

**INTERPRETATION NOTE: NO. 30 (ISSUE 3)**

DATE: 5 May 2014

**ACT : VALUE-ADDED TAX ACT NO. 89 OF 1991**  
**SECTIONS : SECTION 1(1), PARAGRAPH (a) OF THE DEFINITION OF “EXPORTED”, SECTION 11(1)(a)(i) AND SECTION 11(3)**  
**SUBJECT : THE SUPPLY OF MOVABLE GOODS AS CONTEMPLATED IN SECTION 11(1)(a)(i) READ WITH PARAGRAPH (a) OF THE DEFINITION OF “EXPORTED” AND THE CORRESPONDING DOCUMENTARY PROOF**

**CONTENTS**

	<b>PAGE</b>
Preamble .....	2
1. Purpose.....	4
2. Background .....	5
3. The law.....	5
4. Application of the law.....	5
5. Export time periods.....	6
5.1 General rule.....	6
5.2 Exceptions.....	6
5.3 Non-compliance .....	7
6. Documentation .....	8
6.1 General .....	8
6.2 Movable goods physically delivered by the vendor at an address in an export country .....	8
6.3 Movable goods conveyed by the vendor’s cartage contractor to an address in an export country.....	8
6.4 Movable goods supplied and exported by any other mode of transport (including continuous transmission commodities, for example electricity, water, fuel, gas etc) .....	10
7. Time period to obtain documentary proof .....	10
8. Specific types of supplies of movable goods.....	12
8.1 Second-hand movable goods .....	13
8.2 Movable goods exported from the Republic before an invoice is issued or payment is received for the supply .....	13
8.3 Movable goods situated outside the Republic.....	14

8.3.1	Movable goods temporarily exported from the Republic which are subsequently supplied whilst situated outside the Republic (i.e. changes from a temporary export to a permanent export) .....	14
8.3.2	Sale of movable goods situated outside the Republic.....	14
8.3.3	Sale of consignment stock in an export country.....	14
8.4	Supplies that are subject to a process of improvement, manufacture, assembly or alteration .....	15
8.5	Movable goods supplied to a vendor and delivered to that vendor's customer at and address in an export country.....	15
9.	Glossary .....	17
10.	Conclusion .....	17
	Annexure A – The law.....	18
	Annexure B – Glossary .....	19

### **Preamble**

In this Note unless the context indicates otherwise –

- **“consigned or delivered”** means –
  - (a) the delivery of movable goods by a cartage contractor contracted by the vendor to deliver the movable goods on the vendor's behalf to the recipient at an address in an export country, where the cartage contractor –
    - is engaged by and contractually liable to the vendor to effect delivery of the movable goods; and
    - invoices the vendor and the vendor is liable for the full cost relating to such delivery; or
  - (b) physically delivered by the vendor to the recipient at an address in the export country including the export of the movable goods in the vendor's baggage or by means of the vendor's own transport;
- **“cartage contractor”** means a person whose activities include the transportation of goods and includes couriers and freight forwarders;
- **“customs documentation”** means the export and acquittal documentation prescribed under the Customs and Excise Act, as set out in the *Customs and Border Management – External Policy Number SC-EX-01-03 Exports*, the *Customs and Border Management – External Policy Number SC-TR-01-02 Acquittal of Customs Declarations* read with the *Customs and Border Management – Annexure Number SC-TR-01-03-A06 Acquittal Document Requirements* as updated or amended;<sup>1</sup>
- **“designated commercial port”** means a place in the Republic which has been designated by the Commissioner as an exit point from the Republic as listed in the table below:

<sup>1</sup> References to Customs and Excise Policies and/or Documents include any future update and/or issue of the relevant Policy or Document.

<b>Designated commercial ports</b>			
<b><i>International Airports</i></b>	<b><i>Land Border Posts</i></b>	<b><i>Harbours</i></b>	<b><i>Railway Stations</i></b>
<ul style="list-style-type: none"> <li>• Bloemfontein</li> <li>• Cape Town</li> <li>• King Shaka (Durban)</li> <li>• OR Tambo (Johannesburg)</li> <li>• Gateway (Polokwane)</li> <li>• Lanseria</li> <li>• Kruger (Mpumalanga)</li> <li>• Pilanesberg</li> <li>• Port Elizabeth</li> <li>• Upington</li> </ul>	<ul style="list-style-type: none"> <li>• Beit Bridge</li> <li>• Lebombo</li> <li>• Vioolsdrift</li> <li>• Nakop/Narogas</li> <li>• Ramatlabama</li> <li>• Skilpadshek</li> <li>• Groblers Bridge</li> <li>• Kopfontein</li> <li>• Caledonspoor</li> <li>• Maseru Bridge</li> <li>• Van Rooyenshek</li> <li>• Qacha's Nek</li> <li>• Jeppes Reef</li> <li>• Mananga</li> <li>• Mahamba</li> <li>• Nerston</li> <li>• Golela</li> <li>• Oshoek</li> </ul>	<ul style="list-style-type: none"> <li>• Cape Town</li> <li>• Durban</li> <li>• East London</li> <li>• Mossel Bay</li> <li>• Port Elizabeth</li> <li>• Port Ngqura</li> <li>• Richards Bay</li> <li>• Saldanha</li> </ul>	<ul style="list-style-type: none"> <li>• Germiston</li> <li>• Golela</li> <li>• Johannesburg</li> <li>• Maseru Bridge</li> <li>• Mafikeng</li> <li>• Upington</li> </ul>

