account being debited by SARS on the last business day of the month. The VAT return must be submitted on or before the 25th or last preceding business day. A form VAT201(A), debit order authorisation, is required to be completed and must be stamped by your bank, certifying the correctness of your bank account particulars and must be furnished to SARS, in order to authorise SARS to electronically transfer the VAT amount from your bank account.

(b) e-Filing

All SARS business customers are able to subscribe to SARS' e-filing service to submit specific returns and payments electronically via the internet at no charge. By subscribing to e-filing, vendors are able to receive, complete and submit VAT returns and make payments via secure internet based facilities 24-hours a day.

For more information about SARS electronic filing service and how to register, log on to www.sarsefiling.co.za, or call 0860 709 709. The electronic filing support centre can also be reached via e-mail at info@sarsefiling.co.za.

(c) Internet banking

Where payment is made by using internet banking facilities or any other electronic transfer medium, the payment must be received in SARS' bank account on or before the 25th or last preceding business day (where applicable) and, such payment must accurately reflect your VAT reference number and the tax period for which the payment is being made. The bank payment details set out under **paragraph 8.4.4** below must be furnished. Failure to provide these details will result in the payment not being credited to your account. You are responsible to arrange with your bank to effect "same-day online" transfers.

8.4.4 Payments at various banks

You may choose to pay your VAT any branch of the four major banks. Please make sure that your payment is made on or before the due date reflected on the VAT return. In order for your payment to be successfully processed, the following information is required on the bank deposit slip:

- A **19 digit Bank Payment Reference** which is made up as follows:
 - Your 10 digit **VAT Registration Number**.
 - The **Tax Type indicator** – V for VAT.
 - An **8 digit tax period number** to follow the date format: 00mmccyy.
(For example 00042006 represents payment for the tax period ending April 2006).
- The **beneficiary ID** (for example, the beneficiary ID for VAT payments is **SARS-VAT**).

A brochure containing more information about this is available from your SARS office. Please note your return must still be sent to the SARS even if you have paid at any of the four major banks.

Example 23 – The VAT payment reference number

The following is an example of the VAT payment reference for VAT No. 4880124452 for the tax period ending April 2006:

Bank Payment Reference: 4880124452V00042006
Beneficiary ID: SARS-VAT

Note: The above information is also pre-printed on your VAT return.

8.5 PAYMENT LIMITS (EFT/E-FILING/DEBIT ORDERS/BANK PAYMENTS)

The banks and the Payments Association of South Africa (PASA) have set payment limits on cheques, debit orders, ATM transactions and electronic payments. The limits are **R500 000** for a **debit order** and **R5 million** for **cheques** or credit payments through **EFT (electronic funds transfer)**.

These measures are aimed at moving high-value payments to the South African Multiple Option Settlement system (SAMOS), operated through the South African Reserve Bank.

How these limits will affect you as a vendor:

- **Debit order payments** to SARS cannot exceed R500 000. Penalties and interest as a result of a late payment will then be incurred if the debit order cannot be processed for whatever reason.
- **Cheque payments** to SARS may not exceed R5million. Should you issue a cheque exceeding this amount, it will be returned to you and penalties and interest as a result of a late payment will be incurred.
- **EFT payments** in excess of R5million must be cleared with your banker.
- **E-filing transactions** will not be affected by these rules as no limits are imposed.

Should your existing payment method exceed any of these limits, you must approach your bank timeously in order to effect an electronic transfer of funds to ensure that the full VAT payment can be made by the due date.

You must ensure that payment will reach SARS by the due date shown on the VAT return in whichever way you choose to effect payment. The onus is on you to ensure that payments are received in SARS' banking account on the due date. SARS has emphasised that payments received late as a result of these changes would lead to penalties and interest being imposed. Therefore, to avoid these amounts from being levied, kindly adhere to the time frames for the submission of VAT returns and payments tabled below.

Payment method	Returns	Payment
Cash	25 th	25 th
Cheque	25 th	25 th
Postal Order	25 th	25 th
Payments at any of the four major banks	25 th	25 th
VAT201 (a) debit order	25 th	Last business day
E-filing of return and payment via SARS e-filing	Last business day	Last business day
Electronic transfers (including Internet banking)	25 th	25 th

Important Note:

The return and/or payment must be received **on or before the abovementioned dates** for the particular payment method selected, or, if that day falls on a Saturday, Sunday or public holiday (that is, not a business day), it must be received on the last business day before that date.

8.6 PENALTY AND INTEREST FOR LATE PAYMENT

If the VAT due is not paid to SARS by the due date a **penalty of 10%** of the outstanding amount of VAT will be levied. **Interest at the prevailing rate**, in terms of section 80 of the PFMA, will also be charged per month or part thereof from the first day of the month following the month that the tax was due until the outstanding amount has been paid. (Interest is also charged on any additional tax which has been levied upon assessment if it is paid late).

Note that electronic payments are processed on the last business day of the month but the return must still be submitted as normal by the 25th day of the month. Where insufficient funds are available on the due date for payment, penalty and interest will be calculated accordingly.

Example 24– Calculation of penalty and interest

Mr P is required to submit his VAT return and payment of R3 000 in respect of the May 2006 tax period by 23 June 2006. He only submits this return and payment on 3 July 2006. Penalty and interest (per month) is calculated as follows:

10% penalty on R3 000.00	R300.00
0.875% interest per month or part of a month	R26.25 (2 months x R26.25 = R52.50)

Therefore the total of penalty and interest payable will be **R352.50**

The VAT Act does make provision for penalty and interest in certain circumstances to be remitted or reduced. **A written request must be submitted to the SARS office at which you are registered if you wish to have your case for the remittance of penalties and interest considered.**

To the extent that the Commissioner is satisfied that the late payment was not due to intent not to pay the tax or to postpone the payment of tax, the **penalty** may be remitted or reduced. However, **interest** may only be remitted if either –

- there is no resultant financial loss (including any loss of interest) to the State, taking into account the output tax and input tax relating to the supply in respect of which interest is payable; **or**
- the vendor/person liable for the payment did not benefit financially (taking interest into account) by not making the payment when required.

Where there are circumstances beyond your control, for example a computer crash, records destroyed in a fire etc, which may result in you not being able to pay your VAT on time, you may pay a deposit payment equal to the estimated amount of the tax payable. When the tax liability is finally determined, any excess deposit payment will be refunded and any deficit amount recovered from the vendor. Penalty and interest will be levied on any outstanding amount, but you may apply to have these remitted as discussed above.

8.7 REFUNDS

When your return results in an amount to be refunded, SARS should refund you within 21 business days. Should the refund not be made within this time, interest at the prescribed rate is payable to you. However, the 21 business days interest-free period can be extended where SARS is unable to gain access to your records to verify the refundable amount. Also, a vendor is not entitled to be paid interest where there is a material difference between the refundable amount claimed, and the actual refundable amount (or liability). Refunds will only be paid out to you if you do not owe any amounts for Income Tax or PAYE or other taxes administered by the Commissioner. In such cases, debt equalisation will be applied to offset the amounts owing in respect of other taxes, and the balance (if any) will be refunded.

VAT refunds cannot be paid where SARS does not have your bank details, nor will any interest be paid on late refunds where you have not submitted your correct banking details. If SARS does not have your correct banking details, please furnish these as soon as possible as a cheque will not be issued in respect of any refund. The banking details must be accompanied by a cancelled cheque, latest bank statement or a letter from your bank which bears the bank stamp confirming your account details.

Should you wish to nominate or utilise the banking account of another vendor, you must supply the necessary authority from the account holder (for example, company resolution) and provide indemnity to SARS against possible losses of amounts paid into such accounts on form VAT 119(i). These forms are available from SARS offices or its website www.sars.gov.za.

8.8 HOW TO FILL IN YOUR VAT RETURN – A PRACTICAL EXAMPLE

Example 25- Filling in your VAT 201 return

Mr A. Nteo is a sole proprietor, trading as Nteo's Furnishers. He is registered for VAT under Category B on the invoice basis. At the end of June 2006 the sales are summarised (for May and June 2006) as follows and handed over to his accountant Mr Joe Soap: (The amounts presented include VAT where applicable).

Sales

Sales invoices (excluding cash sales) no 24 – 87 issued	R37 821.00
Cash sales	R22 965.00
Redundant computer sold	R 2 500.00
Insurance paid out on stolen delivery truck	R40 000.00

Expenses

New computer purchased	R12 000.00
Stock and overheads	R20 000.00
Credit notes issued	R 1 580.00

Mr Soap does the necessary calculations for the two month period ending June 2006 (shown below).

OUTPUT TAX:

Total Sales (Field 1) R60 786.00 *

*** Calculation**

Sales (excluding cash sales)	R37 821.00
Add: Cash Sales	R22 965.00
	<u>R60 786.00</u>

Output tax (Field 4) [Field 1 x 14/114]	R 7 464.95
Computer: (Field 1A)	R 2 500.00
Output tax (Field 4A) [Field 1A x 14/114]	R 307.02
Insurance (Field 12):[R40 000.00 x 14/114]	<u>R 4 912.28</u>
Total output tax [Field 4 + field 4A + field 12]	<u>R12 684.25</u>

INPUT TAX:

Computer: (Field 14) [R12 000.00 x 14/114]	R 1 473.68
Purchases: (Field 15) [R20 000.00 x 14/114]	R 2 456.14
Credit notes: (Field 18) [R1580 x 14/114]	<u>R 194.04</u>
Total input tax [Field 14 + field 15 + field 18]	<u>R 4 123.86</u>

VAT PAYABLE TO SARS

(R12 684.25 less R4 123.86)

R 8 560.39

Mr Soap completes the figures in the relevant fields on the VAT 201 return, signs the document and then submits it to SARS as required on 24 July 2006 on Mr. Nteo's behalf.

The example on the following page illustrates what Mr Nteo's VAT 201 return will look like for the tax period ending June 2006, based on the above information. Note that all the fields are completed, including "Nil" where applicable.

A NTEO
PO BOX 12345
BOXVILLE
0123

VAT 201

VALUE-ADDED TAX

Return for remittance of VAT

PART 2

Always quote this registration number in correspondence and during interviews

412101002					
Please use this telephone no. for any enquiries (012) 317 2000					
Last day for rendering return	25/07/2006				
Amount of payment	R 8560 39				
Remittance received on	24/07/2006				
Method of payment / indicate with an "X" below					
Cheque	2	Cash	1	Bank/Internet	
Area	64	Tax Period	06/06		

Trading or other name Nteo's Furnishers		
Tax period ending	JUNE 2006	06/06
VAT registration number	4121101002	

Bank details 412101002V00062006 BENEFICIARY ID/ACCOUNT NR: SARS - VAT		
Date received	24/07/2006	VAT 201
Area	PRETORIA	Y PART 1

A. CALCULATION OF OUTPUT TAX

Supply of goods and/or services by you:

Standard rate (excluding capital goods and/or services and accommodation)	
Standard rate (only capital goods and/or services)	
Zero rate	
Exempt and non-supplies	
Supply of accommodation:	TOTAL AMOUNT (EXCLUDING VAT)
Exceeding 28 days	5 NIL x 60%
Not exceeding 28 days	
TOTAL	

Adjustments:

Change in use and export of second-hand goods	
Other	

TOTAL A TOTAL OUTPUT TAX (4 + 4A + 9 + 11 + 12)

B. CALCULATION OF INPUT TAX (Input tax in respect of:

Capital goods or services imported by and/or supplied to you	
Other goods or services imported by and/or supplied to you (not capital goods and/or services)	
Tax on adjustments:	
Change in use	
Bad debts	
Other	

TOTAL B TOTAL INPUT TAX (14 + 15 + 16 + 17 + 18)

VAT PAYABLE / REFUNDABLE (Total A - Total B) This block must be completed

Additional penalty	R		C + interest	R		C =
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AMOUNT PAYABLE / REFUNDABLE (TOTAL 20 + TOTAL 22)

R		C	
CONSIDERATION (INCLUDING VAT)			
1	60 786	X $\frac{r}{100+r}$	4 7 464 95
1A	2 500	X $\frac{r}{100+r}$	4A 307 02
2	NIL		
3	NIL		
TAXABLE VALUE (EXCLUDING VAT)			
6	NIL		
7	NIL		
8	NIL	X $\frac{r}{100}$	9 NIL
CONSIDERATION (INCLUDING VAT)			
10	NIL	X $\frac{r}{100+r}$	11 NIL
			12 4 912 28
			13 12 684 25
			14 1 473 68
			15 2 456 14
			16 NIL
			17 NIL
			18 194 04
			19 4 123 86
			20 8 560 39
			22 NIL
			23 8 560 39

Tel No: (012) 378 2000
Fax No: (012) 378 2004
Contact details for THIS return only

I certify that the particulars in this return are true and correct.
Authorized person's signature

Accountant
Capacity
Date 24 July 2006

CHAPTER 9

FARMING

This chapter focuses on a few of the VAT implications which are unique to farming enterprises.

9.1 TAX PERIODS

It is a common misconception that all farmers may be, or are required to be registered on Category D (six-monthly or bi-annual tax period). This is not true as this category is only available to fairly small scale farming enterprises.

Vendors who qualify for the Category D tax period must meet the following criteria:

- The enterprise must consist **solely of agricultural, pastoral or farming activities**.
- The total turnover from all farming activities must **not exceed R1.5 million per consecutive period of 12 months**.

A vendor may also qualify for Category D if a separately registered branch or division of the enterprise consists solely of agricultural, pastoral or farming activities, provided that the vendor's other enterprises, branches or divisions do not also consist of those same activities.

Generally, vendors will want their six-monthly tax periods to coincide with their provisional tax period. For this reason, vendors who are sole proprietors will be allocated a tax period which ends at the end of February and August. Other legal entities may choose to end the period on any two other months which are six months apart (for example, March & September).

Should the value of taxable supplies exceed R1.5 million in any consecutive period of 12 months, the Commissioner will allocate either Category A or B tax period to you (two-monthly tax period). If the value of taxable supplies exceeds R30 million per consecutive period of 12 months, you will be obliged to pay over the VAT and submit monthly returns per Category C tax period. Section 25 of the VAT Act requires a vendor who is a farmer to notify SARS once the total value of taxable supplies exceeds R1.5 million in a 12-month period.

