

**SOUTH AFRICAN REVENUE SERVICE**

**INTERPRETATION NOTE NO. 31**

**DATE** : 31 MARCH 2005  
**ACT** : VALUE-ADDED TAX ACT, 1991, (No. 89 OF 1991) (THE ACT)  
**SECTION** : SECTION 11(3)  
**SUBJECT** : DOCUMENTARY PROOF REQUIRED FOR THE ZERO RATING OF GOODS AND SERVICES

**1. PURPOSE**

The purpose of this interpretation note is to set out the documentary proof that is acceptable to the Commissioner in terms of section 11(3) of the Act, in instances where goods and/or services are supplied at the zero-rate.

**2. BACKGROUND**

The basic principle of VAT is that goods or services supplied by a vendor in the course or furtherance of the vendor's enterprise should generally be subject to VAT at the standard rate (i.e. 14%).

However, section 11(1) and (2) of the Act makes provisions for a vendor to supply certain goods and services at the zero-rate. In order to zero-rate these supplies, a vendor must also comply with the specific provisions of section 11(3) which requires a vendor to retain sufficient documentation to substantiate the zero rating of such supplies.

**3. THE LAW**

The wording of the relevant sections of the Act, which need to be considered in determining when the zero rating can be applied are quoted below.

**Section 1**

*“exported’, in relation to any movable goods supplied by any vendor under a sale or an instalment credit agreement, means—*

- (a) consigned or delivered by the vendor to the recipient at an address in an export country as evidenced by documentary proof acceptable to the Commissioner; or*
- (b) delivered by the vendor to the owner or charterer of any foreign-going ship contemplated in paragraph (a) of the definition of “foreign-going ship” or to a foreign-going aircraft when such ship or aircraft is going to a destination in an export country and such goods are for use or consumption in such ship or aircraft, as the case may be; or*
- (c) delivered by the vendor to the owner or charterer of any foreign-going ship contemplated in paragraph (b) of the definition of “foreign-going ship” for use in such ship; or*
- (d) removed from the Republic by the recipient for conveyance to an export country in accordance with the provisions of an export incentive scheme approved by the Minister.”*

### **Section 11(1)**

*“Where, but for this section, a supply of goods would be charged with tax at the rate referred to in section 7 (1), such supply of goods shall, subject to compliance with subsection (3) of this section, be charged with tax at the rate of zero per cent where—...”*

### **Section 11(2)**

*“Where, but for this section, a supply of services would be charged with tax at the rate referred to in section 7 (1), such supply of services shall, subject to compliance with subsection (3) of this section, be charged with tax at the rate of zero per cent where—..”*

### **Section 11(3)**

*“ Where a rate of zero per cent has been applied by any vendor under a provision of this section or section 13(1)(ii), the vendor shall obtain and retain such documentary proof substantiating the vendor’s entitlement to apply the said rate under that provision as is acceptable to the Commissioner.”*

### **Section 13(1)(ii)**

*“For the purposes of this Act goods shall be deemed to be imported into the Republic on the date on which the goods are in terms of section 10 or 21A of the Customs and Excise Act deemed to be imported: Provided that—*

- (i) ...*
- (ii) where any goods have been imported and entered in a licensed Customs and Excise warehouse but have not been entered for home consumption, any supply of such goods before they are entered for home consumption shall be zero-rated for the purposes of this Act;*
- (iii) ...”*

## **4 APPLICATION OF THE LAW**

The provisions of section 11(3), place an obligatory requirement on a vendor to substantiate the zero rating of the supply of goods and services in terms of section 11(1) and (2) of the Act.

The following is a list of the documentary proof for the relevant provisions of section 11 that is acceptable to the Commissioner.

[An asterisk (\*) denotes that where movable goods have been zero-rated by the vendor, in terms of the definition of “exported” in section 1 of the Act, documentary proof of export must be obtained by the vendor within three months of the date of the invoice.]

## 4.1 PART 1

### SECTION 11(1) - GOODS

#### Section 11(1)(a)(i) direct exports (paragraph (a) of the definition of exported) \*

- Refer to the VAT Interpretation Note No. 30 of 2005 dated 31 March 2005.

#### Section 11(1)(a)(i) direct exports (paragraphs (b) and (c) of the definition of exported) \*

- Supplier's copy of the zero-rated tax invoice;
- Copy of the VAT 262 bearing an original Customs and Excise stamp or VAT 266;
- DA 1, together with the DA 3 form in respect of a foreign-going ship or DA 70 or DA 2 in respect of foreign-going aircraft; and
- Proof of payment (including the Exchange Control declaration form from the Reserve Bank, where the consideration exceeds exchange limits).