- **“documentary proof”** means the documentation, including export or removal documentation, prescribed in **6** and **8**;
- **“exceptional commercial delays or difficulties”** means –
  - a vendor not being able to secure transport for the export of the movable goods. This paragraph does not apply if the vendor is unable to secure transport due to financial difficulties experienced by the vendor; or
  - an order or contract of which the terms are altered by the recipient; or
  - specific requirements imposed by the export country pertaining to a specific type of good (for example, registrable goods);
- **“export depot”** means the premises of a “cartage contractor”;
- **“export documentation”** means the export documentation prescribed under the Customs and Excise Act for countries other than Botswana, Lesotho, Namibia or Swaziland;
- **“flash title”** means a supply of movable goods by a vendor to a recipient and that recipient subsequently supplies the movable goods to another recipient and ownership of the goods vests in the first-mentioned recipient only for a moment before the goods are sold to such other recipient;
- **“movable goods”** means “goods” as defined in section 1(1), excluding immovable goods;
- **“notional input tax”** means input tax deducted on the acquisition of movable goods under a non-taxable supply as contemplated in paragraph (b) of the definition of “input tax” in section 1(1);

- **“recipient”** means the person to whom the supply of movable goods under a sale or an instalment credit agreement is made. Recipient includes a South African vendor and a South African resident.
- **“Release Instruction”** means the instruction received from the owner of the precious metal by the holder thereof to export the precious metal;
- **“removal documentation”** means certificates and/or declaration forms, as prescribed under the Customs and Excise Act, for the removal of goods from the Republic to Botswana, Lesotho, Namibia and Swaziland;
- **“section”** means a section of the VAT Act;
- **“time of export”** means in the case of transport by air or sea, the time as contemplated in section 38(3)(b)(i) and (ii) of the Customs and Excise Act;
- **“VAT Act”** means the Value-Added Tax Act No. 89 of 1991;
- **“zero rate”** means the rate of tax levied under section 7(1)(a) read with section 11(1) substantiated by documentary proof as contemplated in section 11(3); and
- any word or expression bears the meaning ascribed to it in the VAT Act.

## 1. Purpose

This Note –

- explains the requirements that need to be adhered to; and
- prescribes the documentary proof, acceptable to the Commissioner, that must be obtained and retained by a vendor;

in order to levy VAT at the zero rate on a supply of movable goods under a sale or instalment credit agreement where those goods are consigned or delivered to a recipient at an address in an export country.

Interpretation Note No. 30 (Issue 2) dated 15 March 2006 “Documentary Proof Required on Consignment or Delivery of Movable Goods to a Recipient at an Address in an Export Country” is hereby withdrawn. This Note (Issue 3) is effective from 2 May 2014.

With regard to export transactions –

- for which the time of supply occurred before the effective date of Issue 3, the provisions of Interpretation Note No. 30 (Issue 2) dated 15 March 2006 apply; or
  - for which the time of supply occurred –
    - (i) on or after the effective date of Issue 3; or
    - (ii) in respect of progressive supplies as contemplated in section 9(3)(b) where –
      - any payment for the supply becomes due or is received before as well as after the effective date of Issue 3; or
      - any invoice issued in relation to that payment occurs before as well as after the effective date of Issue 3; and
      - the goods are delivered only after the effective date of Issue 3,
- the provisions of Issue 3 apply.

The following must be noted: All rulings or decisions issued taking into account the provisions of Interpretation Note No. 30 (Issue 2) dated 15 March 2006 remain in force until such rulings expire or are specifically withdrawn.

## 2. Background

The South African VAT system is destination based, which means that only the consumption of goods and services in the Republic is taxed. VAT is therefore levied at the standard rate on the supply of goods or services in the Republic as well as on the importation of goods into the Republic unless an exemption or exception applies. Subject to certain requirements, VAT may be levied by a vendor at the zero rate if the vendor is responsible for consigning or delivering those goods to an address in an export country.

Paragraph (a) of “exported” as referred to in section 11(1)(a) is defined in section 1(1) of the VAT Act as follows:

“**[E]xported**’, 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.”

In order for a vendor to supply movable goods (excluding second-hand movable goods on which notional input tax was deducted on the acquisition of such goods) under a sale or instalment credit agreement and levy VAT at the zero rate, the vendor must –

- consign or deliver the movable goods to the recipient at an address in an export country; and
- obtain and retain the required documentary proof as is acceptable to the Commissioner.

This export is classified as a “direct export” as the vendor is in control of the export and ensures that the movable goods are exported from the Republic.

The provisions of the Regulation<sup>2</sup> will apply to movable goods that are not exported by the vendor by means of a direct export, unless this Note otherwise indicates.