9.2 STANDARD RATED SUPPLIES

Besides the normal standard rated supplies, farmers must remember that if you sell or exchange anything which is considered to be a part of your enterprise (that is, you would have been allowed to claim input tax in respect thereof), you must charge VAT at the standard rate on that supply.

Some examples include –

- trade-in of trucks, machinery or other fixed assets;
- rental income in respect of land let for grazing or crops;
- insurance payouts received for loss or damage experienced in the enterprise (excluding any asset on which input tax was denied, for example, the family motor car or yacht);
- income from any other business which you operate, for example, if you sell goods or surplus crop from a farm stall, the sale of scrap and off-cuts etc;
- the sale of livestock;
- exchange of goods or services with other farmers (barter transactions); and
- the sale of your farm. (*Refer to **paragraph 5.5** if sold as a going concern.*)

Example 26 – Trading in of old vehicles or equipment

Mr Farmer decides to purchase a new tractor for R114 000 (inc. VAT): He trades in one of his old tractors and receives R22 000 for it, which amount is offset against the purchase price of the new tractor.

VAT 201 return for Mr Farmer

Output tax: old tractor sold (field 4A)	R22 000 x 14/114	= R 2 701.75
Less : Input tax: new tractor purchased (field 14)	R114 000 x 14/114	= <u>(R14 000.00)</u>
Net VAT		<u>(R11 298.25) Refund</u>

9.3 ZERO-RATED SUPPLIES

To assist farmers with their cash flow, many of the products which are produced or consumed in the course of conducting a farming enterprise are zero-rated. Part A of Schedule 2 to the Act lists the types of supplies and the conditions under which a farming, agricultural or pastoral enterprise may purchase certain goods which they regularly need at the zero rate.

Some examples of these goods are –

- stock licks;
- fertiliser;
- seed;
- pesticide;
- remedies or medicines (but not in respect of other items charged such as syringes or vet fees);
- animal, poultry, fish or game feed (this includes any vitamins, bone products or maize products); and
- plants – this includes trees, bulbs, roots, cuttings or similar plant products you will use for cultivation.

In order to be able to purchase the above goods at the zero rate under this dispensation, the following requirements must be met:

- You must present your notice of VAT registration (VAT 103) to the supplier.
- The VAT 103 must contain a clause no. 7 on it, confirming that your main business is a farming agricultural or pastoral enterprise.
- The VAT registration number of the purchaser must appear on the tax invoice.
- The goods supplied must be specified in Part A of Schedule 2 to the VAT Act.

If it is found by SARS that the above conditions have not been met, the supplies in question may be standard rated on assessment.

Note that **the zero rate will not apply** where –

- other goods or services not listed above are supplied to the agricultural industry, for example, it will not apply to the consultation fee charged by a vet to attend to a sick animal, nor would it apply to the goods or services acquired to install a new irrigation system on your farm; or
- the sale of the goods concerned are prohibited in terms of section 7*bis* of the Fertilisers, Farm Feed Agricultural Remedies Act, 1947 (Act 36 of 1947), for example, the sale of a banned substance such as DDT.

Part B of Schedule 2 to the Act lists the basic foodstuffs which are subject to the zero rate. Many of these products are sold by farming enterprises, for example, raw fruit and vegetables, maize, milk, eggs, beans, mealies etc. Please remember to show the total amount received in field 2 on your VAT return – failure to do so will result in unnecessary audits.

You must supply your VAT registration number to the co-operatives and abattoirs to which you supply goods so that the correct amount (including VAT) will be paid to you. Also remember that where you receive a portion of the income from a harvest (crop sharing), you have to pay VAT on your portion of the proceeds (unless it is in respect of zero-rated items in terms of Schedule 2 of the Act as discussed above).

Refer to **Chapter 5** for more details regarding zero-rated supplies.

9.4 INPUT TAX

Generally, input tax may be claimed on all expenses incurred in carrying on a farming enterprise where VAT has been paid, but the costs in respect of the following may not be claimed:

- The purchase or rental of double-cab vehicles (4x4s), SUVs, sedan and sports cars, station wagons or mini vans, regardless of the fact that they may be used entirely for farming operations.
- Rations provided to employees (including any other costs in regard to providing the meals).
- Employee housing as well as any costs in respect of your own residence, for example, telephone accounts, maintenance of your own home or the home of an employee, electricity and water etc.
- Zero-rated purchases such as fertilizers, petrol, diesel, pesticides etc.

Refer to **Chapter 7** for more details in this regard.

9.5 DIESEL REFUNDS

Farming is a qualifying activity under the Diesel Refund Scheme. Most farming enterprises would therefore qualify to be registered for the available refund. To register for the scheme you need to complete and submit a form VAT 101D together with your application to be a VAT vendor, or once you are already registered for VAT. Refer also to **Chapter 2**.

Note that refunds under the Diesel Refund Scheme are merely processed by utilising the VAT administrative system. The concession is actually granted to certain qualifying purchasers in terms of the Customs and Excise Act. The diesel refunds are therefore offset against any VAT which may be payable for the tax period concerned, or alternatively, will increase any VAT refund if the input tax for the period exceeds the output tax liability.

Any diesel refund which is found to be incorrectly claimed will lead to a shortfall of VAT actually paid for the tax period and penalty and interest will be levied on any such shortfall in VAT. There may also be additional penalties and interest levied in terms of the Customs and Excise Act if you claim any diesel refund to which you were not entitled.

Refer to the SARS website www.sars.gov.za for more details about the scheme or refer to the *Diesel Refund Guide* which you can obtain from any SARS branch office.

Important Note

Make sure that you actually qualify for the diesel refund scheme before registering, as any incorrect refunds claimed would have to be paid back to SARS, together with penalty and interest (plus additional tax in the case of intentional misrepresentation or fraud).

CHAPTER 10

EXPORTS AND IMPORTS

10.1 EXPORTS

In order to determine the correct rate of VAT to be applied on the export of movable goods, it must first be determined whether the export of such goods will be a 'direct' or an 'indirect' export. In the case of direct exports, and in certain cases on indirect exports, the zero rate may apply.

A **direct export** is where the supplying vendor ("the supplier") consigns or delivers movable goods to a client at an address in an export country. The supplier is in control of the export and the zero rate of VAT will apply if the requirements stipulated in Interpretation Note: No. 30 (Issue 2) dated 15 March 2006 have been met.

An **indirect export** is where the recipient from an export country removes or arranges for the removal and transport of movable goods purchased in the RSA to an address in an export country, in which case the supplier must levy VAT at the standard rate of 14%, and the recipient may claim a refund from the VAT Refund Administrator (Pty) Ltd¹⁵ (the VRA), provided that the recipient is a "qualifying purchaser".¹⁶ Refer to **paragraph 10.1.2** for further details. Indirect exports are regulated by the VAT Export Incentive Scheme (the Scheme) which came into effect on 16 November 1998. In terms of Part Two of the Scheme the supplier may, in certain circumstances, elect to supply movable goods to a qualifying purchaser at the zero rate, where the supplier is able to **ensure** that the goods are delivered to a harbour or airport, being a "*designated commercial port*", from where those goods will be exported by the qualifying purchaser. It is up to the supplier to decide whether to apply the zero rate in terms of Part Two of the Scheme, or to apply the standard rate.

For both direct and indirect exports, the exportation must take place through one of the **42 designated commercial ports** listed in the table below.

Land Border Posts		International Airports	Harbours	Railway Stations
Country	Commercial port			
Zimbabwe	• Beit Bridge	<ul style="list-style-type: none"> • Bloemfontein • Cape Town • Durban • OR Tambo (Johannesburg) • Gateway (Polokwane) • Lanseria • Kruger Mpumalanga • Pilansberg • Port Elizabeth • Uppington 	<ul style="list-style-type: none"> • Cape Town • Durban • East London • Mossel Bay • Port Elizabeth • Richards Bay • Saldanha 	<ul style="list-style-type: none"> • Germiston • Golela • Johannesburg • Maseru Bridge • Mafikeng • Uppington
Mozambique	• Lebombo			
Namibia	<ul style="list-style-type: none"> • Vioolsdrift • Nakop/Narogas 			
Botswana	<ul style="list-style-type: none"> • Ramatlabama • Skilpadshek • Groblers Bridge • Kopfontein 			
Lesotho	<ul style="list-style-type: none"> • Caledonspoort • Ficksburg Bridge • Maseru Bridge • Van Rooyenshek • Qacha's Nek 			
Swaziland	<ul style="list-style-type: none"> • Jeppes Reef • Mananga • Mahamba • Nerston • Golela • Oshoek 			

¹⁵ A private company appointed by SARS on a tender basis to administer the VAT refund mechanism as provided for section 11(1)(a)(ii)(bb), read with paragraph (d) of the definition of "exported" in section 1 of the VAT Act.

¹⁶ This includes a non-resident, a tourist, a foreign enterprise and a foreign diplomat.

10.1.1 Direct Exports

To apply the zero rate the supplier must either –

- physically deliver the goods to the recipient in an export country (“deliver”); or
- obtain the services of a cartage contractor who is contractually obliged to deliver the goods to the recipient in an export country (“consign”).

Where the supplier consigns the goods, the cartage contractor must be a registered vendor whose main activity is the transportation of goods. Furthermore, the cartage contractor must invoice the supplying vendor as the person who is liable to the cartage contractor for the payment of the full costs of the delivery.

The **documentary requirements** whether consigned or delivered by the supplier are –

- the supplier’s copy of the zero-rated tax invoice;
- the recipient’s order or a contract between both parties;
- export documentation as prescribed in terms of the Customs and Excise Act (that is, CCA1, DA 550 or SAD 500); and
- proof of payment.

Proof that the movable goods have been received by the recipient in the export country is required where the supplier delivers the goods, or consignment is by road. In addition, where a cartage contractor conveys the goods to the export country on behalf of the supplier, a copy of the relevant transport documentation, as well as proof that the supplier paid the transport costs, is required.

Refer to Interpretation Note: No. 30 (Issue 2) on the SARS website for the detailed requirements.

10.1.2 Indirect Exports

In the case of indirect exports, the supplier will charge VAT at the standard rate, unless the supplier has elected to apply the zero rate in terms of Part Two of the Scheme. Where VAT at 14% has been charged, the recipient may apply to the VRA for a VAT refund. The VRA has a presence at the OR Tambo (Johannesburg), Durban and Cape Town International Airports, various land border posts and designated commercial harbours.

Contact details for the VRA’s Head Office are as follows:

Address	Contact details
The VAT Refund Administrator PO Box 107 OR Tambo (Johannesburg) International Airport Post Office South Africa 1627	Telephone: 27 11 394-1117 Facsimile: 27 11 394-1430 E-mail: info@taxrefunds.co.za Website: www.taxrefunds.co.za

A **VAT refund** will only be considered where all of the following requirements are met:

- The purchaser must be a **qualifying purchaser**;
- The goods must be **exported within 90 days** from the date of the tax invoice;
- The VAT inclusive total of all **purchases exported at one time must exceed the minimum of R250**;
- The request for a refund, together with the relevant documentation, must be **received by the VRA within three months of date of export**; and
- The goods **must be exported through one of the 42 designated commercial ports** by the qualifying purchaser or the qualifying purchaser’s cartage contractor.

Where the qualifying purchaser exports the goods, the goods must first be declared to a SARS Customs official at that exit point, before approaching the VRA for a refund. Where the goods are not kept as hand luggage, the tax invoice must be endorsed by the SARS Customs official and be presented to the VRA for a refund, or handed in to a SARS Customs official before departure from the RSA. If the goods are exported via a designated commercial port where the VRA is not present, the qualifying purchaser must apply in writing to the VRA for a refund. This also applies in the case where the qualifying purchaser's cartage contractor exports the goods.

The **documentary requirements** in these circumstances are –

- the original tax invoice;
- a copy of the qualifying purchaser's passport, or in the case of a foreign enterprise, a copy of the trading license, as well as the letter of authorisation and a copy of the authorised person's passport;
- a copy of the invoice issued to the qualifying purchaser by his cartage contractor (where applicable); and
- proof that the qualifying purchaser declared the importation of the goods for customs purposes in the export country.

Where the tax invoice has been endorsed at a designated commercial port where the VRA is not present, the following **additional documentation** must be submitted:

- A copy of the export documentation prescribed under the Customs and Excise Act, bearing an original RSA Customs and Excise endorsement; and
- A copy of the relevant transport documentation indicating that the goods were transported to an export country, for example an airway bill for an export by air or a bill of lading for an export by sea.

Where the supplier **elects to apply the zero rate in terms of Part Two of the Scheme**, the following documentation must be kept by the supplier:

- The supplier's copy of the zero-rated tax invoice.
- The recipient's order or a contract between both parties.
- The applicable prescribed export documentation obtained from the recipient (for example, CCA1, DA 550, SAD 500 etc).
- A copy of the airway bill for an export by air or the bill of lading for an export by sea.
- A copy of the qualifying purchaser's passport or trading license.
- Proof of payment.

In this case, as with direct exports, the supplier accepts the responsibility of obtaining the documentary proof of export. Note that the supplier may not elect to apply the zero rate in terms of Part Two of the Scheme where the goods are to be exported by road or rail.

Refer to the VAT Export Incentive Scheme on the SARS website or the VRA pamphlet which is available from all of South Africa's International Airports.

10.1.3 Second-hand goods

(a) Direct exports

The zero rate cannot apply where second-hand goods are acquired by the supplier and then exported after a notional input tax deduction has been claimed thereon (*refer to Chapter 7*).

In such a case, the supplier must levy VAT equal to the notional input tax deduction originally claimed on the acquisition of the goods now being exported. The VAT declared by the supplier is not refundable to the recipient whether the amount was included in the final price of the goods charged to the recipient or not.

Note that where second-hand goods are acquired from a registered vendor under a taxable supply, a notional input tax is not claimed, but rather a normal input tax deduction supported by a tax invoice. In this case the normal rules apply and the subsequent export of those second-hand goods is subject to VAT at the zero rate.

(b) Indirect exports

VAT is levied at the standard rate on the indirect export of goods. Where second-hand movable goods are exported and a notional input tax deduction has been claimed by the seller on the acquisition of those goods, the VRA may not refund the amount of the notional input tax deduction to the purchaser. For example, where a non-resident purchases a second-hand motor vehicle from a motor car dealer in South Africa, that non-resident will only be able to claim a refund to the extent that the VAT charged exceeds the amount of notional input tax claimed by the motor car dealer.