#### Section 11(1)(a)(ii) – indirect exports (paragraph (d) of the definition of exported) \*

- Refer to the VAT Export Incentive Scheme – Notice 2761 Government Gazette 19471 of 13 November 1998.

#### Section 11(1)(b) – goods forming part of a repair service

- Supplier's copy of the zero-rated tax invoice;
- VAT 262; and
- Proof of payment (including the Exchange Control declaration form from the Reserve Bank, where the consideration exceeds exchange limits).

#### Sections 11(1)(c) – goods used exclusively in an export country \*

- Supplier's copy of the zero-rated tax invoice;
- Contract between the lessee or the charterer and the supplier;
- A copy of the export documentation prescribed under the Customs and Excise Act, 1964 bearing an original SARS Customs stamp;
- Proof of payment; and
- Where applicable, import declaration in an export country.

#### Sections 11(1)(d) – goods used exclusively in a business conducted in an export country \*

- Supplier's copy of the zero-rated tax invoice;
- Contract between the lessee or the charterer and the supplier;
- A copy of the export documentation prescribed under the Customs and Excise Act, 1964 bearing an original SARS Customs stamp (where goods are exported);
- Proof of payment (including the Exchange Control declaration form from the Reserve Bank, where the consideration exceeds exchange limits); and
- Where applicable, import declaration in an export country.

**Section 11(1)(e) – disposal of an enterprise or part thereof as a going concern**

- Supplier's copy of the zero-rated tax invoice;
- Contract of sale between the recipient and the seller confirming the disposal as a going concern (refer to Practice Note 14, dated 20 January 1995); and
- Recipient's notice of registration (VAT103);

**Section 11(1)(f) – supply of gold to the Reserve Bank, SA Mint and registered banks**

- Supplier's copy of the zero-rated tax invoice;
- Order from either the SARB, the SA Mint Company(Pty) Ltd or any bank registered under the Banks Act No. 94 of 1990;
- Proof that the gold has been received by either the SARB, the SA Mint Company(Pty) Ltd or any bank registered under the Banks Act No. 94 of 1990; and
- Proof of payment.

**Section 11(1)(g) – supply of goods for farming purposes**

- Supplier's copy of the zero-rated tax invoice;
- Recipient's notice of registration (i.e. VAT 103), authorising the recipient to acquire the goods contemplated in Part A of Schedule 2 to the Act at the zero rate.

**Sections 11(1)(h), (hA) and (hB) – petrol or distillate fuel oil subject to fuel levy**

- Supplier's copy of the zero-rated tax invoice.

**Section 11(1)(i) – supply of goods to branch or main business in export country \***

- Supplier's copy of the zero-rated tax invoice;
- A copy of the export documentation prescribed under the Customs and Excise Act, 1964 bearing an original SARS Customs stamp; ;
- A copy of the transportation document/transporter's tax invoice; and
- Import declaration in an export country.

**Section 11(1)(j) – certain specified foodstuffs (Part B of Schedule 2)**

- Supplier's copy of the zero-rated tax invoice.

**Section 11(1)(k) – supply of gold coins**

- Supplier's copy of the zero-rated tax invoice.

**Section 11(1)(l) – supply of illuminating kerosene**

- Supplier's copy of the zero-rated tax invoice.

#### **Section 11(1)(m) – supplies to the IDZ's**

- Documentary requirements still to be determined.

#### **Section 11(1)(n)(i) – conversion of old order mineral rights**

- Approval from the Department of Mineral and Energy Affairs that the old order right has been continued or has been wholly or partly converted into a new right.

#### **Section 11(1)(n)(ii) – renewal of the mineral rights**

- Approval from the Department of Mineral and Energy Affairs that the right has been wholly or partly renewed.

#### **Section 11(1)(o) - donor funds**

- Documentary requirements still to be determined.

#### **Section 11(1)(p) – disposal of an enterprise or part thereof as a going concern, between separately registered vendors which fall within the same legal entity**

- Supplier's copy of the zero-rated tax invoice;
- Proof that the supplier and the recipient fall within the same legal entity; and
- Recipient's notice of registration (VAT 103).

### **4.2. PART 2**

#### **SECTION 11(2) - SERVICES**

##### **Section 11(2)(a) – international transport of goods**

- Supplier's copy of the zero-rated tax invoice;
- A copy of the transport contract, e.g. bill of lading, airway bill, post office receipt, railway consignment note, a road transport contract, etc.;
- Proof of delivery; and
- Proof of payment.