This Note is only applicable to the export of movable goods as contemplated in section 11(1)(a)(i) read with paragraph (a) of the definition of “exported” in section 1(1) of the VAT Act

## 3. The law

The relevant sections of the VAT Act are quoted in **Annexure A**.

## 4. Application of the law

A vendor supplying movable goods and consigning or delivering those goods to a recipient at an address in an export country may levy VAT at the zero rate on such supplies. The zero rate would also include consignment or delivery of the movable

<sup>2</sup> Published under paragraph (d) of the definition of “exported” in section 1(1) and includes any future amendments or updates.

goods by the vendor to the recipient's duly appointed agent or customer at an address in an export country.

In order for the vendor to apply the zero rate to the supply of movable goods, the vendor must –

- export the movable goods *via* a designated commercial port within the prescribed time period; and
- obtain and retain documentary proof as is acceptable to the Commissioner as contemplated in section 11(1)(a)(i) read with paragraph (a) of the definition of “exported” and section 11(3) within the required time period.

In the event that the vendor and the recipient are connected persons, sections 9(2)(a) and 10(4) setting out the rules with regard to the time and value of the supply for connected persons are *mutatis mutandis* applicable to the supply of movable goods being exported.

The export of movable goods as well as the declaration of such goods at ports other than those ports listed in the definition of “designated commercial port” may be allowed in exceptional circumstances on application to and after approval by the Commissioner. Refer to the *Customs & Border Management – External Use of Non-Designated Commercial Ports Policy Number SC-CF-13* for more detail with regard to the aforementioned.

## **5. Export time periods**

### **5.1 General rule**

Subject to the exceptions listed in **5.2**, the movable goods must be exported from the Republic within 90 days from the earlier of the time an invoice is issued by the vendor or the time any payment of consideration is received by the vendor.

### **5.2 Exceptions**

(a) The supply of movable goods for which an advance payment is required, must be exported within 30 days from the date(s) of export agreed upon in the contract entered into between the vendor and the recipient.

(b) The supply of precious metals which are to be exported from the Republic *via* air must be exported within a period of 30 days from the date of the export release as per the “Release Instruction” received from the recipient acquiring the precious metal.

(c) Notwithstanding **5.2(a)** –

(i) the supply of movable goods –

- for which the time of supply is regulated by section 9(1) or 9(3)(b)(i) or (ii); and
- which are subject to a process of repair, improvement, erection, manufacture, assembly or alteration;

must be exported from the Republic within a period of 90 days calculated from the date of completion of the said process;

- (ii) the supply by a vendor of any part of a hunted animal that is subsequently subject to a process of preservation or mounting of that animal as a trophy, must be exported to the recipient within a period of seven months calculated from the earlier of the time an invoice is issued or the time any payment of consideration is received by the vendor;
  - (iii) the supply by a vendor of tank containers which are to be used for the carriage of bulk liquid, powders or gases on a foreign-going ship must be exported from the Republic within a period of six months calculated from the date of completion of the manufacturing or reconditioning of the tank container.
- (d) The Commissioner may extend the period within which movable goods supplied by a vendor to a recipient must be exported from the Republic if such movable goods have not been exported within the prescribed periods in **5.1** and **5.2(a)** to **(c)** due to circumstances beyond that vendor's control.

The vendor must, before the expiry of the 90-day period as set out in **5.1** or before the expiry of the prescribed period as set out in **5.2(a)** to **(c)**, submit a written application to the Commissioner either by e-mail to **VATRulings@sars.gov.za** or by facsimile to 086 540 9390 requesting the extension of the aforementioned 90-day or such other prescribed period. This application must contain the circumstances that would be regarded as being beyond the vendor's control.

In the event that the vendor is unable to submit the application as set out above, the vendor must submit the application within a period of 30 days from the expiry of the period within which the application should have been submitted. This application must include both the circumstances that would be regarded as being beyond the vendor's control and the reasons substantiating why the application could not have been submitted timeously.

For purposes of **5.2(d)**, circumstances beyond the vendor's control include –

- (i) exceptional commercial delays or difficulties that prevent the vendor from exporting the movable goods within the prescribed time period;
  - (ii) a natural or human-made disaster;
  - (iii) a civil disturbance or disruption in services; or
  - (iv) a serious illness of or accident concerning the vendor or in the case of a juristic person, a serious illness of or accident concerning the person responsible for arranging the export.
- (e) If the provisions of **5.2** are applicable, the vendor must obtain and retain proof to substantiate the application of the relevant exception.

### **5.3 Non-compliance**

In the event that the vendor is unable to export the movable goods within the prescribed time periods as set out in **5.1** and **5.2** or any approved extended period as set out in **5.2(d)**, the vendor is required to account for output tax on the supply. The output tax is calculated by applying the tax fraction to the consideration for the supply. The vendor must include the amount of output tax in Block 12 of the VAT return for the tax period in which the said prescribed period ends.

## 6. Documentation<sup>3</sup>

### 6.1 General

The documentary proof acceptable to the Commissioner in order to substantiate the application of the zero rate to a supply of movable goods that are consigned or delivered by the vendor at an address in an export country includes both official and commercial documentation.