Where the second-hand goods exported were originally acquired from another registered vendor and a normal input tax credit supported by a tax invoice was claimed, the full amount of VAT charged may be refunded (less the VRA's commission), as the supplier would not have claimed a notional input tax credit on the acquisition on those second-hand goods.

Example 27 – Second-hand goods - direct export

Smart Gallery buys a second-hand painting for R11 400 from a non-vendor and claims a notional input tax deduction of R1 400 ($R11\ 400 \times 14/114$). Smart Gallery sells the painting to Mr M from Botswana for R15 786 and delivers it to Mr M's address in Botswana. The locally advertised price is R16 400 (including R2 014 VAT).

The calculation of the selling price is as follows:

Selling price excluding VAT	R14 386
Add back notional input tax claimed	<u>R 1 400</u>
Selling price including VAT	<u>R15 786</u>

VAT levied at the standard rate is equal to the amount of notional input tax claimed. The tax invoice issued to Mr M must either show that VAT of R1 400 has been charged or that the selling price includes VAT of R1 400. Mr M is not entitled to a refund of the R1 400 VAT charged.

Example 28 – Second-hand goods - indirect export

Assume the same facts in Example 27, except that Mr M collects the painting in the RSA and exports it himself. (Price advertised: R16 400 including R2 014 VAT). To assist Mr M to obtain his refund from the VRA, at the time of export, the tax invoice should show the following:

Selling Price excluding VAT	R14 386
VAT @ 14%	R 2 014
Selling price including VAT	R16 400

VAT Refund

Total VAT	R 2 014
<u>Less notional input claimed</u>	<u>R 1 400</u>
VAT refundable	<u>R 614</u>

The tax invoice must contain a full and proper description of the goods supplied (indicating, where applicable, that the goods are second-hand goods). A refund will not be authorised if these details are not clearly indicated on the face of the tax invoice. Only the VAT in excess of the notional input tax claimed can be refunded by the VRA, (that is, R614 less the VRA's commission), whereas the portion of the VAT equal to the notional input tax credit claimed (R1 400) is not refundable.

10.2 IMPORTATION OF GOODS

10.2.1 General

If goods are purchased from another country, VAT is payable when the goods are imported into the RSA. Goods may only be imported through one of the 42 designated commercial ports (as listed under **paragraph 10.1** above). The VAT paid to SARS Customs on goods imported by a vendor in the course of conducting an enterprise may be claimed as an input tax deduction.

The vendor, or the vendor's agent must hold a valid bill of entry (SARS Customs declaration forms DA500, CCA1 or SAD 500), together with the receipt for the VAT paid on the importation of goods for use in the course of making taxable supplies before being able to claim input tax thereon. (*Refer to Chapter 7*). SARS Customs officers control the entry of goods into the country, and goods will not be released before they have been declared and any customs and/or excise duties (if any), as well as VAT, has been paid thereon.

Regular importers or their clearing agents can enquire about obtaining access to a Deferment Facility at SARS Customs branch offices. This facility allows the importer a credit facility for a specified amount with SARS for the customs duty and VAT payable on the importation of goods into the RSA. Application for this facility can be done by completing forms DA650 (registration particulars of applicant) and DA652 (agreement between the applicant and SARS). A bank guarantee or surety must be lodged, the amount of which will be based on the inherent risks of the business and type of goods to be imported.

10.2.2 Imports from countries other than Botswana, Lesotho, Namibia or Swaziland (the BLNS countries)

The BLNS countries together with RSA form the Southern African Customs Union (SACU). The effect thereof is that where goods are imported from **outside the SACU region**, (that is, from non-BLNS countries), VAT, customs duty and in some cases, excise duty is payable on the goods being imported, and is calculated as follows:

$$\begin{array}{l}
 \text{Purchase price of goods/Customs value (CV)} \\
 + \text{ Customs duty (and Excise duty) if applicable (non-rebated duties)} \\
 + \text{ 10\% of the customs value} \\
 \hline
 = \text{ Added Tax Value (ATV)}^{17}
 \end{array}$$

$$\text{ATV} \times 14\% = \text{VAT payable}$$

Example 29 – Importation of goods

Mr C imports art from Uganda for which he pays R5 000. Upon being cleared for home consumption, VAT will be calculated as follows:

Purchase price/customs value	R5 000 (CV)
+ Customs duty, for example, 25%	R1 250
+ 10% upliftment (See note)	R 500
VAT Value for importation & VAT purposes	<u>R6 750 (ATV)</u>
VAT at 14%	<u>R 945</u>

¹⁷ The 10% upliftment is not an amount payable to SARS, but represents an amount in lieu of transport and insurance costs which is used for calculating the ATV.

10.2.3 Imports from the BLNS countries

Where goods are imported from **within the SACU region** (that is, from BLNS countries) no customs duties are applicable and the 10% upliftment in value is not applied provided that the goods have their origin in a BLNS country. However, VAT is still payable on the importation of the goods into RSA at 14% of the value for customs purposes (unless specifically exempt). The ATV value in the case of imports from BLNS countries will therefore not include any customs duties or the 10% upliftment in the customs value as shown in **paragraph 10.2.2** above.

10.2.4 Exemptions

No VAT is payable on the importation of certain goods. Some examples are –

- goods imported for diplomatic and other foreign representatives;
- goods imported by immigrants, tourists, returning residents and other passengers for personal use for example –
 - visitor's personal effects, sporting and recreational equipment which will be used during their stay in the RSA;
 - returning resident's personal effects, sporting and recreational equipment exported for use abroad and subsequently re-imported;
 - wine, cigarettes, perfume (within certain limits) imported as part of a passenger's baggage;
 - household furniture and other household effects imported by natural persons for own use on change of permanent residence to the RSA;
- goods which are re-imported in certain circumstances;
- goods temporarily admitted for processing, repair, cleaning, reconditioning or for the manufacture of goods exclusively for export; and
- goods temporarily admitted subject to exportation in the same state.

Where goods are temporarily imported into the RSA or removed in transit through the RSA, a provisional payment or bond will normally be required to secure the amount of VAT payable on importation. This is to ensure that the risk of the goods remaining in the RSA without the payment of the applicable VAT is covered. When the goods leave the country, the provisional payment may be refunded, or the bond released.

10.3 IMPORTATION OF SERVICES

VAT at the standard rate is levied on the supply of imported services. The recipient of the imported services is responsible for the declaration and payment of the VAT.

10.3.1 What is an imported service?

An imported service is –

- a supply of services;
- made by a supplier who is not a resident of the RSA, or who carries on a business outside the RSA;
- to a recipient who is a resident of the RSA;
- to the extent that such services are not used in the course of making taxable supplies.

Examples of instances where a resident recipient has to account for VAT on imported services are –

- where the recipient is not a registered vendor;
- where the recipient is a vendor, but the services are acquired wholly or partially in the course of making exempt supplies; and
- where the recipient is a vendor, but the services are applied for private purposes.

Example 30 – Imported services definition

Mr L (a VAT vendor), manufactures ball valves and pays a technical license fee to a UK-based company. The service is accordingly supplied by a supplier who is not a resident of the RSA to a resident (Mr L). However, as the services are wholly consumed in the course of making taxable supplies (that is, manufacturing and selling ball valves), the services do not fall within the definition of “*imported services*”. Consequently, no VAT would be payable by Mr L on the services supplied by the non-resident.

Example 31 – Imported services (digital goods / electronic products)

Mrs Bookworm orders an electronic version of the latest “Harry Potter” novel from Virtual Books (an internet based business located in Belgium) and downloads the document on her personal computer. She pays €20 for this service on her credit card. Digital products such as electronic books are regarded internationally as “*services*” and not “*goods*”. Therefore, as these “*services*” are supplied by a non-resident (Virtual Books, Belgium) to a recipient who is resident in the RSA (Mrs Bookworm) for non-taxable (private) purposes, VAT will be payable by Mrs Bookworm in this situation. If €20 was equivalent to R200 on the date of the importation, the VAT payable would be calculated as follows:

VAT payable = R200 x 14% = **R28.00**

10.3.2 When must VAT on imported services be paid?

The VAT on imported services must be declared on form VAT215 and paid to the local SARS branch office within 30 days from the time of supply.

10.3.3 Time of supply

The time of supply of imported services is the earlier of the time that an invoice is issued by the supplier or the recipient, or any payment is made by the recipient in respect of that supply.

10.3.4 Value of supply

The taxable value of the supply is the **greater of** the consideration or the open market value.

Example 32 – Value of imported service

Mrs S strikes it lucky one day by winning R1 000 000 on the Lotto. She decides to start her own spaza shop and registers for VAT in this regard. She also decides to spend some of her winnings on extending her small home by building on two extra rooms and a “granny cottage”. She obtains several quotes from vendors in the RSA and discovers that it will cost her about R100 000 plus R14 000 VAT (R57 000 labour and R57 000 for materials) to carry out the alterations. She decides that the cost is excessive and instead asks her brother Andries who has a construction business in Botswana (in which country he is resident) to carry out the job when he comes to visit over the weekends. Over a period of 6 months, Mrs S spends R43 000 (including VAT) on building materials which Andries uses to carry out the required work. Mrs S also pays Andries R25 000 for his time and effort to do the job.

In this case, building services are supplied by Andries (a non-resident) to Mrs S (a resident of the RSA). Even though Mrs S is a vendor, the services are imported by her for non-taxable (private) purposes and are not in any way connected with the taxable supplies made in the course or furtherance of her enterprise (the spaza shop).

Continued overleaf ...

Example 32 (continued)

The services will therefore fall within the definition of “*imported services*” and VAT will be payable on the greater of:

- the amount of consideration payable to Andries, namely R25 000; or
- the open market value of R50 000 (that is, R57 000 less R7 000 VAT).

Therefore, the VAT payable = R50 000 x 14% = **R7 000**

Notes:

1. If Andries was paid an additional amount to construct a building where the spaza shop enterprise would be carried on, no VAT would be payable in this regard as Mrs S would have acquired those services for making taxable supplies.
2. Mrs S cannot claim input tax on the VAT paid for the building materials as these goods are not acquired for making taxable supplies.

10.3.5 Exemptions

VAT is not payable on imported services where –

- the supply would be exempt from VAT or zero-rated if supplied in the RSA; or
- the supply of the service is subject to VAT at the standard rate (presently 14%); or
- a supply is of an educational service by an educational institution established in an export country which is regulated by an educational authority in that export country; or
- the supply is of the services of a non-resident employee under an employment contract.

Example 33 – Exempt imported service

Assume that Mrs S in Example 32 was to enrol her eldest son Solly in an MBA distance learning programme offered by the University of Wales at a cost of €10 000 (assuming that this is the equivalent of R120 000).

In this situation, educational services are supplied by the University of Wales (a non-resident) to the recipient Solly (a resident of the RSA). The services are imported for non-taxable (private) purposes and therefore fall within the definition of “*imported services*”. However, the VAT Act makes provision for an exemption in this situation as the same educational services, if provided by any university in the RSA, would have been exempt from VAT in terms of section 12(h) of the VAT Act.

VAT is therefore not payable by the recipient (Mrs S or Solly) on the R120 000 in this case.

CHAPTER 11

TAX INVOICES

11.1 INTRODUCTION

As discussed in **Chapter 1**, South Africa operates a VAT system where you subtract the VAT charged to you by your suppliers from the VAT you charge to your customers in order to calculate the VAT payable by or refundable to a vendor. The most important document in such a system is the tax invoice. Without a proper tax invoice you cannot deduct input tax on purchases for your enterprise, and if you have clients who are vendors or if you sell goods to foreign tourists, they cannot claim back the VAT that you have charged them, or claim a refund of the VAT when taking the goods out of the country.

11.2 WHAT IS THE DIFFERENCE BETWEEN AN INVOICE AND A TAX INVOICE?

An **invoice** is a document notifying the purchaser of an obligation to make payment in respect of a transaction (not necessarily a taxable supply). The issuing of an invoice is one of the events which may trigger the time of supply for a transaction, which, if it is a taxable supply, will normally mean that there would be an obligation to declare output tax. Conversely, the fact that you may have an invoice from the supplier, does not mean that you will be entitled to claim input tax thereon.

On the other hand, a **tax invoice** is a document which is provided for in the VAT Act to enable the vendor to claim input tax. It will therefore always relate to a taxable supply (whether wholly or partially). The Act prescribes that a tax invoice must contain certain details about the taxable supply as well as the parties to the transaction. Refer to **paragraph 11.2** below for details.

In practice, some vendors combine the function of the two documents to avoid administrative duplications. However, vendors who prefer this method should ensure that their invoices comply with the requirements of a tax invoice, otherwise their customers will not be allowed to claim the VAT charged as input tax.

11.3 WHAT ARE THE REQUIREMENTS FOR TAX INVOICES?

The following information must be reflected on a tax invoice for it to be considered valid:

Full Tax invoice (Consideration of R3 000 or more) Section 20(4) of the VAT Act.	Abridged Tax invoice (Consideration less than R3 000) Section 20(5) of the VAT Act.
<ul style="list-style-type: none"> • The words “TAX INVOICE” in a prominent place; • Name, address and VAT registration number of the supplier; • Name, address and VAT registration number of recipient*; • Serial number and date of issue; • Full and proper description of the goods and/or services; • Quantity or volume of goods or services supplied; • Price & VAT (according to any of the 3 approved methods discussed overleaf). <p>Note: *Required with effect from 1 March 2005.</p>	<ul style="list-style-type: none"> • The words “TAX INVOICE” in a prominent place; • Name, address and VAT registration number of the supplier; --- • Serial number and date of issue; • A description of the goods and/or services; --- • Price & VAT (according to any of the 3 approved methods discussed overleaf).

Approved methods for reflecting the consideration and VAT for taxable supplies.

Method 1		Method 2		Method 3	
All individual amounts reflected.		Total consideration only and the VAT rate charged.		Total consideration and the VAT charged.	
Price (excl. VAT)	R500	The total consideration	R570	The total consideration	R570
VAT charged	<u>R 70</u>	VAT included @ 14%		VAT included	R 70
Total including VAT	<u>R570</u>				

**EXAMPLE: FULL TAX INVOICE
(WHERE THE CONSIDERATION IS MORE THAN R3 000)**

TAX INVOICE

The words "tax invoice" in a prominent place on the document.