##### **Section 11(2)(a) – international transport of passengers**

- Supplier's copy of the zero-rated tax invoice;
- A copy of the ticket; and
- A copy of the boarding pass.

**Section 11(2)(b) – domestic transportation associated with the international transportation of passengers**

- Supplier's copy of the zero-rated tax invoice;
- A copy of the international flight ticket; and
- A copy of boarding pass.

**Section 11(2)(c) – services connected with the transport of goods within the Republic**

- Supplier's copy of the zero-rated tax invoice;
- Recipient's order or the contract between the recipient and the supplier;
- A copy of the transport contract, e.g. bill of lading, airway bill, post office receipt, railway consignment note, a road transport contract, etc.; and
- A copy of the luggage ticket.

**Section 11(2)(d) – insuring or the arranging of the insurance or the arranging of the international transportation of passengers or goods**

- Supplier's copy of the zero-rated tax invoice;
- Recipient's order or the contract between the recipient and the supplier; and
- A copy of the insurance and transport contracts.

**Section 11(2)(e) – certain transport services supplied to non-residents**

- Supplier's copy of the zero-rated tax invoice;
- Recipient's order or the contract between the recipient and the supplier;
- A copy of the export documentation prescribed under the Customs and Excise Act, 1964 bearing an original SARS Customs stamp;
- A copy of the transport contract, e.g. bill of lading, airway bill, post office receipt, railway consignment note, a road transport contract, etc.;
- Proof that the recipient is a non-resident; and
- Proof of payment.

**Section 11(2)(f) – services supplied directly in connection with land or improvements to land in an export country**

- Supplier's copy of the zero-rated tax invoice; and
- Recipient's order or the contract between the recipient and the supplier.

**Section 11(2)(g) – services relating to movable goods situated in an export country, or services relating to certain movable goods situated in the Republic, or services rendered to non-residents and non-vendors in connection with foreign-going ships or aircraft and containers**

- Supplier's copy of the zero-rated tax invoice;
- Recipient's order or contract between the recipient and the supplier; and
- In respect of-

- section 11(2)(g)(ii) –  
1<sup>st</sup> copy of the VAT 262 bearing an original Customs and Excise stamp or VAT 266 together with the DA 70;
- section 11(2)(g)(iii) –  
VAT 266 together with the DA 2 in respect of foreign-going aircraft or DA 1 together with the DA 3 form in respect of a foreign-going ship;
- section 11(2)(g)(iv) –  
particulars of the foreign-going aircraft/foreign-going ship (i.e. make/type, name, registration number and country of registration), together with the DA 1 and DA 3 in respect of the foreign-going ship or DA 2 in respect of the foreign-going aircraft.

**Section 11(2)(h) - services rendered to non-residents and non-vendors in connection with foreign-going ships or aircraft and containers**

- Supplier's copy of the zero-rated tax invoice;
- Recipient's order or contract between the recipient and the supplier; and
- In respect of-
  - section 11(2)(h)(i) –  
particulars of the foreign-going ship together with the DA 1 and the DA 3 or particulars of the foreign-going aircraft together with the DA 2.
  - section 11(2)(h)(ii) –  
particulars of the foreign-going ship together with the DA 1 and the DA 3 or particulars of the foreign-going aircraft together with the DA 2.
  - section 11(2)(h)(iii) –  
where applicable, temporary import declaration

**Section 11(2)(i) – arranging of certain activities for non-residents**

- Supplier's copy of the zero-rated tax invoice;
- Recipient's order or the contract between the recipient and the supplier; and
- Proof of payment.

**Section 11(2)(j) – repairs to trains operated by non-residents**

- Supplier's copy of the zero-rated tax invoice;
- Recipient's order or the contract between the recipient and the supplier
- Particulars of the railway train (i.e. make/type, name, registration number and country of registration); and
- Proof of payment (including the Exchange Control declaration form from the Reserve Bank, where the consideration exceeds exchange limits).

**Section 11(2)(k) – services physically rendered in an export country**

- Supplier's copy of the zero-rated tax invoice;
- Recipient's order or the contract between the recipient and the supplier; and
- Proof of payment.