- **Official documentation** is the export or removal documentation prescribed under the Customs and Excise Act, for example the Customs Declaration and so forth.
- **Commercial documentation** is the documentation issued by freight haulers or freight forwarders, businesses and other organisations that provides proof of the transaction and the transportation of the movable goods, for example, a tax invoice, air waybill, bill of lading, recipient's order or contract and so forth.

The prescribed documentation must be retained as contemplated in section 55 of the VAT Act for a period of 5 years as contemplated in section 29 of the TA Act. In the event that difficulties are experienced in complying with the required documentary proof, refer to **5** and **7**.

### 6.2 Movable goods physically delivered by the vendor at an address in an export country

A vendor who physically delivers movable goods to a recipient at an address in an export country as contemplated in paragraph (b) of the definition of “**consigned or delivered**” (see Preamble), must obtain and retain –

- a copy of the zero-rated tax invoice;
- the recipient's order or the contract between the recipient and the vendor;
- the customs documentation;
- proof that the movable goods have been received by the recipient in the export country;
- the transport documentation as required for the relevant mode of transport in terms of **6.3**); and
- proof of payment for the movable goods supplied to the recipient.

### 6.3 Movable goods conveyed by the vendor's cartage contractor to an address in an export country

The table below lists the documentation a vendor must obtain and retain if the vendor delivers movable goods to an export depot, railway station, harbour, airport, postal service or a courier company in the Republic or the vendor's cartage contractor takes possession of the movable goods at the premises of the vendor, from where the movable goods are exported by the cartage contractor for delivery to the recipient at an address in an export country.

---

<sup>3</sup> All documentation must be kept or retained as contemplated in section 30 of the Tax Administration Act read with public notice GN 787 published in *Government Gazette* No. 35733 of 1 October 2012.



<b>Mode of transport</b>	<b>Documentation</b>
Road	<ul style="list-style-type: none"> <li>(a) A copy of the zero-rated tax invoice</li> <li>(b) The recipient's order or the contract between the recipient and the vendor</li> <li>(c) Proof that the vendor paid the transport costs</li> <li>(d) Either – <ul style="list-style-type: none"> <li>(i) a copy of the relevant document to prove that the cartage contractor took possession of the movable goods from the vendor; or</li> <li>(ii) a copy of the road manifest issued by the cartage contractor</li> </ul> </li> <li>(e) A copy of the proof of delivery issued by the cartage contractor that the movable goods have been received by the recipient in the export country</li> <li>(f) The customs documentation</li> <li>(g) Proof of payment for the movable goods supplied to the recipient</li> </ul>
Rail	<ul style="list-style-type: none"> <li>(a) A copy of the zero-rated tax invoice</li> <li>(b) The recipient's order or the contract between the recipient and the vendor</li> <li>(c) Proof that the vendor paid the transport costs</li> <li>(d) A copy of the rail consignment note; or if by – <ul style="list-style-type: none"> <li>(i) wagon, a copy of the combined consignment note and wagon label issued by the rail operator; or</li> <li>(ii) container, a copy of the container terminal order or freight transit order issued by the container operator or the rail operator</li> </ul> </li> <li>(e) The customs documentation</li> <li>(f) Proof of payment for the movable goods supplied to the recipient</li> </ul>
Sea	<ul style="list-style-type: none"> <li>(a) A copy of the zero-rated tax invoice</li> <li>(b) The recipient's order or the contract between the recipient and the vendor</li> <li>(c) Proof that the vendor paid the transport costs</li> <li>(d) A copy of the sea freight transport document</li> <li>(e) The customs documentation</li> <li>(f) Proof of payment for the movable goods supplied to the recipient</li> </ul>
Air	<ul style="list-style-type: none"> <li>(a) A copy of the zero-rated tax invoice</li> <li>(b) The recipient's order or the contract between the recipient and the vendor</li> <li>(c) Proof that the vendor paid the transport costs</li> <li>(d) A copy of the airfreight transport document</li> <li>(e) The customs documentation</li> </ul>

	(f) Proof of payment for the movable goods supplied to the recipient
Post	(a) A copy of the zero-rated tax invoice (b) The recipient's order or the contract between the recipient and the vendor (c) Proof that the vendor paid the postage costs (d) Proof of receipt of the movable goods by the postal service; (e) The customs documentation (f) Proof of payment for the movable goods supplied to the recipient

**6.4 Movable goods supplied and exported by any other mode of transport (including continuous transmission commodities, for example electricity, water, fuel, gas etc)**

A vendor who exports movable goods by means of any other mode of transport, for example, a pipeline or electrical transmission line, and the vendor supplying such goods is the owner of such mode of transport or is contractually liable for the full cost relating to the use of such mode of transport, may apply the zero rate to the supply of such movable goods.

The Commissioner will, on application by the vendor, determine the documentary proof to be obtained and retained by the vendor including but not limited to –

- a copy of the zero-rated tax invoice;
- the export and acquittal documentation prescribed under the Customs and Excise Act as set out in the relevant Customs policy for Continuous Transmission Commodities, the Customs and Border Management – External Policy Number SC-TR-01-02 Acquittal of Customs Declarations read with the Customs and Border Management – Annexure Number SC-TR-01-03-A06 Acquittal Document Requirements; and
- proof of payment.