Trading name, address and VAT registration number of the supplier

AC Motor Dealers CC
t/a Bushlands Motors
57 Bush Heights
BUSHLANDS
VAT No.: 4111252081

Serialised tax invoice number

Invoice no. 1958/08

Date of the tax invoice

Date : 30 November 2008

Name and address of the recipient

To : Mr Joe Soap
123 Gingerbread Road
Newlands
Cape Town

VAT registration number of the recipient (if registered) where the consideration exceeds R3 000

VAT No. 4740123987

Accurate description of the goods or services supplied

Date	Quantity	Description	VAT	R
30/11/2008	1	2005 BMW 318i (second-hand goods)	28 000.00	228 000.00
	1	Alarm System	420.00	3 420.00
			Total	231 420.00
			VAT included @ 14%	28 420.00

Quantity of goods or services supplied

Total selling price charged including VAT. The VAT must either be shown separately, or the tax invoice must contain a statement that the total consideration includes VAT @ 14%

**EXAMPLE: ABRIDGED TAX INVOICE
(WHERE THE CONSIDERATION IS R3 000 OR LESS)**

<u>TAX INVOICE</u>		
Vendor (Pty) Limited Highfield Building 80 Club Avenue Norwood 2192 Tax Invoice No: 2005/1235 VAT Registration No: 4321123450		
Our Ref.: TD/mb/06715/T Date: 30 November 2005		
DATE	DESCRIPTION OF GOODS / SERVICES	R
30/11/2005	Widgets 300 x 200	300
	VAT @ 14%	42
	Total	342

The following important points should also be noted with regard to tax invoices:

- A vendor is required to issue a tax invoice to the recipient within 21 days of the supply having been made where the consideration for the supply exceeds R50 (whether the recipient has requested this or not).
- If the consideration in money for the supply is R50 or less, a tax invoice is not required (however, a document such as a till slip or sales docket will still be required to verify the input tax claimed).
- Where the consideration for a taxable supply exceeds R50 but does not exceed R3 000, an abridged tax invoice may be issued (*refer to the example above*).
- A tax invoice must be in South African currency, except for a zero-rated supply (for example, goods exported). In such cases, a full tax invoice must be issued, even if the consideration is less than R3 000.
- A tax invoice is not issued by a debtor (vendor) under an instalment credit agreement if the goods are repossessed. This will be done by the person exercising their right of repossession (that is, the bank or other financier).
- It is a requirement to reflect the VAT registration number of the recipient of the supply on the tax invoice with effect from 1 March 2005 (if that person is a vendor) and the consideration for the supply exceeds R3 000.
- If a vendor fails to deduct input tax in respect of a particular tax period, it may be deducted in a later tax period, but limited to a period of five years from the date that the supply concerned was made.

11.4 TAX INVOICES PREPARED BY THE RECIPIENT (RECIPIENT-CREATED INVOICING)

In some instances the consideration for a supply is determined by the recipient of the goods/services rather than by the supplier. An example of this is where a farmer (the supplier) takes produce to a co-operative which will only be sold at a later stage, once the quality and quantity of the produce has been determined. Since the price that will eventually be obtained for the goods depends on factors outside the farmer's control (and often the co-operative merely acts as agent for the supplier), the farmer is not in a position to issue an invoice or tax invoice for the produce when it is delivered for sale. In such cases, SARS may permit the co-operative (recipient) to issue the tax invoice for the supply. This is referred to as recipient-created invoicing (or self-invoicing). You must however first obtain written authorisation from the SARS office where you are registered before you will be allowed to apply this method of invoicing. Note that approval for recipient-created invoicing procedures will not be granted where the purpose is merely to facilitate the obtaining of a tax invoice by the recipient. Approval will only be granted in the case of those industries and transactions where an effective recipient-created invoicing system has traditionally been followed in the past.

Examples of industries and transactions where approval is likely to be granted in terms of the above criteria are farmers, sub-contractors, commission agents, licensees under royalty agreements and transport contractors. For more details, refer to VAT Practice Note No. 2, dated 25 September 1991.

Your **written application** to apply self-invoicing must provide the following details –

- a description of the nature of the businesses respectively carried on by the supplier and the recipient;
- a full description of the transactions in respect of which self-invoicing is required;
- the existing invoicing procedures being followed for such transactions; and
- an undertaking by the recipient that they will comply with the administrative requirements with regard to tax invoices, debit notes or credit notes. The applicant must also obtain and retain the written agreement of each affected supplier in this regard (vendors) as well as their written confirmation that they will comply with the said administrative requirements.

11.5 TAX INVOICES FOR MIXED SUPPLIES

As mentioned in **paragraph 11.3** above, where the supply is a zero-rated supply, a full tax invoice must be issued. Where the supply is exempt from VAT, no tax invoice may be issued and since no tax is charged, no input tax may be claimed in respect thereof.

There may however be a situation where various supplies are made by the same supplier and where each supply is treated differently for VAT purposes (for example in the tourism industry). Where this occurs, the tax invoice must clearly distinguish between the various supplies and indicate separately the applicable values, and the tax charged (if any) on each supply.

EXAMPLE: TAX INVOICE FOR MIXED SUPPLIES

<u>TAX INVOICE</u>				
TAX INVOICE NO. 2005/195		Date: <i>30 November 2005</i>		
To:		From:		
<i>Mr D. Touriste</i>		Scenic Tour Operators		
<i>101 Platteland Weg</i>		VAT No.: 4111252081		
<i>Amsterdam</i>		57 Bush Heights		
<i>Netherlands</i>		Bushlands		
VAT No: <i>[n/a – non-resident]</i>		1234		
DATE	QTY	DESCRIPTION OF SERVICE/GOODS	VAT STATUS	R
30/11/2005	2	Airport shuttle @ R150 per trip	Exempt	300
	2	Tour guide fee @ R500	14 %	1 000
	4 nights	Accommodation B & B @ R2 500	14 %	10 000
	5	Paintings	14 %**	5 000
	50 litres	Diesel – for guest's rented 4x4 vehicle	0 %	200
			VAT @14% on: R16 000	2 240*
			Total	18 740

***Note** : VAT = R10 000 + R1 000+ R5 000 = R16 000 x 14% = R2 240.

****Note**: VAT charged @ 14% as the tourist will remove the goods from RSA himself.

11.6 SPECIAL CASES

Although the general rule is that a vendor must have a tax invoice before being allowed to claim any input tax in relation to the supply, there are a few exceptions to the rule.

11.6.1 Second-hand goods

Where a vendor purchases second-hand goods from a non-vendor, the purchaser (vendor) has to record the following details to substantiate the input tax claim:

- Name, address and ID no. of the supplier (ID no. of the representative person if it is a company or close corporation).
- Date of acquisition.
- Quantity or volume of goods.
- Description of the goods.
- Consideration for the supply.
- Declaration by the supplier stating that the supply is not a taxable supply.
- The vendor must verify the person's ID no. with the ID book or passport.
- Where the value of the supply is R1 000 or more, the vendor must obtain and retain a copy of the person's ID, and, in the case of a company or cc, a business letterhead or similar document is also required which shows the name and registration number allocated by the Registrar of Companies.

IMPORTANT NOTE

Form VAT 264 has been designed specifically to assist vendors to comply with the law. The form must therefore be completed and maintained as part of the vendor's records for VAT purposes for the prescribed recordkeeping period.

11.6.2 Repossession of goods

Where goods supplied under an instalment credit agreement are repossessed, it is impractical to require the person from whom the goods were repossessed, (that is, the debtor), to issue an invoice or tax invoice to the financier, therefore –

- if the **goods are repossessed from a vendor**, the person exercising the right of repossession (normally a bank or other financier who is also a vendor), is required to create and furnish a tax invoice to the debtor; and
- if the **goods are repossessed from a non-vendor**, the person exercising the right of repossession (vendor) is required to keep details as mentioned in **paragraph 11.6.1** above relating to second-hand goods.

11.6.3 Other cases

Where the purchase price is less than R50 and the total consideration is in money, no tax invoice is required (discussed in **paragraph 11.3** above).

Where the Commissioner is satisfied that there will be sufficient records, and that it will be impractical for a tax invoice to be issued, permission may be granted for tax invoices not to be issued, or for the information on the tax invoice to vary from the standard requirements.

A bill of entry together with the proof of payment to Customs serves as the supporting documentation to claim the VAT paid on any goods imported.

Where the tax invoices are held by an agent, the necessary details in the required schedules from the agent must be held.

11.7 ELECTRONIC TAX INVOICES

VATNEWS 20 sets out the requirements for vendors who wish to issue tax invoices, debit notes and credit notes in electronic format instead of the traditional paper version (hard copy). It is, however, not practical to verify beforehand that each vendor meets all the requirements, as this can only be ascertained when conducting an audit. Since the requirements have already been published in the VATNEWS, it is not necessary for vendors to make individual applications for approval in this regard.

Vendors wishing to implement an electronic system must ensure that they do not replace their existing paper-based documentary systems before ensuring that they meet all the requirements.

11.8 LOST OR MISPLACED TAX INVOICES

If a tax invoice in respect of a particular supply is lost, you may not request the supplier to issue another tax invoice as it is an offence to issue more than one tax invoice per taxable supply.

In order to meet the documentary requirements for claiming input tax, you can request the supplier to issue you with a copy tax invoice as long as the document is clearly marked “copy”. A photocopy which has been clearly marked “COPY” ***after*** it has been photocopied can also be used in such instances.

A facsimile of a tax invoice is not acceptable unless printed by a plain paper facsimile machine. Also, a tax invoice sent by e-mail is not acceptable unless the parties to the transaction have implemented electronic invoicing as discussed in ***paragraph 11.7*** above.

CHAPTER 12

DEBIT & CREDIT NOTES

12.1 INTRODUCTION

A **debit note** will normally be issued by the supplier when the tax invoice for the supply has already been issued and the previously agreed consideration is subsequently **increased**. Conversely, a **credit note** will normally be issued by the supplier when the tax invoice for the supply has already been issued and the previously agreed consideration is subsequently **reduced**. A **credit note** is also issued by the original supplier **when faulty goods are returned** by the customer.

Debit and credit notes therefore provide a mechanism to support the necessary VAT adjustments required or allowed where an event has the effect of altering the original consideration agreed upon for a past taxable supply, after the tax invoice has already been issued, or the vendor has accounted for the supply on a VAT return.

12.2 WHEN MUST DEBIT AND CREDIT NOTES BE ISSUED?

The following are the circumstances under which it will be necessary to issue a debit note or credit note:

- Where a supply of goods or services is cancelled.
- Where the nature of the supply of goods or services has been fundamentally varied or altered.
- Where the previously agreed consideration for the supply of the goods or services is being altered by agreement with the recipient (including a discount).
- Where part of, or all the goods or services supplied are returned to the supplier (including any returnable container returned to the supplier).

This will, however, only be necessary if in respect of any of the above circumstances the supplier has either –

- issued a tax invoice and the tax charged is incorrect; or
- furnished a VAT return in which the incorrect amount of output tax was accounted for.

The debit or credit note must be issued, whether or not the supplier accounts for tax on an invoice or payments basis. The issue of a credit note is not required when a prompt payment (settlement) discount is the reason for the reduction in the consideration, providing the terms of that discount are clearly shown on the tax invoice.

12.3 WHAT DETAILS MUST APPEAR ON DEBIT AND CREDIT NOTES?

The following details should appear on debit and credit notes:

- The words “debit note” or “credit note” (as the case may be) in a prominent place.
- The name, address and VAT registration number* of the vendor.
- The name and address of the recipient (unless the supplier originally issued an abridged tax invoice).
- The date on which the debit note or credit note is issued.
- The amount by which the value of the supply and the VAT charged has been altered (or where the tax invoice reflected only the total consideration and a statement regarding the rate of tax applied, the amount by which the consideration has been reduced must be reflected and either the difference in VAT or a statement that adjustment includes an amount of tax and the rate of the tax included).
- A brief explanation of the circumstances giving rise to the debit or credit note.
- Sufficient information to identify the transaction to which the debit or credit note refers, for example, a reference to the original tax invoice number and the date on which it was issued.

* **Note: Required with effect from 1 March 2005.**

Below is an example of a credit note and a debit note.

EXAMPLE: CREDIT NOTE

<u>CREDIT NOTE</u>						
Vendor (Pty) Limited Suite 4, 1 st Floor Highfield 80 Grant Avenue Norwood 2192			VAT Registration no: 4321123450 Date : 6 November 2005			
To: Confused (Pty) Limited - VAT registration no: 4291163592 89 Horror Street Johannesburg 2001						
Tax invoice Reference	Description of goods	Reason for credit note	Incorrect amount	Correct amount	Net amount	VAT
No: 8962/4 – dd 8/10/05	30mm Widgets supplied @ R1 each	Charged for 400 units instead of 300	R400	R300	R100	R12.28

EXAMPLE: DEBIT NOTE

<u>DEBIT NOTE</u>						
Vendor (Pty) Limited Suite 4, 1 st Floor Highfield 80 Grant Avenue Norwood 2192			VAT Registration no: 4321123450 Date : 6 November 2005			
To: Confused (Pty) Limited - VAT registration no: 4291163592 89 Horror Street Johannesburg 2001						
Tax invoice Reference	Description of goods	Reason for debit note	Incorrect amount	Correct amount	Net amount	VAT
No: 8962/4 - dd 8/10/05	30mm Widgets supplied @ R1 each	Charged for only 200 units instead of 300	R200	R300	R100	R12.28

12.4 ADJUSTMENTS IN RESPECT OF DEBIT AND CREDIT NOTES

The VAT Act makes provision for debit and credit notes to be issued in respect of a single supply. Remember that the consideration for a supply can only be altered by means of a debit or credit note – it is not correct to merely issue another tax invoice. **Note also that it is illegal to issue more than one tax invoice per taxable supply.**

Debit and credit notes are reflected on the VAT 201 return as follows:

- **Field 12** – Output tax – debit notes issued and credit notes received.
- **Field 18** – Input tax – credit notes issued and debit notes received.

Credit notes issued may not be set off against the sales made to the same vendor, and similarly, debit notes may not be set off against purchases unless the debit or credit note concerned is issued in the same tax period in which the supply has taken place.