### **Section 11(2)(ℓ) – certain services supplied to non-residents**

- Supplier's copy of the zero-rated tax invoice;
- Recipient's order or the contract between the recipient and the supplier;
- Proof of payment ((including the Exchange Control declaration form from the Reserve Bank, where the consideration exceeds exchange limits); and
- In respect of-
  - section 11(2)(ℓ)(ii)(aa) –  
A copy of the export documentation prescribed under the Customs and Excise Act, 1964 bearing an original SARS Customs stamp. \*
  - section 11(2)(ℓ)(ii)(bb) –  
the recipient's notice of registration (VAT 103).

### **Section 11(2)(m) – services connected with intellectual property rights**

- Supplier's copy of the zero-rated tax invoice;
- A copy of the contact between the supplier and the recipient. The parties must agree in writing that the intellectual property will not be used in the Republic; and
- Proof of payment (including the Exchange Control declaration form from the Reserve Bank, where the consideration exceeds exchange limits).

### **Section 11(2)(n) – grants paid by public or local authorities to welfare organisations**

- Supplier's (grantee's )copy of the zero-rated tax invoice;
- Proof that the payment is from the public or local authority;
- A copy of the contract between the grantee and the grantor; and
- Particulars of the person who received the goods or services rendered.

### **Section 11(2)(o) – services rendered to a branch or main business situated in an export country**

- Supplier's copy of the zero-rated tax invoice;
- Branch or main business's order or the contract between the branch and the main business;
- In respect of-
  - section 11(2)(o)(ii)(aa) – A copy of the export documentation prescribed under the Customs and Excise Act, 1964 bearing an original SARS Customs stamp;
  - section 11(2)(o)(ii)(bb) – the recipient's notice of registration (VAT103).

### **Section 11(2)(p) – transfer payments made by public authorities**

- Supplier's (grantee's )copy of the zero-rated tax invoice;
- Recipient's order or the contract between the recipient and the supplier;
- Proof that the payment received constitutes a transfer payment; and
- Particulars of the person who received the goods or services rendered.



#### **Section 11(2)(q) – donor funds**

- Documentary requirements still to be determined.

#### **Section 11(2)(r) – vocational training**

- Supplier's copy of the zero-rated tax invoice;
- Recipient's order or a contract between the recipient and the supplier; and
- Proof of payment (including the Exchange Control declaration form from the Reserve Bank, where the consideration exceeds exchange limits).

#### **Section 11(2)(s) and (t) - grants paid by public or local authorities to vendors**

- Supplier's (grantee's )copy of the zero-rated tax invoice;
- Copy of the grant contract, grant application and any other documentation pertaining to the receipt of the grant;
- Proof that the payment is from the public or local authority; and
- Particulars of the person who received the goods or services rendered.

### **4.3 PART 3**

#### **SECTION 13(1)(ii) - A SUPPLY OF GOODS THAT HAVE BEEN IMPORTED AND ENTERED IN A LICENCED CUSTOMS AND EXCISE WAREHOUSE BUT HAVE NOT BEEN ENTERED FOR HOME CONSUMPTION**

##### **Where goods are exported from a licenced Customs and Excise warehouse\***

- Documentary proof as set out in the VAT Interpretation Note No. 30 of 2005 dated 31 March 2005.

##### **Where goods are sold within a licenced Customs and Excise warehouse**

- Recipient's order or the contract between the recipient and the supplier;
- Supplier's copy of the zero-rated tax invoice; and
- A copy of the transfer of ownership documentation prescribed under the Customs and Excise Act, 1964 bearing an original SARS Customs stamp.

##### **Where goods are sold from a licenced Customs and Excise warehouse to another licenced Customs and Excise warehouse**

- Recipient's order or the contract between the recipient and the supplier;
- Supplier's copy of the zero-rated tax invoice;
- A copy of the transfer of ownership documentation prescribed under the Customs and Excise Act, 1964 bearing an original SARS Customs stamp; and
- A copy of the transporter's tax invoice.

## 5 CONCLUSION

In the event the vendor is not in possession of the documentation referred to above, the supply is deemed to be at the standard rate and the vendor must account for output tax by applying the tax fraction to the consideration (i.e. the consideration is deemed to include VAT in terms of section 64(1) of the Act). Should the vendor receive the documentation, in respect of which output tax was calculated, within **one year** from the date of the tax invoice, the vendor may claim an input tax adjustment in the tax period in which this documentation is received. The rate of tax applicable to the adjustment is the rate of tax in force at the date of issue of the tax invoice.

However, in certain circumstances where any of the aforementioned documentation cannot be obtained, the Commissioner may, upon written application by the vendor, consider the circumstances and may authorise a zero rating, subject to alternative documentary proof being required.

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**SOUTH AFRICAN REVENUE SERVICE**

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