**7. Time period to obtain documentary proof**

This paragraph makes provision for –

- the general rule with regard to the time period within which the requisite documentary proof must be obtained by the vendor;
- certain exceptions to the general rule;
- the circumstances in which the vendor is required to make an output tax adjustment; and
- the circumstances in which the vendor would be entitled to make a subsequent adjustment in Block 18 of the VAT return.

(a) In order to apply the zero rate to the supply of movable goods that are to be exported, the vendor must obtain the required documentary proof within a period of 90 days calculated from the date the movable goods are required to be exported from the Republic as contemplated in **5.1** and **5.2**.

- (b) In the event that the required documentation is not obtained by the vendor within the prescribed period set out in **7(a)**, the requirements of section 11(3) are not met and VAT therefore could not have been levied at the zero rate under section 11(1). As a result, the vendor is required to account for output tax on the supply. The output tax is calculated by applying the tax fraction to the consideration for the supply. The vendor must include the amount of output tax in Block 12 of the VAT return for the tax period in which the said period of 90 days ends.
- (c) Should the vendor receive the documentation in respect of which output tax was calculated as stipulated in **7(b)** within five years from the end of the tax period during which the original tax invoice for that supply was or should have been issued, the output tax adjustment as contemplated in **7(b)** may be deducted as an adjustment in Block 18 of the VAT return for the tax period in which this documentation is received: Provided that the vendor must be able to provide proof to the Commissioner that the vendor –
- (i) initially accounted for VAT at the zero rate;
  - (ii) has furnished a return for the tax period for which the output tax calculated in **7(b)**, that is, the output tax adjustment, was payable; and
  - (iii) has properly accounted for the output tax on that supply as contemplated in **7(b)**.
- (d) The vendor having obtained all the other required documentary proof is not required to account for output tax as a result of not obtaining the required proof of payment for the total consideration within the period set out in **7(a)** if –
- (i) the vendor has entered into a written contract with the recipient for the payment of the consideration for the supply to be made after or over a period exceeding the 90 days but not exceeding six months;
  - (ii) the vendor has entered into a written contract with the recipient for the payment of the consideration for the supply to be made after or over a period exceeding six months but not exceeding 12 months and has the relevant approval from a dealer in foreign exchange authorised by the South African Reserve Bank;
  - (iii) the vendor has entered into a written contract with the recipient for the payment of the consideration for the supply to be made after or over a period exceeding 12 months and has the relevant approval from the South African Reserve Bank;
  - (iv) a written contract provides for a retention amount to be withheld for a period exceeding five years due to the nature of the goods supplied and proof of payment of the retention amount has not been obtained;
  - (v) the recipient is unable to effect the payment due to the restrictions imposed on foreign exchange by the country in which the recipient conducts its enterprise;
  - (vi) the vendor has the relevant approval from the South African Reserve Bank or a dealer in foreign exchange authorized by the South African Reserve Bank not to repatriate any foreign currency for that supply;

- (vii) in the case of exports *via* air or sea, the time of export has occurred but the movable goods have not yet been removed from the Republic. This exception is limited to a period of six months from the time of export; or
  - (viii) the vendor has written off the said consideration as irrecoverable.
- (e) The vendor must, if applicable, obtain and retain a copy of the relevant approval referred to in **7(d)**. The aforementioned approval does not have to be obtained if the movable goods are exported to a country falling within the common monetary area as defined in the South African Reserve Bank's Exchange Control Manual.<sup>4</sup>
- (f) In the event that the required proof of payment for the total consideration is not obtained by the vendor within the prescribed period set out in **7(d)**, excluding **(vi)** and **(viii)**, the vendor would not comply with the requirements of section 11(3) and is therefore not allowed to levy VAT at the zero rate under section 11(1).
- (g) The vendor is required to account for output tax on the supply to the extent of payment not received if the provisions of **7(d)**, excluding **(vi)** and **(viii)**, are applicable and the vendor has not received proof of payment for the total consideration within the period allowed. The output tax is calculated by applying the tax fraction to the consideration for the supply. The vendor must include the amount of output tax in Block 12 of the VAT return for the tax period in which the said period ends.
- (h) Should the vendor receive the documentation in respect of which output tax was calculated as stipulated in **7(g)** within the extended period approved by a dealer in foreign exchange authorised by the South African Reserve Bank or approved by the South African Reserve Bank, limited to a period of five years from the end of the tax period during which the original tax invoice for that supply was or should have been issued, the amount calculated in **7(g)** may be deducted as an adjustment in Block 18 of the VAT return for the tax period in which this documentation is received. The vendor must, however, be able to provide proof to the Commissioner that the vendor –
- (i) initially accounted for VAT at the zero rate;
  - (ii) has furnished a return for the tax period for which the output tax calculated in **7(g)**, that is, the output tax adjustment, was payable; and
  - (iii) has properly accounted for the output tax on that supply as contemplated in **7(g)**.
- (i) The rate of tax applicable for purposes of **7** is the rate of tax in force at the date of issue of the tax invoice.