Note

Where it is discovered that the cash relating to a transaction has been stolen or misappropriated, this does not entitle the vendor to issue a credit note and claim input tax thereon. The VAT Act does not provide for a deduction or adjustment in such cases.

Refer to **Chapter 13** for more details on adjustments.

CHAPTER 13

ADJUSTMENTS

13.1 INTRODUCTION

This chapter identifies those situations in which a vendor will be required to make adjustments to input tax or output tax. It explains when the adjustments should be made by the vendor and what the amounts of the adjustments should be.

Adjustments to **input tax or output tax** will arise in respect of taxable supplies, for example, where –

- an irrecoverable debt is written off by a vendor;
- a debit or credit note is issued or received by a vendor;
- early payment of an account gives rise to a prompt settlement discount;
- faulty goods received by the customer are returned to the supplier; and
- a change in the extent of taxable use or application of goods or services occurs.

13.2 IRRECOVERABLE DEBTS

A vendor who accounts for VAT on the invoice basis may claim input tax in respect of debts which have become irrecoverable. In the exceptional case where a vendor is registered on the payments basis and has already accounted for a taxable supply which was paid with a cheque and the cheque is dishonoured, that vendor may also claim input tax.

The circumstances under which such a deduction may be claimed, requires firstly that there must have been a taxable supply for a consideration in money. Secondly, the vendor must already have accounted for the supply in a VAT return. Only then is that vendor entitled to claim an input tax adjustment. The adjustment is calculated by applying the tax fraction (14/114) to the amount actually written off as input tax.

A debt will be considered as irrecoverable if **both** the following requirements have been complied with, namely:

- The vendor must have done all the necessary entries in the accounting system to record that the amount has been written off.
- The vendor must have ceased active recovery action on the debt **or** handed the debt over to an attorney or debt collector.

The vendor may then claim an input tax deduction in the tax period in which **both** of the abovementioned requirements have been met.

In the case where the vendor subsequently receives payment in respect of a debt written off as irrecoverable, the vendor must account for output tax on the payment in the tax period in which the payment is received.

13.3 DEBIT AND CREDIT NOTES

The circumstances in which debit and credit notes are required to be issued are dealt with in **Chapter 12**.

Credit notes are issued by a supplier for various reasons, after a tax invoice was issued and the consideration for the supply is therefore reduced (for example, when faulty goods are returned to a supplier). Where a vendor issues a credit note, that vendor is required to make an adjustment to input tax. The vendor receiving a credit note must make an adjustment to output tax. These adjustments must be accounted for in the VAT return for the tax period in which the increase in consideration occurs, that is, in the tax period in which the credit note is issued by the vendor.

Where a vendor issues a debit note, that vendor is required to make an adjustment to output tax. The vendor receiving a debit note must make an adjustment to input tax. These adjustments must be accounted for in the VAT return for the tax period in which the increase in consideration occurs, that is, in the tax period in which the debit note is issued by the vendor.

Remember that the rules discussed above apply to vendors in accordance with the principles upon which they account for VAT. For example, a vendor who registered on the payments basis will only make the necessary adjustments when payment in respect of the debit or credit note is made or received, whereas vendors on the invoice basis account for the debit or credit note upon the issue or receipt of that document.

13.4 PROMPT SETTLEMENT DISCOUNTS

Where the terms of a prompt settlement discount are stated on a tax invoice, a credit note need not be issued if the consideration for the supply is reduced by reason of the stated discount offer being accepted.

Where the prompt settlement discount applies, the vendor giving the discount is entitled to make an adjustment to the output tax in the VAT return for the tax period that covers the date on which the discount is taken. Where the discount is allowed in the same tax period in which the supply was made, the vendor may offset this amount against the total output tax declared for the tax period, or reflect the amount in field 18 of the VAT return for that period.

Similarly, the vendor receiving the settlement discount must account for output tax in field 12 of the VAT 201 return, or reduce the total amount of input tax claimed in the VAT return for the tax period in which the settlement discount is allowed.

13.5 CHANGE IN USE OR APPLICATION

Where a vendor increases or decreases the use of capital goods or services to make taxable supplies, or if stock items or capital assets are taken from the business for own use, or for exempt or other non-taxable purposes, the vendor must make an adjustment to output or input tax (as the case may be).

The definition “**adjusted cost**” was introduced into sections 16(3)(h), 18(2), (4) and (5) of the VAT Act for the purposes of calculating certain input and output tax adjustments required by, or allowed to, a vendor on any change of taxable use of assets. The effect is that any costs incurred in acquiring the assets which are not VAT inclusive (or deemed to include VAT) are excluded in the formula used to calculate the adjustment. Examples include finance charges (exempt) or labour charges by a non-vendor (no VAT chargeable), and salary and wages incurred in the manufacture, assembly, construction or production of those goods or services.

An adjustment to **output tax** will be required where –

- goods or services acquired for making taxable supplies are subsequently applied wholly for private, exempt or other non-taxable purposes; or
- there is a *decrease* of more than 10% in the extent of taxable use or application by the vendor of capital goods and services which have an adjusted cost of R40 000 or more.

An adjustment to **input tax** may be permitted where –

- goods or services applied wholly or partly for exempt or private purposes are subsequently applied wholly or partly for making taxable supplies; or
- there is an *increase* of more than 10% in the extent of taxable use or application by the vendor of the capital goods or services concerned.

13.5.1 Change in use from taxable to private or exempt purposes (section 18(1))

If you bought or imported **any goods or services (including capital goods or services)** for your business and claimed input tax, and later decide to use these goods or services for your own use, or for exempt supplies, you will have to pay output tax on the open market value of those goods or services.

The adjustment must be made at the time that the goods or services are applied for private or other non-taxable purposes.

Example 34 – Change in use from taxable to private purposes

Ms H is a chartered accountant and has her own practice, and is registered for VAT under the Category B tax period. She bought a computer for the business in January 2004 for R5 700 (excluding finance charges, but including VAT) and accordingly claimed input tax of R700 in her February 2004 VAT return. In December 2005, she decides to upgrade the office computer and takes the computer home for her children to use. The market value of the computer as at December 2005 is R2 280. Ms H must now account for output tax of R280 ($R2\ 280 \times 14/114$) in field 12 of the December 2005 VAT return.

13.5.2 Decrease in extent of taxable use of capital goods or services (section 18(2))

An adjustment is required to a vendor's output tax in those circumstances where there is a **decrease of more than 10%** in the extent to which **capital goods or services** are used or applied in the course of making taxable supplies. The adjustment is made on an annual basis.

No adjustment is applicable where –

- the adjusted cost is less than R40 000 (excluding VAT); or
- where the vendor is a *public authority or constitutional institution* and the capital goods or services were acquired before 1 April 2005; or
- where the vendor is a *municipality* and the capital goods or services were acquired before 1 July 2006.

Example 35 – Decrease in extent of taxable use of capital goods or services

Ms C (a registered VAT vendor) owns a double-storey building situated in Cape Town. The building is used for mixed purposes in that it has 4 shops on the ground floor (taxable supplies) and 2 large residential apartments on the first floor (exempt supplies). Shops are rented for R12 000 each (excluding VAT) and apartments for R6 000 each per month. In March 2004, Ms C purchases a computer for R114 000 (inclusive of VAT), which is intended for use in her business. At the time of purchasing the computer, Ms C derives 80% of her income from taxable supplies (shop rentals) and 20% from exempt supplies (residential rentals). Ms C has elected to use the standard turnover-based method of apportionment and in the April 2004 tax period, she claims input tax of R11 200 ($14/114 \times R114\ 000 \times 80\%$) in respect of the computer acquired.

At the end of February 2006, Ms C determines that the nature of her business has changed significantly and that her income from taxable supplies now comprises 60% and her income from exempt supplies comprises 40% of her total income. At the end of that month the computer has an open market value of R92 340. The adjustment required to be made by Ms C to take account of the decrease in the extent of taxable use of the computer is determined by the formula: **A x (B - C)**

Continued overleaf ...

Example 35 (continued)

Where:

- A** represents the lesser of:
- (i) the adjusted cost of the computer, namely R114 000; or
 - (ii) the open market value of the computer, namely R92 340
- B** represents the extent of taxable use of the computer at the time of the acquisition or in the prior 12-month period, namely 80%
- C** represents the extent of the taxable use of the computer during the current 12-month period, namely 60%

Ms C's calculation will be $R92\,340 \times (80\% - 60\%)$ or $R92\,340 \times 20\% = \mathbf{R18\,468}$.

In order to calculate the output tax which must be accounted for, Ms C would apply the tax fraction to the amount determined by the formula, for example, $14/114 \times R18\,468 = \mathbf{R2\,268}$.

Ms C must therefore declare an amount of R2 268 in VAT for the tax period ending February 2006 in her VAT 201 return in field 12.

13.5.3 Change in use from private or exempt to taxable purposes (section 18(4))

A vendor is entitled to claim as an input tax deduction where goods or services are held on after 30 September 1991 for exempt or private purposes and subsequently applied by the vendor for consumption, use or supply in the course of making taxable supplies. In order to qualify for this deduction, the subsequent taxable use or application of the goods or services must occur on or after 30 September 1991. The deduction will not apply in respect of any goods or services for which a claim of input tax is denied or would have been denied if the goods or services were acquired after 30 September 1991. The amount of the deduction will depend on the extent of the intended use of the goods or services in relation to the total intended use.

The vendor may claim input tax in the tax period in which the goods or services are actually applied by the vendor for making taxable supplies. The amount of the adjustment is calculated by applying the tax fraction (14/114) to the lesser of the adjusted cost (including VAT), or the open market value of the relevant goods or services.

No adjustment is applicable where –

- where the vendor is a *public authority or constitutional institution* and the goods or services were acquired before 1 April 2005; or
- where the vendor is a *municipality* and the goods or services were acquired before 1 July 2006.

Example 36 – Change in use from private (non-taxable) to taxable purposes

A vendor purchases a single cab bakkie for private purposes on 1 March 2005. The bakkie costs R228 000 including VAT (excludes finance charges and any other charges incurred). The vendor then decides to use the bakkie exclusively in his business for delivery of goods to his/her customers with effect from 1 March 2006. At the time of introducing the bakkie into the business, it had an open market value of R205 200. The vendor will in the April 2006 tax period, now be entitled to deduct, in addition to other input tax deductions, the following amount:

$14 / 114 \times R205\,200 = \mathbf{R25\,200}$

13.5.4 Increase in extent of taxable use or application of capital goods or services (section 18(5))

An adjustment may be claimed by a vendor as input tax in those circumstances where there is an **increase of more than 10%** in the extent to which **capital goods or services** are used or applied in the course of making taxable supplies. This adjustment is made on an annual basis.

No adjustment is applicable where –

- the adjusted cost is less than R40 000 (excluding VAT); or
- where the vendor is a *public authority or constitutional institution* and the capital goods or services were acquired before 1 April 2005; or
- where the vendor is a *municipality* and the capital goods or services were acquired before 1 July 2006.

Example 37 – Increase in extent of taxable use of capital goods or services

Ms C (registered VAT vendor) owns a double-storey building situated in Cape Town. The building is used for mixed purposes, in that it has 3 shops on the ground floor (taxable) and 4 residential apartments on the first floor (exempt). Shops are rented for R12 000 each (excluding VAT) and apartments for R6 000 each per month (no VAT). In March 2004, Ms C purchases a computer for R114 000 (inclusive of VAT), which is intended for use in her business. At the time of purchasing the computer, Ms C derives 60% of her income from taxable supplies (shop rentals) and 40% of her income from exempt supplies (residential rentals). Ms C has elected to use the standard turnover-based method of apportionment and in the April 2004 tax period, she claims input tax of R8 400 ($14/114 \times R114\ 000 \times 60\%$) in respect of the computer acquired. At the end of February 2006, Ms C determines that the nature of her business has changed significantly and that her income from taxable supplies now comprises 80% and her exempt income comprises 20% of her total income. At the end of that month the computer has an open market value of R92 340.

As a result of the increase in the extent of taxable use, Ms C may claim an input tax adjustment as determined by the formula: **A x B x (C - D)**

Where:

- A** represents the tax fraction, that is, 14/114
- B** represents the lesser of:
 - (i) the adjusted cost of the computer, namely R114 000; or
 - (ii) the open market value of the computer, namely R92 340
- C** represents the extent of taxable use of the computer during the current 12-month period (80%)
- D** represents the extent of the taxable use of the computer at the time of acquisition or in the prior 12 month period (60%)

Ms C's calculation will be: $14 / 114 \times R92\ 340 \times (80\% - 60\%)$
 $14 / 114 \times R92\ 340 \times 20\% = \underline{\underline{R2\ 268}}$.

Ms C may now claim an additional R2 268 in the February 2006 VAT return under field 18.

13.5.5 Subsequent sale or disposal of goods or services partly applied for taxable supplies (sections 8(16)(a) and 16(3)(h))

When a vendor acquires goods and services which are used partly for making taxable supplies and thereafter supplies those same goods or services in the course of the enterprise, the vendor is required to account for output tax on the full consideration for the supply. In order to eliminate double taxation, the vendor is entitled in these circumstances to claim the VAT that was originally disallowed on the acquisition of the goods or services.

Example 38 – Goods partially applied for taxable supplies subsequently sold

A vendor purchases a computer system costing R114 000 (including VAT) which is used 60% for exempt supplies and 40% for taxable supplies. The apportionment percentage was determined using the turnover-based method at the time of acquisition. The vendor correctly claimed input tax of R5 600 (calculated as follows- $14/114 \times R114\ 000 \times 40\%$).

Two years later, the vendor sells the computer system for R57 000 (including R7 000 VAT). The vendor is therefore required to account for output tax of R7 000 on this transaction. However, an input tax credit may be claimed in the same VAT return on the VAT previously disallowed (60% for exempt supplies), which is determined by the formula:

$$A \times B \times C$$

Where:

- A** represents the tax fraction, that is, 14/114
- B** represents the lesser of:
 - (i) the adjusted cost of the computer, namely R114 000; or
 - (ii) the open market value of the computer, namely R57 000
- C** represents the extent of the exempt use of the computer prior to its sale by the vendor (that is, 60%)

The vendor's calculation of the deduction from his output tax will be:

$$14/114 \times R57\ 000 \times 60\% = \mathbf{R4\ 200}$$

The vendor will therefore account for VAT in field 4A of their VAT return as follows:

Output tax on sale	R7 000
Less: Input tax	<u>(R4 200)</u>
Output tax payable	<u>R2 800</u>

CHAPTER 14

OBJECTIONS AND APPEALS

14.1 DISPUTE RESOLUTION

14.1.1 What to do if you dispute your tax assessment

With effect from 1 April 2003, legislation was introduced to assist taxpayers to resolve their tax disputes with SARS in a shorter period and in a more cost effective way. The changes impact on the following aspects:

- Reasons for assessment.
- Objection to an assessment.
- Appeal against disallowance of an objection.
- Post-appeal stage.
- Pre-hearing formalities.

14.1.2 Reasons for assessment

Once an assessment has been raised, the taxpayer may request reasons on what basis the assessment has been raised (if not supplied) in writing within 30 business days from the date of the assessment.

14.1.3 Objection to an assessment

If you have received an assessment and you do not agree that it is correct, you may lodge an objection. The objection **must** –

- be in a form prescribed by the Commissioner ([ADR 1](#)) with the information requested in the form completed;
- specify in detail the grounds upon which the objection is made;
- specify an address where you will accept notice and delivery of SARS' decision in respect of the objection;
- be signed by you or your appointed representative; and
- be delivered to SARS at the address specified on the assessment, within 30 business days after the date of the assessment.

An objection that does not comply with the requirements may result in the objection not being entertained, and SARS may inform the taxpayer by notice within 60 days that it is not accepted as a valid objection. However, the taxpayer may within ten days of a notice by SARS that the objection is considered to be invalid, submit an amended objection. Where the amended objection complies with the requirements for a valid objection, SARS will treat it as such.

14.1.4 Appeal against disallowance of an assessment

If you are dissatisfied with the decision of SARS following the objection, you may appeal against that decision, in which case, you must:

- Deliver a Notice of Appeal to SARS within 30 business days from the date of receiving notice of SARS' decision in respect of the objection.
- The appeal must be on the form prescribed by the Commissioner ([ADR 2](#));
- Indicate on which of the grounds specified in the objection you wish to appeal;
- Indicate whether you wish to make use of the Alternative Dispute Resolution (ADR) procedures or rather appeal to the Special Board or Court for Hearing Tax Appeals.

14.1.5 Post-appeal stage

You may request that your tax dispute with SARS be dealt with in one of the following ways:

- Alternative Dispute Resolution (ADR), which is intended to be used where both the vendor and SARS agree to resolve a particular dispute outside of court;
- The Tax Board, which has jurisdiction in respect of those matters where the tax in dispute does not exceed R500 000 per assessment;
- The Tax Court, even where the tax in dispute is in excess of R500 000 per assessment, for example, where there is a legal principle in dispute.

14.2 ALTERNATIVE DISPUTE RESOLUTION (ADR)

14.2.1 What is ADR ?

ADR is a form of dispute resolution other than litigation, or adjudication through the courts. ADR can be initiated by either the vendor or SARS. The ADR process can be initiated by –

- indicating in your Notice of Appeal that you wish to make use of the ADR process; or
- SARS will then inform you within 20 business days of receipt of the Notice of Appeal whether the matter is suitable for an ADR process.

14.2.2 Who facilitates ADR?

SARS will appoint, in the normal course, a trained and experienced person to facilitate the ADR proceedings. The person appointed is known as the facilitator and may include a SARS official or any other person who is suitably qualified to carry out the duties.

14.2.3 What ensures that ADR happens in a fair manner?

The facilitator is bound by a Code of Conduct and must seek a fair, equitable, and legal resolution of the dispute. The proceedings will be conducted in accordance with the terms set out in the ADR2 form.

14.2.4 The ADR process

The process of ADR is as follows:

- ADR may be initiated by either the taxpayer in his or her notice of appeal, or the Commissioner subsequent to the receipt of a notice of appeal by the taxpayer.
- The facilitator will arrange an ADR meeting and notify all the parties.
- The meeting is conducted in an informal manner.
- During the meeting, both parties will state their case and provide evidence.
- During the process, the facilitator will endeavour to resolve the dispute between the parties.

14.2.5 Who represents you during the ADR process?

You can represent yourself during the ADR (for example, the individual taxpayer, or the public officer in the case of a company). Alternatively, you may appoint another person to act on your behalf, for example, if you require the assistance of your lawyer or accountant during the proceedings. However, only in exceptional circumstances will the taxpayer be permitted to be excused from the ADR proceedings, for example, if the taxpayer is in prison, or in hospital.

14.2.6 Outcome of ADR

At the conclusion of the ADR process, the facilitator must record the terms of any agreement or settlement reached. If no agreement or settlement is reached, that fact must also be recorded. If the dispute is resolved, it must be recorded and signed by you and a SARS representative. SARS will issue, where necessary, a revised assessment to give effect to the agreement reached after it has been presented to, and approved by, the Tax Appeal Committee (TAC) at SARS Head Office. Where the dispute is not resolved, the appeal will be referred to the Tax Board or the Tax Court after further consideration by the TAC.

14.2.7 Rights and obligations of parties

- You should at all times disclose all relevant facts during the ADR process.
- The ADR proceedings may not be electronically recorded.
- Representations made during the course of the ADR meetings are made without prejudice and may not be used against you in any subsequent proceedings.

14.2.8 How long does the ADR take?

The ADR process must be concluded within 90 business days, or such further period as may be agreed upon by SARS and the taxpayer.

14.2.9 What are the benefits of ADR?

It is a less formal and more cost-effective and speedier method of dispute resolution.

For further information, refer to the ADR Guide and Interpretation Note No. 15, both of which may be found on the SARS website www.sars.gov.za.

CHAPTER 15

RECORD KEEPING

15.1 WHAT ARE RECORDS?

Records will include your books of account or relevant computer print-outs if a computer is used, as well as supporting documentation. A manual to the software must also be available.

Records therefore include –

- physical books of account and paper based source documents including computer printouts;
- electronic records; and
- all details of the accounting system, including charts, codes of accounts, instruction manuals, system and program documentation and specifications etc.

15.2 WHAT SPECIFIC RECORDS MUST I KEEP?

The VAT Act does not contain a comprehensive list relating to all vendors, as this would be impractical. You should, however, maintain all reasonable accounting documents and records to enable SARS auditors to establish the nature, time and value of all taxable supplies and importation of goods and services, including information which assists in reconciling your accounting records with the VAT returns submitted for at least the past five years. Details of any exempt supplies and any method of apportionment used should also be available.

The term “*records*” therefore includes the following which must be available for inspection by SARS at all reasonable times during the period for which they are required to be maintained: (*Refer to **paragraph 15.3***):

- | | |
|---|--|
| <ul style="list-style-type: none"> ○ a record of all goods and services supplied, received and imported; ○ the applicable rate of tax on all supplies made and received; ○ tax invoices, debit and credit notes; ○ invoices, receipts and cash register tapes (z-readings); ○ ledgers, cash books and journals and all other books of account; ○ declarations and records for input tax claimed on second-hands goods (VAT 264) ○ export documentation for zero-rated direct exports (for example VAT 266, CCA 1, DA 550 etc); ○ records of all importations and the Customs documents relating thereto; ○ DA 500, CCA 1 or SAD 500 bill of entry and proof that VAT was paid on the importation of goods. | <ul style="list-style-type: none"> ○ “1st copy” page of form VAT 262 for the servicing or repairing of goods temporarily imported; ○ details of any agents acting on your behalf and transactions concluded through agents; ○ the accounting instruction manuals and the system and programme documentation; ○ bank deposit slips and bank statements; ○ data in any electronic form, including computer printouts; ○ accounting charts, access codes, programme documentation and system instruction manuals; ○ contracts/sale agreements; ○ paid cheques and cheque books; ○ stock sheets and control lists; ○ debtors and creditors lists (in respect of a change in accounting basis); ○ any other documents which would be considered necessary to verify transactions. |
|---|--|

15.3 HOW LONG MUST I KEEP MY RECORDS?

Vendors who are required to submit a return for income tax purposes must keep their records for the period referred to in section 73A of the Income Tax Act, that is, **five years after the submission of an income tax return relating to the transactions for that period.**

Vendors that are not required to submit an income tax return should keep their records for a period of **five years from the date of last entry in any book**. Where the records are not kept in book form, they must be kept for a period of five years after the completion of the transactions, acts or operations to which they relate.

Example 39 – Calculation of the five year record-keeping period

Company X is a VAT vendor with a February financial year-end. Company X is required to complete and submit an income tax return every year. Company X submitted income tax returns to SARS –

- on 1 July 2006, the return for the 2004 tax year (1/3/2003 to 28/2/2004) was submitted; and
- on 8 November 2006, the return for the 2005 tax year (1/3/2004 to 28/2/2005) was submitted.

Therefore, Company X must maintain its records and have them available for inspection for a period of five years calculated from –

- 1 July 2006 in the case of the 2004 tax year (that is, until 30 June 2011); and
- 8 November 2006 in the case of the 2005 tax year (that is, until 7 November 2011).

15.4 IN WHAT FORM MUST RECORDS BE KEPT?

Normally a vendor will be required to keep the original documentation in paper (hard copy) format. However, under certain circumstances SARS may allow the retention of microfilm copies, computer tape records, or other acceptable electronic or digital data storage formats, in lieu of the originals. In the latter case, the originals must be retained for one year from the beginning of the period for which they would otherwise have to be kept as discussed in **paragraph 15.3** above. A vendor may therefore retain records in any form, provided authorisation by the Commissioner has been granted. However, it should be noted that this rule does not apply to ledgers, cash books, journals and paid cheques.

Vendors are no longer required to obtain special permission from SARS if it is intended to send and receive documents which could include tax invoices by means of EDI (electronic data interchange). There are, however other requirements and conditions which need to be met.

Refer to VATNEWS 20 and 22 for more details on the requirements.

The provision in section 16 of the Electronic Communications and Transactions Act, 2002 which indicates the legal requirements for retention of data messages is quoted below:

16. Retention

- 1) *Where a law requires information to be retained, that requirement is met by retaining such information in the form of a data message, if-*
 - a) *the information contained in the data message is accessible so as to be usable for subsequent reference;*
 - b) *the data message is in the format in which it was generated, sent or received, or in a format which can be demonstrated to represent accurately the information generated, sent or received; and*
 - c) *the origin and destination of that data message and the date and time it was sent or received can be determined.*
- 2) *The obligation to retain information as contemplated in subsection (1) does not extend to any information the sole purpose of which is to enable the message to be sent or received.*

Note:

It is an offence not to keep proper records as specified in section 55 of the VAT Act, whether these are in paper or electronic format.

CHAPTER 16

DUTIES OF A VENDOR

16.1 RESPONSIBILITIES

As a registered vendor, there are certain duties and responsibilities imposed upon you and with which you will be expected to comply, such as –

- provide correct and accurate information to SARS;
- submit returns and payments on time;
- include VAT in all prices, advertisements and quotes in connection with taxable supplies;
- keep accurate accounting records for at least five years;
- produce relevant documents and information when required by the SARS pertaining to supplies, imports and exports of goods or services;
- notify SARS about any changes in your business, namely its address, trading name, partners, bank details and tax periods;
- issue tax invoices, debit and credit notes; and
- notify SARS of any changes of the details of the representative person.

These duties also apply to persons who have registered voluntarily as well as persons who should have registered for VAT, but who have not done so.

Please remember:

Failure to carry out these duties and responsibilities could result in penalties being payable and possibly prosecution, additional taxes, fines and/or imprisonment being imposed.

16.2 EVASION

Any person participating in, or helping any other person to evade VAT or claim a refund to which they are not entitled is committing a serious offence. In such cases, additional tax of up to twice the amount of VAT evaded or refunds fraudulently claimed could be levied. Over and above any additional tax charged, a fine or term of imprisonment could also be imposed.

Businesses or individuals evading VAT, gain a competitive advantage over honest businesses; therefore it is in your interest to report evaders. This can be done by calling anonymously to **SARS' toll-free number 0800 00 2870**.

CHAPTER 17

AUDITS AND ASSISTANCE

17.1 AUDITS

What is an audit?

An audit is generally a detailed check on the correctness of VAT returns and payments submitted by you.

When can I expect an audit?

Every VAT registered vendor will be audited from time to time. The VAT auditor will arrange a meeting at your principal place of business to check your VAT records to make sure that the returns are correctly completed.

Who will conduct the audit?

Officers employed by SARS, who have undergone specialised training in all aspects of VAT administration, legal interpretation and accounting will conduct the audit.

What is the scope of the audit?

The number of tax periods to be audited will be selected on a sample basis and will not necessarily include the latest return submitted. If material deficiencies and discrepancies arise from the selected sample, the scope of the audit may be extended to include other tax periods.

17.2 REFUNDS AND SUSPENSION OF THE 21 DAYS INTEREST FREE PERIOD

When you submit a VAT return that results in a refund due to you, the VAT Act states that SARS should pay that refund within 21 business days. If the refund is paid after 21 business days, interest is payable to you for the period exceeding the 21 business days. If during this period, SARS requests an audit to be conducted and you are unable to meet with the auditors, or some of your records relating to the audit are not available or incomplete, SARS can postpone the 21 business days until such time that the audit can be carried out and completed. The correct address and contact details of your business should be available at all times to SARS.

17.3 ASSISTANCE

For more information, contact the SARS office in your area. SARS also issues a newsletter known as the VATNEWS, to vendors twice a year. The VATNEWS is posted together with your VAT returns and contains important information on the application of the VAT law. VAT News is intended to keep vendors informed of any changes in the law and highlights topics which would be of general interest to the public or practical problems experienced in the administration of VAT.

A rulings register is available on the SARS website www.sars.gov.za which provides guidance on VAT issues that are of general interest to vendors.

CHAPTER 18

RULINGS

18.1 INTRODUCTION

Since the introduction of VAT in 1991, the VAT Act has made provision for the Commissioner to issue rulings regarding the VAT treatment of supplies. The issuing of rulings was intended to provide certainty to taxpayers regarding the VAT implications of such supplies. In addition, it was intended to provide an assurance to the person to whom the ruling was issued that the ruling could be relied upon until withdrawn by the Commissioner, provided certain conditions were met. The introduction of the Advance Tax Ruling (ATR) legislation had the effect of withdrawing all rulings previously issued by the Commissioner.