## **8. Specific types of supplies of movable goods**

Certain specific scenarios are explained in more detail below. The documentary proof requirements as set out in **6** apply in these instances, except if the context specifically otherwise indicates.

---

<sup>4</sup> This includes any future updates and or amendments.

## 8.1 Second-hand movable goods

Unlike other direct exports, the supply of second-hand movable goods for export may, under the proviso to section 11(1), not be subject to VAT at the zero rate if notional input tax was deducted on the acquisition of such goods.

Section 10(12) sets out a special valuation rule which provides that the vendor must account for output tax on the supply of the second-hand movable goods at the standard rate on a consideration (inclusive of VAT) equal to the original purchase price of those goods by the vendor. Thus, output tax equal to the amount of notional input tax previously deducted, is declared in the tax period during which the goods are supplied.

The vendor must furthermore ensure that the tax invoice issued for a supply of second-hand movable goods complies with the provisions of section 20(4).

### Example 1 – Second-hand movable goods

#### *Facts:*

On 28 July 2013, ABC Motors sells a **second-hand** motor vehicle for R150 000 (including VAT) to B (a resident of Botswana) and issues a tax invoice for the supply on the same date. ABC Motors undertakes to deliver the motor vehicle to B at B's residence in Botswana. ABC Motors enters into a contract to engage RSA Transporters to transport the motor vehicle by road, *via* the Ramatlabama designated commercial border post, to B at B's residence in Botswana. The motor vehicle was initially acquired by ABC Motors from a private individual for R90 000. On acquiring this motor vehicle, ABC Motors deducted notional input tax of R11 052,63 ( $R90\,000 \times 14 / 114$ ).

Can ABC Motors charge VAT at the zero rate on the supply of the motor vehicle to Mr B?

#### *Result:*

As ABC Motors acquired the motor vehicle from a private individual under a non-taxable supply and deducted notional input tax on the acquisition of the second-hand motor vehicle, the supply of the motor vehicle to B cannot be subject to VAT at the zero rate even though it is a "direct export". The special valuation rule applicable to second-hand goods in such cases requires that VAT must be declared at the standard rate on the consideration of R90 000, being ABC Motors' cost of acquisition of the motor vehicle from the private individual. ABC Motors must, therefore, charge VAT of R11 052,63 ( $R90\,000 \times 14 / 114$ ) on the supply even though the motor vehicle was sold for R150 000.

## 8.2 Movable goods exported from the Republic before an invoice is issued or payment is received for the supply

In the event that movable goods are exported by the vendor prior to an invoice being issued or payment being received for the supply, the time of supply is only triggered when an invoice is issued or any payment for the supply is received. In this regard, the 90-day period referred to in **7(a)** will be calculated from the time of supply. The vendor must comply with the documentary requirements set out in **6**. The documentary proof, for example, the export documentation, will therefore pre-date the tax invoice and/or proof of payment.

### **8.3 Movable goods situated outside the Republic**

#### **8.3.1 Movable goods temporarily exported from the Republic which are subsequently supplied whilst situated outside the Republic (i.e. changes from a temporary export to a permanent export)**

In the event that movable goods are temporarily exported from the Republic by a vendor, for example, for exhibition, demonstration or display purposes in an export country and those goods are sold by the vendor whilst still located in that export country, that is, before being re-imported into the Republic, the vendor may apply the zero rate to the supply of such movable goods.

The vendor must comply with the documentary requirements set out in **6** as well as complete a substitute bill of entry as contemplated in paragraph 3.1.6 of the Completion Manual for Bills of Entry for customs purposes. In this regard, the 90-day period referred to in **7(a)** will be calculated from the time of supply. The recipient's order or the contract between the recipient and the vendor is not required in this instance. The documentary proof, for example the export documentation, will therefore pre-date the tax invoice and proof of payment.

#### **8.3.2 Sale of movable goods situated outside the Republic**

In instances where a vendor sells movable goods situated outside the Republic, for example, a sale on the high seas, and the vendor consigns or delivers those movable goods to the recipient at an address in an export country, the supply of the movable goods is subject to VAT at the zero rate under section 11(1)(a)(i), read with paragraph (a) of the definition of "exported" in section 1(1). In this instance, "at an address in an export country" includes consignment or delivery of the movable goods to the recipient on board a ship while on the high seas.

The vendor must obtain and retain the required documentary proof as stipulated in **6**.

In addition to the documentation required in **6**, proof that the movable goods were situated outside the Republic at the time of supply must also be obtained and retained by the vendor, for example the applicable customs documentation proving the export.

In the event that such movable goods are subsequently imported into the Republic by the recipient, VAT on importation will be levied under section 7(1)(b).

#### **8.3.3 Sale of consignment stock in an export country**

In the event that movable goods are situated outside the Republic (that is, in an export country) at for example a distributor's or third party's premises as consignment stock, that is, the South African vendor is the owner of such goods, the supply of such movable goods in that export country is subject to VAT at the zero rate under section 11(1)(a)(i) read with paragraph (a) of the definition of "exported" in section 1(1).