Certain amendments had to be effected to the VAT Act to provide a legislative framework for the Commissioner to continue issuing binding rulings as well as a process to confirm rulings previously issued. The legislation creates a distinction between an advance tax ruling, a VAT class ruling and a VAT ruling. ATR rulings came into effect on 1 October 2006. VAT rulings have been available to taxpayers from 1 January 2007 and VAT class rulings came into effect on 1 October 2007.

Unless otherwise indicated, all statutory references are to the provisions of the Income Tax Act (ITA) and VAT Act. Any references to sections 76B to 76S of the ITA (excluding subsections (2)(k), (2)(l) and (5) of section 76E, and section 76F), are applicable, *mutatis mutandis*,¹⁸ to the VAT Act.

18.2 TERMINOLOGY

The following terms are used in this Chapter:

Applicant: An “*applicant*” is the person who applies for a VAT class ruling or a VAT ruling (or on whose behalf an application is filed). If a representative such as a lawyer or accountant files an application on behalf of a third party, that third party is considered the applicant. Similarly, if a person files an application in his or her capacity as a representative taxpayer for another entity such as a company or trust, that other entity is considered the applicant.

Application: An “*application*” is a written request for a ruling. The application must be made in the manner and form prescribed by the Commissioner.

Advance tax ruling: has the meaning as defined in section 76B to Part 1A of the ITA, which means a written statement issued by the Commissioner regarding the interpretation or application of the ITA and is limited to a binding general ruling under section 76P, a binding private ruling under section 76Q, or a binding class ruling under section 76R of the ITA. Section 41A of the VAT Act, promulgated on 13 July 2005, deals with Advance Tax Rulings and came into operation on the date on which Part 1A of Chapter III of the ITA came into operation (that is, 1 October 2006).

ATR: refers to Advance Tax Rulings.

ITA: refers to the Income Tax Act No. 58 of 1962.

Binding private ruling: has the meaning as defined in the ITA, which means an advance tax ruling regarding the application or interpretation of the ITA in respect of a proposed transaction that is issued in accordance with the requirements of section 76Q of the ITA in response to an application by an applicant.

¹⁸ *Mutatis mutandis* is a Latin term which means “with the necessary changes”.

Non-binding opinion: any written decision for which the vendor has not applied for confirmation of its binding nature within the prescribed dates.

VAT class ruling*: means a written statement issued by the Commissioner to a class of vendors or persons regarding the interpretation or application of the VAT Act.

VAT ruling: means a written statement issued by the Commissioner to a person regarding the interpretation or application of the VAT Act.

18.3 WHO MAY APPLY FOR A RULING?

Any “*person*” as defined in section 1 of the VAT Act, who is, or intends to be, a party to a proposed, current or a past transaction may apply for a ruling in connection with that transaction. This includes any public authority, local authority, company, body of persons (corporate or unincorporated), trust fund, foreign donor funded project and the estate of any deceased or insolvent person.

An applicant does not have to be a South African resident. Where an agent, such as a lawyer or accountant files an application on behalf of a client, a Power of Attorney or an equivalent written statement whereby the client authorises the agent to file the application and to represent the applicant throughout the application and ruling process, must be submitted. A person may also file an application in his or her capacity as a representative taxpayer. An application may not be filed by or on behalf of a person who is not, or does not intend to be, a party to the proposed or past transaction in question.

18.4 DIFFERENT TYPES OF RULINGS

18.4.1 Section 41A: Advance tax rulings

General - With the introduction of Part IA of Chapter III of the ITA, with effect from 1 October 2006, a new ATR System was established. Section 41A of the VAT Act provides that Chapter III of the Income Tax Act applies, *mutatis mutandis*, to the VAT Act. This Chapter deals with the provisions governing the issuing of advance tax rulings which are categorised as binding general rulings, binding private rulings, binding class rulings and nonbinding written opinions.

Making application - All applications for ATR rulings must be filed using the ATR service available via the SARS eFiling system which may be accessed on the SARS website www.sars.gov.za or www.sarsefiling.co.za.

Issuance of final ruling letter - Binding private rulings may only be issued by the Private Rulings Section of the SARS Legal and Policy Division.

Publication of rulings - In terms of the ITA, all binding private rulings must be published by the Commissioner for general information purposes. However, the Commissioner is not obliged to publish a ruling where it is essentially the same as a ruling that has already been published. The letter is published in a form that does not reveal the identity of the applicant or the other parties to the proposed transaction.

Effect - In terms of the ITA, a binding private ruling may have a “binding effect” upon the Commissioner, subject to certain requirements and limitations. A written statement can only be binding if it contains a statement identifying it as such in accordance with section 76Q(5)(a) of the ITA.

For further details on ATR, go to the SARS website www.sars.gov.za – under  in the left hand column, click on “Advance Tax Rulings (ATR)”, where the following guides are available:

- Comprehensive Guide to Advance Tax Rulings (ATR); and
- A quick guide to Advance Tax Rulings.

18.4.2 Section 41(c): Decisions issued prior to 1 January 2007

General - Prior to the introduction of section 41B, decisions in terms of section 41(c) of the VAT Act have been given by the Commissioner on the following:

- Whether a person was required to register as a vendor or not.
- The taxable or non-taxable nature of any supply of goods or services or of the importation of goods by any person.
- The deductibility or non-deductibility in terms of section 16(3) of tax in respect of the supply to any person of goods or services or the importation by any person of goods.

With effect from 1 January 2007, decisions issued in terms of section 41(c) of the Act are withdrawn. However, provision has been made for the Commissioner to confirm in writing the binding nature of any written decision issued prior to 1 January 2007 in respect of supplies which are, or will be made on or after 1 January 2007. No written decision may be issued in terms of sections 41(a), (b) and (c) of the Act after 1 January 2007. All written decisions issued by the Commissioner must be made in terms of section 41B of the VAT Act.

Making application - Applications for confirmation of the binding nature of decisions issued prior to 1 January 2007, relating to supplies made or to be made on or after 1 January 2007 should have been made within the following periods:

- Written decisions issued from 1 January 2004 to 31 December 2006: **30 April 2007**.
- Written decisions issued from 1 January 2002 to 31 December 2003: **31 May 2007**.
- Written decisions issued prior to 1 January 2002: **30 June 2007**.
- Written decisions issued to bodies or associations representing certain industries or a class of vendors: **31 May 2007**.

Issuance of final ruling letter - Rulings are issued either by the legal manager at the relevant SARS branch office, or in some instances, by the Legal and Policy Division. All rulings made in terms of section 72 of the VAT Act are issued by the Indirect Tax Policy Section of the Legal and Policy Division.

Publication of rulings - Rulings are issued and published in terms of section 41B of the VAT Act.

Effect - With effect from 1 January 2007, the provisions of section 41(c) of the VAT Act do not have any binding effect on the Commissioner with regard to any written decision issued by the Commissioner prior to 1 January 2007 which was in respect of supplies which are, or will be made on or after 1 January 2007. However, provision has been made for the Commissioner to confirm in writing the binding nature of any written decision issued prior to 1 January 2007.

The amendment to section 41(c) of the VAT Act does not withdraw the binding effect of written decisions issued by the Commissioner in respect of supplies that were made prior to 31 December 2006 (that is, supplies that will not occur after 1 January 2007). These decisions remain binding and the vendor can rely on such decisions. However, the binding nature of written decisions issued prior to 1 January 2007, in respect of supplies made or to be made on or after 1 January 2007, must be confirmed by the Commissioner. The vendor can continue to rely on such rulings until it is confirmed or withdrawn by the Commissioner, provided an application for confirmation of the binding nature has been lodged within the prescribed time set out above.

18.4.3 Section 41B: VAT rulings and VAT class rulings

General - Section 41B of the VAT Act provides a legislative framework for the Commissioner to continue issuing binding VAT class rulings and VAT rulings as defined in that section, in addition to advance tax rulings under the ATR legislation. The key feature of providing a legislative framework to issue VAT class rulings and VAT rulings is that a vendor will not be required to pay a prescribed fee and complete the ATR form with each application as required by the ATR System.

However, it will not in all instances be up to the person to decide whether to apply for an ATR or a ruling in terms of section 41B of the VAT Act. Regulations will be issued in terms of which certain ruling applications will only be considered under the ATR provisions. Furthermore, the Commissioner publishes a list in terms of section 76G(3) of the Income Tax Act which contains issues on which an application for a VAT class ruling or a VAT ruling will not be accepted. The “No rulings list” can be found on the SARS website under Advance Tax Rulings (ATR) along with various other documents regarding ATR matters.

Making application - All VAT class rulings or VAT rulings must be submitted on a form prescribed by the Commissioner. These forms will be available on the SARS website www.sars.gov.za.

Any application for a VAT class ruling or a VAT ruling must be lodged with the legal manager at the SARS branch office where the vendor is registered. Where this is not applicable the application must be lodged at the nearest SARS branch office. The legal managers record and maintain a register of all ruling applications received and rulings issued.

The application must be accompanied by all the relevant information, such as:

- The applicant's name, VAT number (if applicable), address, contact details (e.g. phone, fax, e-mail, etc.), and if applicable, the contact details of the applicant's representative;
- A complete description of all the transaction(s) concerned, and the impact on the applicant's VAT liability (or on any connected person in relation to the applicant);
- A clear statement of the issue at hand, or the specific request which is to be ruled upon;
- The relevant statutory provisions and the applicant's interpretation of those provisions; and
- A statement to the effect that the issue upon which the ruling is sought, is not the subject of an audit, investigation, objection or appeals process, or a matter which is being considered by a Court, and in which the applicant (or any connected person in relation to the applicant) is involved.

Issuance of final ruling letter - VAT class rulings and VAT rulings are issued by the legal manager at the relevant SARS branch office, with the exception of section 72 rulings which are issued by the Legal and Policy Division at SARS Head Office (VAT, Transfer Duty and Securities Transfer Tax Policy subdivision).

Publication of rulings - A sanitised version of VAT class rulings and VAT rulings will be published only to the extent that it is different from a VAT class ruling, a VAT ruling or a binding general ruling already published. Sanitisation involves removal of anything that reveals the identity of the applicant(s) and includes –

- the name, address, and other identifying details of the applicant, as well as any person identified or referred to in the ruling;
- in the case of a VAT class ruling, the name, address, and other identifying details of the applicant for the ruling, as well as of any vendor of the class to which the ruling applies; and
- any information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Effect - VAT class rulings and VAT rulings are binding where it is stated as such in terms of section 41B of the VAT Act read with Part IA of Chapter III of the ITA. VAT class rulings or VAT rulings not containing a statement confirming its binding nature, will be regarded as a non-binding opinion.

For more information on VAT class rulings and VAT rulings, refer to the binding general rulings which are available on the SARS website. Refer also to VAT News No. 32 (August 2008 issue) for more information on what to include in an application for a ruling.

CHAPTER 19

GLOSSARY

Association not for gain An “*association not for gain*” is essentially a religious institution or other society, association or organisation (including an educational institution of a public character) which is not carried on for profit and is required to use any property or income solely in the furtherance of its aims and objects. An association not for gain could also qualify as a “*welfare organisation*” if it conducts certain activities. The VAT 414 guide deals specifically with associations not for gain and welfare organisations.

Commercial accommodation There are three types of commercial accommodation, namely:

- Lodging or board and lodging together with domestic goods and services in any house, flat, apartment, room, hotel, motel, inn, guesthouse residential establishment, holiday accommodation unit, chalet, tent, caravan, campsite, houseboat or similar establishment. This must be supplied regularly and systematically so that the income from the activity exceeds or is likely to exceed R60 000, calculated for a period of 12 months. This does not include the supply of a “*dwelling*” for letting/hiring (as this is an exempt supply in terms of section 12(c);
- Lodging or board and lodging in a home for the aged, children, physically or mentally handicapped persons; or
- Lodging or board and lodging in a hospice.

If the accommodation is provided for more than 28 days, only 60% of the charge is subject to tax (including meals and other domestic goods & services included in the all-inclusive tariff).

Connected person This term describes and identifies the relationships between different persons. The term is important because if persons are connected in terms of the definition, it may be necessary to apply special time and value of supply rules where the supplier may be required to charge VAT on the open market value of the supply, rather than on the amount of consideration received.

Examples include the following (amongst others):

- Natural persons who are related by blood or marriage.
- A company and any subsidiaries of that company.
- Any close corporation and its members.
- A natural person and a company where that natural person owns more than 10% of the shares or voting rights in that company.

Consideration This is basically the total amount of money (inc. VAT) received for a supply. For barter transactions where the consideration is not in money, the consideration will be the open market value of goods or services (inc. VAT) received for making the taxable supply. Section 10 of the VAT Act determines the value of supply or amount of the consideration for VAT purposes for different types of supplies.

Any act of forbearance whether voluntary or not for the inducement of a supply of goods or services will constitute consideration, but it excludes any donation made as an unconditional gift to an association not for gain. Also excluded is a “deposit” which is lodged to secure a future supply of goods and held in trust until the time of the supply.

Since VAT is the difference between the selling price including the VAT and the value of the taxable supply, the following formulae can be derived:

$$\begin{aligned} \text{VAT} &= \text{consideration} - \text{value} \\ &\text{or} \\ \text{Consideration} &= \text{value} + \text{VAT} \end{aligned}$$

Domestic goods and services This includes the following when they are supplied together with commercial accommodation:

- Cleaning and maintenance.
- Electricity, gas, air conditioning or heating.
- Use of a telephone, television set, radio or other similar article.
- Furniture and other fittings.
- Meals.
- Laundry.
- Nursing services.

(The list is not exhaustive – just a few examples)

Where a person stays for longer than **28 days** in **any** hotel, guesthouse, inn, boarding house, retirement home, or similar establishment, **only 60% of an all inclusive charge** for accommodation and domestic goods or services will be subject to VAT. [*Refer to section 10(10) of the Act for more information*].

However, where charges for domestic goods and services are not part of the all inclusive charge, then these separately itemised charges will attract VAT at the standard rate on the full value.

Donation This is where a payment (donation/unconditional gift) is voluntarily made to any association not for gain for the carrying on or the carrying out of the purposes of that association and in respect of which no identifiable direct valuable benefit arises or may arise in the form of a supply of goods or services to the person making that payment. The term also includes not only cash payments, but also the value of goods or services donated. This term is dealt with in more detail in the *VAT 414 Guide for Associations not for Gain and Welfare Organisations*.