The vendor must comply with the documentary requirements set out in **6**. In this regard, the 90-day period referred to in **7(a)** will be calculated from the time of supply. The recipient's order or a contract between the recipient and the vendor is, however, not required in order to zero rate the supply. The documentary proof, for example the export documentation, will pre-date the tax invoice and proof of payment. In the event that the consignment stock is not sold but returned to the Republic by the vendor, the

provisions of rebate item 409.00 and Schedule 1 of the VAT Act must be complied with.

#### **8.4 Supplies that are subject to a process of improvement, manufacture, assembly or alteration**

The supply of movable goods by a vendor to a recipient in an export country –

- (a) for which the time of supply is regulated by sections 9(1) or 9(3)(b)(i) or (ii);
- (b) which are subject to a process of repair, improvement, manufacture, assembly or alteration by a third party in the Republic;
- (c) are delivered to that third party's premises in the Republic for such further processing, repair, improvement, manufacture, assembly or alteration; and
- (d) are subsequently delivered back to the vendor by the third party who then consigns or delivers the movable goods at an address in an export country;

is subject to VAT at the zero rate under section 11(1)(a)(i) read with paragraph (a) of the definition of "exported" in section 1(1).

The third party must –

- (a) provide the vendor with a statement containing the details as set out in **(c)(i)** and **(ii)** below within 21 days from the date that the movable goods were exported or required to be exported.

The vendor must –

- (a) ensure that the movable goods are delivered to the third party's premises for further processing, repair, improvement, manufacture, assembly or alteration;
- (b) ensure that the movable goods are delivered back to the vendor after completion of such further processing, repair, improvement, manufacture, assembly or alteration; and
- (c) obtain and retain the documentation as set out in **6**. In addition, the vendor must obtain and retain a statement from the third party containing –
  - (i) the invoice number and the date of issue of the tax invoice issued by the third party to the recipient for the services rendered or the contract for the services rendered entered into by the third party and the recipient; and
  - (ii) confirmation that the movable goods supplied by the vendor and exported to the recipient have been used in the further processing, repair, improvement, manufacture, assembly or alteration.

#### **8.5 Movable goods supplied to a vendor and delivered to that vendor's customer at and address in an export country**

The supply of movable goods by a vendor to a recipient who is also a registered vendor which are delivered directly to that recipient's customer at an address in an export country, is subject to VAT at the zero rate under section 11(1)(a)(i) read with paragraph (a) of the definition of "exported" in section 1(1).

Two separate supplies of the movable goods take place which can be illustrated by way of an example:

**Example 2 – Movable goods exported and delivered to the recipient’s customer in an export country**

*Facts:*

ABC, a company incorporated in Switzerland, orders movable goods from XYZ (Pty) Ltd, a South African registered company and a registered vendor. XYZ (Pty) Ltd orders the movable goods from another company incorporated in South Africa and also registered as a vendor, CDE (Pty) Ltd with the instruction to deliver the goods directly to its customer, ABC at its premises in Switzerland.

*Question 1:*

Can CDE (Pty) Ltd zero rate the supply of movable goods to XYZ (Pty) Ltd?

*Result 1:*

As the movable goods are consigned or delivered by CDE (Pty) Ltd at an address in an export country, CDE (Pty) Ltd may levy VAT at the zero rate on the supply of movable goods to XYZ (Pty) Ltd. CDE (Pty) Ltd must furthermore ensure that the required documentary proof stipulated in 6 is obtained and retained as set out in 7. The documentary proof must reflect the delivery address in the export country.

*Question 2:*

Can XYZ (Pty) Ltd zero rate the supply of movable goods to ABC?

*Result 2:*

As the movable goods are consigned or delivered at an address in an export country, XYZ (Pty) Ltd may zero rate the supply of movable goods that are to be exported or that are situated outside the Republic at the time of the supply to ABC.<sup>5</sup>

The following documentary proof is required:

- A copy of the zero-rated tax invoice for the supply of the movable goods by XYZ (Pty) Ltd to ABC.
- The order or the contract between XYZ (Pty) Ltd and ABC.
- Proof that the movable goods are to be exported or are situated outside the Republic (copies of the documents required under *Question 1* above will constitute sufficient proof).
- Proof that the movable goods have been received by ABC.
- Proof of payment for the supply of the movable goods to ABC.

The zero-rating shall not apply if the movable goods are supplied to more than one recipient in the Republic before being exported to the final recipient in an export country. The exclusion does not however apply to supplies made by a vendor on a flash title basis.

<sup>5</sup> Paragraph (a) of the definition of “exported” in section 1(1) does not require the movable goods to be exported from the Republic, but rather stipulates that the vendor must consign or deliver the movable goods to the recipient at an address in an export country.



**Example 3 – Movable goods exported and delivered to the recipient’s customer in an export country**

On the basis of Example 2, in which CDE (Pty) Ltd supplies movable goods to XYZ (Pty) Ltd and XYZ (Pty) Ltd on-supplies those movable goods to QRS (Pty) Ltd, also a South African registered company and a registered vendor and who then supplies the movable goods to ABC, the customer in the export country, CDE (Pty) Ltd and XYZ (Pty) Ltd must apply the standard rate to the supply of movable goods. QRS (Pty) Ltd may apply the zero rate to the supply of movable goods to ABC Ltd.

**9. Glossary**

Refer to **Annexure B**.

**10. Conclusion**

In order for a vendor to substantiate its entitlement to apply the zero rate to the supply of movable goods to a recipient at an address in an export country, that vendor must be in possession of documentary proof as is acceptable to the Commissioner.

In the event that the Commissioner is not satisfied that there is sufficient proof of export, the supply cannot be zero-rated and, is therefore, subject to VAT at the standard rate.

This Note –

- only applies to direct exports, that is, movable goods supplied by the vendor under a sale or instalment credit agreement and consigned or delivered at an address in an export country; and
- may not prescribe all possible scenarios. A vendor experiencing difficulty in determining the applicable rate of tax may, before applying the zero rate to the supply of movable goods, submit a written application to the Commissioner either by e-mail to **VATRulings@sars.gov.za** or by facsimile to 086 540 9390 requesting confirmation of the application of the zero rate in the specific circumstances.

**Legal and Policy Division**  
**SOUTH AFRICAN REVENUE SERVICE**

Date of first issue: 31 March 2005

Date of second issue: 1 April 2006

## Annexure A – The law

### Section 1(1) – Definitions

“**Customs and Excise Act**” means the Customs and Excise Act, 1964 (Act 91 of 1964);

“**export country**” means any country other than the Republic and includes any place which is not situated in the Republic: Provided that the President may by notice in the Gazette determine that a specific country or territory shall from a date and to the extent indicated in the notice, be deemed not to be an export country;

“**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;

“**goods**” means corporeal movable things, fixed property, any real right in any such thing or fixed property and electricity, but excluding—

- (a) money;
- (b) any right under a mortgage bond or pledge of any such thing or fixed property; and
- (c) any stamp, form or card which has a money value and has been sold or issued by the State for the payment of any tax or duty levied under any Act of Parliament, except when subsequent to its original sale or issue it is disposed of or imported as a collector’s piece or investment article;

“**invoice**” means a document notifying an obligation to make payment.

### Section 11 – Zero rating

(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—

- (a) the supplier has supplied the goods (being movable goods) in terms of a sale or instalment credit agreement and—
  - (i) the supplier has exported the goods in the circumstances contemplated in paragraph (a), (b) or (c) of the definition of “exported” in section 1(1);

Provided that paragraphs (a), (b), (c), (d) and (i) of this subsection shall not apply in respect of any supply of goods by a vendor if in respect of such goods input tax contemplated in paragraph (b) of the definition of “input tax” in section 1(1) has been deducted in terms of section 16(3) by that vendor or any other person where that vendor and that other person are connected persons.

(2) Where a rate of zero per cent has been applied by any vendor under a provision of this section, the vendor shall obtain and retain such documentary proof substantiating the vendor’s entitlement to apply the said rate under those provisions as is acceptable to the Commissioner.

## Annexure B – Glossary

For the purposes of this Note, all documents include the electronic form of such document and the following words and phrases have the meaning as described below –

- **a copy of the airfreight transport document**, which must, amongst others, reflect the flight number, the date and the place of departure, includes an air waybill;
- **a copy of the proof of delivery issued by the cartage contractor that the movable goods have been received by the recipient in the export country**, includes –
  - a proof of delivery, stamped and signed by the recipient or his appointed representative;
  - a delivery note stamped and signed by the recipient;
- **a copy of the relevant document to prove that the cartage contractor took possession of the movable goods from the vendor**, includes –
  - a goods received note issued by the cartage contractor;
  - a delivery note;
  - the vendor’s tax invoice for the goods, being signed and stamped by the cartage contractor;
- **a copy of the sea freight transport document** duly stamped or endorsed that the goods have been shipped on board, which must, amongst others, reflect the vessel’s name, the date and the place of departure, includes –
  - a bill of lading;
  - a waybill;
- **“invoice”** includes a hard copy or an electronic copy of a document notifying of an obligation to make payment excluding a commercial invoice;
- **proof of payment** can also be –
  - in the form of goods, that is, a barter transaction;
  - in respect of a loan account, depending on whose loan account it is, the debiting or crediting thereof;
  - where forex is the means of payment, the Exchange Control declaration form from the South African Reserve Bank; or
  - proof of a bank deposit, details of a cheque payment or confirmation of an electronic bank transfer;
- **proof that the movable goods are situated outside the Republic at the time of supply**, includes –
  - a transport document, for example, a document indicating, amongst others, the country of despatch and the country of receipt;
- **proof that the movable goods have been received by the recipient in the export country**, includes –
  - a delivery note signed by the recipient;
  - a goods received voucher issued by the recipient;

- **proof that the vendor paid the transport cost**, includes –
  - a receipt;
  - charges payable to third parties necessary to achieve delivery from the point in the Republic where the vendor releases the movable goods for transportation, to the point where the vendor delivers the movable goods to the recipient, in the export country, as contractually agreed;
- **the recipient's order or the contract between the recipient and the vendor** includes –
  - telephone and e-mail orders;
  - picking slips generated as a result of a telephonic order by the customer.