Dwelling This is any building, premises, structure, or any other place or part thereof used predominantly as a place of residence or abode of any natural person (or which is intended for this purpose), including any fixtures and fittings belonging thereto and enjoyed therewith.

Enterprise Any business activity in the broadest sense. It includes any activity carried on –

- continuously or regularly;
- by any person;
- in or partly in the RSA;
- in the course of which goods or services are supplied for a consideration, that is, some form of payment;
- whether or not for profit.

Special inclusions

- Public authorities – certain government departments and provincial authorities.
- Municipalities – municipalities, Joint Services Board (JSB) and Regional Services Council (RSC).
- Welfare organisations and Foreign Donor Funded Projects.
- Share block companies.

The following activities are not “enterprise” activities and will therefore not attract VAT:

- Services rendered by an employee to an employer, for example, salary/wage/remuneration earners. This must however be distinguished from a private independent contractor who is not excluded.
- Supplies by a branch or main business permanently located outside the RSA (must be separately identifiable and maintain its own system of accounting).
- Private or recreational pursuits or hobbies (unless carried on like a business).
- Private occasional transactions, for example, occasional sale of domestic/household goods, personal effects or private motor vehicle.
- Any exempt supplies (listed in s 12).
- Supplies by persons who are not vendors.

(The list is not exhaustive)

Entertainment The term “*entertainment*” means the provision of any food, beverages, accommodation, entertainment, amusement, recreation or hospitality of any kind by a vendor whether directly or indirectly to anyone in connection with an enterprise carried on by that person. As a general rule expenses relating to entertainment may not be claimed as input tax. There are however some exceptions to the rule.

Examples of entertainment include the following:

- Staff refreshments such as tea, coffee and other beverages and snacks and other ingredients purchased in order to provide meals to staff, clients and business associates.
- Catering services acquired for staff canteens and dining rooms including own equipment, furniture and utensils used in kitchens, canteens and staff dining rooms.
- Christmas lunches and parties, including the hire of venues.
- Golf days for customers and clients.
- Beverages, meals and other hospitality and entertainment supplied to customers and clients at product launches and other promotional events.
- Entertainment of customers and clients in restaurants, theatres and night clubs.
- Capital goods such as hospitality boxes, holiday houses, yachts and private aircraft used for entertainment.

(The list is not exhaustive)

Exempt supply An exempt supply is a supply on which no VAT may be charged (even if the supplier is registered for VAT). Persons making only exempt supplies may not register for VAT and may not recover input tax on purchases to make exempt supplies. Section 12 of the VAT Act contains a list of exempt supplies.

Examples:

- Certain Financial Services.
- Supplies by any “*association not for gain*” of certain donated goods or services.
- Rental of accommodation in any “*dwelling*” including employee housing.
- Certain educational services.
- Services of employee organisations, for example, trade unions.
- Certain services to members of a sectional title, share block or old age scheme funded out of levies. (Not applicable to timeshare schemes).
- Public road and railway transport of fare paying passengers and their luggage.
- Childcare services in a crèche or after-school care centre

Goods The term “*goods*” includes –

- corporeal (tangible) movable things, goods in the ordinary sense (including any real right in those things);
- fixed property, land & buildings (including any real right in the property, for example, servitudes, mineral rights, notarial leases etc);
- sectional title units (including timeshare);
- shares in a share block company;
- postage stamps;
- electricity; and
- second-hand goods.

The term “*goods*” excludes –

- money that is, notes, coins, cheques, bills of exchange etc (except when sold as a collectors item);
- value cards, revenue stamps etc. which are used to pay taxes (except when sold as a collectors item); and
- any right under a mortgage bond.

Instalment Credit Agreement (ICA) An instalment credit agreement (ICA.) was previously known as a “hire purchase” or “HP” agreement. There are two types of ICA’s, namely an instalment sale agreement and a financial lease. These agreements are characterised by a suspensive condition as to the passing of ownership of the goods or services supplied. The agreement will normally provide for the payment of the purchase price including finance charges at a fixed or determinable charge and the recipient accepts the risks attached to those goods insofar as loss or damage is concerned. In the case of a financial lease, the term of the agreement must be at least 12 months.

A rental agreement (or operating lease) where the recipient does not become the owner of the goods at any stage is not an ICA.

Input tax This is the tax paid by the recipient to the supplier of goods or services. Input tax may only be deducted by the recipient vendor if the goods or services are acquired for making taxable supplies and if the vendor is in possession of a valid tax invoice for the supply. Where goods or services are acquired only partly for taxable supplies, an apportionment of input tax must be made. In the case of an importation, the vendor must be in possession of a valid bill of entry and proof that the VAT has been paid to Customs.

In certain instances, input tax may also be claimed on non-taxable supplies of second-hand goods acquired by the vendor, but the vendor must retain a proper record of the details of the transaction. Where the second-hand goods acquired constitute fixed property, the input tax is limited to the stamp duty or transfer duty payable and may only be deducted after the transfer duty or stamp duty has actually been paid.

As a general rule, input tax may not be claimed on supplies of “*entertainment*”, motor cars and club subscriptions. Input tax may also not be claimed where goods or services are acquired for making exempt supplies or other non-taxable activities or for private use.

Motor car “*Motor car*” is a defined term which includes vehicles which have three or more wheels, are normally used on public roads and which are constructed or converted wholly or mainly for carrying passengers. As a general rule input tax may not be claimed on the acquisition of a motor car, irrespective of the mode of acquisition or whether or not it is used for taxable supplies. Examples of passenger vehicles on which input tax cannot be claimed include ordinary motor cars, SUVs, double-cab bakkies (LDVs), minibuses etc. which are capable of carrying passengers.

The following vehicles do not qualify as a “*motor car*” as defined:

- Vehicles capable of accommodating more than 16 persons (for example, a bus).
- Specialised vehicles such as hysters, graders, tractors, mobile cranes, earthmoving vehicles etc. (seats only 1 person).
- Ambulances and caravans.
- Vehicles with an unladen mass of 3 500 kg or more.
- Single cab bakkies (LDVs) /Trucks/ lorries/delivery vehicles.
- Hearses and game viewing vehicles.

Output tax The tax (VAT) charged by a vendor on a taxable supply of goods or services.

Person This term refers to the entity which is liable for VAT registration and includes the following:

- Sole proprietor, that is, a natural person.
- Company/close corporation.
- Partnership/joint venture.
- Deceased/insolvent estate.
- Trusts.
- Incorporated body of persons, for example, an entity established under its own enabling Act of Parliament.
- Unincorporated body of persons, for example, club, society or association with its own constitution.
- Foreign donor funded project.
- Municipalities/public authorities.

Second-hand goods	Second-hand goods are goods (including fixed property) that have been previously owned and used. The term excludes certain things, for example, animals, gold coins and certain “old order” mining rights.
Services	<p>The term “<i>services</i>” is very broad and <u>includes</u> –</p> <ul style="list-style-type: none"> • the granting, assignment, cession, surrender of any right; • the making available of any facility or advantage; and • certain acts which are deemed to be services in terms of section 8. <p>The term <u>excludes</u> –</p> <ul style="list-style-type: none"> • a supply of “<i>goods</i>” ; • money; and • any stamp, form or card which falls into the definition of “<i>goods</i>”. <p><u>Examples:</u></p> <ul style="list-style-type: none"> • Commercial services – electricians, plumbers, builders. • Professional services – doctors, accountants, lawyers. • Advertising agencies. • Intellectual property rights – patents, trade marks, copy rights, know-how. • Restraint of trade. • Cover under an insurance contract.
Supply	This definition is very wide and includes all forms of supply (including the expropriation of fixed property), irrespective of where the supply is effected, and any derivative of supply is construed accordingly.
Tax invoice	<p>This is a special document which is required to be held by a vendor to claim input tax. The term is dealt with in Section 20 of the VAT Act which prescribes that where the consideration is R3 000 or more, or is a zero-rated supply a <u>full tax invoice</u> must be issued with the following information reflected thereon:</p> <ul style="list-style-type: none"> • The words “TAX INVOICE” in a prominent place. • Name, address and VAT registration number of the supplier. • Name, address and VAT registration number of the recipient. • Serial number and date of issue. • Full and proper description of goods and/or services supplied. • Quantity or volume of goods or services supplied. • Price & VAT. <p>Where the amount (including VAT) is less than R3 000 an <u>abridged tax invoice</u> may be issued which has the same requirements as above, except that the name, address and VAT registration number of the recipient and the quantity or volume do not need to be specified.</p>
Tax period	<p>There are five different tax periods as follows:</p> <ul style="list-style-type: none"> • Category A – two-monthly (ending at the end of every odd month). For example, Jan, Mar, May, July etc. • Category B – two-monthly (ending at the end of every even month). For example, February, April, June etc. • Category C- monthly (taxable supplies greater than R30 million in any consecutive period of 12 months). • Category D – six-monthly (certain farmers only – taxable supplies less than R1.5million in any consecutive period of 12 months). • Category E – annually (only in exceptional circumstances for connected persons with only one transaction per consecutive period of 12 months). • Category F – four-monthly (small businesses only – taxable supplies less than R1.5 million in any consecutive period of 12 months).

Taxable supply This is a supply (including a zero-rated supply) which is chargeable with tax under the VAT Act. A taxable supply does not include any exempt supply listed in section 12 of the Act, even if supplied by a registered vendor.

There are two types of taxable supplies, namely:

- Those which attract the zero rate (listed in section 11).
- Those on which the standard rate of 14% must be charged.

Vendor This includes any person who is registered or is required to be registered for VAT. Therefore any person making taxable supplies in excess of the compulsory VAT registration threshold amount (presently R1 million) as prescribed in section 23 of the VAT Act, that person is a vendor, whether they have actually registered for VAT or not.

Welfare organisation This is any association not for gain which is registered under the Non-profit Organisations Act, No. 71 of 1997 and is exempt from income tax in terms of the requirements set out in section 30 of the Income Tax Act. This is where the organisation carries on, or intends to carry on any welfare activity determined by the Minister for purposes of this Act to be of a philanthropic or benevolent nature, having regard to the needs, interests and well-being of the general public, relating to those activities that fall under the following headings:

- (a) Welfare and humanitarian.
- (b) Health care.
- (c) Land and housing.
- (d) Education and development.
- (e) Conservation, environment and animal welfare.

The VAT 414 guide deals specifically with associations not for gain and welfare organisations.

Zero-rated supply A zero-rated supply is a taxable supply. These are all listed in section 11 of the VAT Act. The application of the zero rate is subject to the supplier retaining proper documentation justifying the application of this preferential rate of tax.

Examples of zero-rated **goods**:

- Goods exported to an address in an export country.
- Supply of an enterprise as a going concern.
- Gold supplied to banks.
- Certain supplies to farmers, for example, herbicides, animal feed etc. (*Refer to Schedule 2 Part A of VAT Act*).
- Fuel levy goods such as petrol, diesel and crude oil.
- Basic foodstuffs. For example, hen eggs, brown bread, fresh fruit/vegetables, tinned sardines etc. (*Refer to Schedule 2 Part B of VAT Act*).
- Supply of gold coins, that is, Krugerrands.
- Illuminating kerosene used for heating or lighting (may not be a mixed substance).

Examples of zero-rated **services**:

- International transportation of passengers or goods either to the RSA from any other country, or from the RSA to any other country, or between two countries outside RSA.
- Services physically rendered outside RSA.
- Certain services supplied to a non-resident who is outside the RSA at the time the services are rendered.
- Patents and other intellectual property rights for use outside the RSA.
- Grants received from government departments and municipalities for the purposes of assisting vendors to make taxable supplies.

CONTACT DETAILS

The SARS website contains contact details of all SARS branch offices and border posts.

Contact details appearing on the website under “Contact Us” (other than branch offices and border posts) are reproduced below for your convenience.

SARS Head Office

Physical Address

South African Revenue Service
Lehae La SARS
299 Bronkhorst Street
Nieuw Muckleneuk
0181
Pretoria

Postal Address

Private Bag X923
Pretoria
0001
South Africa

SARS website

www.sars.gov.za

Telephone

(012) 422 4000

SARS Fraud and Anti-Corruption hotline

0800 00 28 70

SARS Large Business Centre (LBC) Head Office

Physical Address

Megawatt Park
Maxwell Drive
Sunninghill
Johannesburg

Postal Address

Private Bag X170
Rivonia
2128
South Africa

Telephone

(011) 602 2010

email

LBC@sars.gov.za

For the contact details of each LBC sector go to “Contact Us” on SARS’ website the go to “SARS Large Business Centre”.

SARS Service Monitoring Office

Telephone

0860 12 12 16

Fax

(012) 431 9695
(012) 431 9124

Postal Address

PO Box 11616
Hatfield
0028
South Africa

Website

www.sars.gov.za/ssmo

email

ssmo@sars.gov.za

e-Filing

Sharecall

0860 709 709

Cellular

082 234 8000

Fax

(011) 361 4444

email

info@sarsefiling.co.za

Website

www.efiling.gov.za

National Call Centre

Please note:

- All the e-mail addresses and fax numbers displayed below **are** routed to the central SARS National Call Centre.
- If you are **not** a tax practitioner, and you have eFiling queries, you can contact the channel for the specific tax type you are dealing with (for example, VAT, PAYE, Income Tax etc) for assistance.

Query Type	Telephone	Fax	email
Income Tax	0800 00 7277	031 328 6011 021 413 8901	it.cc@sars.gov.za it.wc@sars.gov.za
Value-Added Tax (VAT)	0800 00 7277	021 413 8902	vat.wc@sars.gov.za
Pay As You Earn (PAYE)	0800 00 7277	031 328 6013	paye.cc@sars.gov.za
Tax Clearance Certificates	0800 00 7277	031 328 6048 021 413 8928	tcc.kzn@sars.gov.za tcc.wc@sars.gov.za
Customs: General	0800 00 7277	031 328 6017 021 413 8909	customs.gry@sars.gov.za cgry.wc@sars.gov.za
Tax Practitioners	0860 12 12 19	011 602 5049	pcc@sars.gov.za
Tax Practitioners: eFiling	0860 12 12 19	011 602 5312	pccefiling@sars.gov.za