

**BINDING PRIVATE RULING: BPR 411**

DATE: 10 October 2024

**ACT : INCOME TAX ACT 58 OF 1962 (the Act)  
VALUE-ADDED TAX ACT 89 OF 1991 (the VAT Act)**

**SECTION : SECTION 1(1) OF THE ACT – DEFINITION OF “GROSS INCOME” AND  
PARAGRAPH 1 OF THE EIGHTH SCHEDULE TO THE ACT –  
DEFINITION OF “ASSET”  
SECTIONS 1 – PARAGRAPH (C) OF THE DEFINITION OF “INPUT  
TAX”, 8(10) AND 16 OF THE VAT ACT**

**SUBJECT : TAX CONSEQUENCES OF A DEEMED INPUT TAX DEDUCTION  
UNDER THE VAT ACT**

***Preamble***

This binding private ruling is published with the consent of the Applicant to which it has been issued. It is binding between SARS and the Applicant only and published for general information. It does not constitute a practice generally prevailing.

**1. Summary**

This ruling determines the tax consequences of a deemed input tax deduction when a motor vehicle financed under an Instalment Credit Agreement (ICA), as defined in section 1 of the VAT Act, is repossessed by the creditor.

**2. Relevant tax laws**

In this ruling references to sections and paragraphs are to sections of the relevant Act and paragraphs of the Eighth Schedule to the Act applicable as at 11 September 2024. Unless the context indicates otherwise any word or expression in this ruling bears the meaning ascribed to it in the relevant Act.

This is a ruling on the interpretation and application of –

- the Act –
  - section 1(1) – definition of “gross income”;
  - paragraph 1 of the Eighth Schedule to the Act – definition of “asset”;
- the VAT Act –
  - section 1 – paragraph (c) of the definition of “input tax”;
  - section 8(10); and
  - section 16.

### **3. Parties to the proposed transaction**

The Applicant: A resident company that conducts the business of a bank and is registered under the Banks Act 94 of 1990

### **4. Description of the proposed transaction**

As part of its business the Applicant provides motor vehicle finance to its clients under an ICA, which is subject to the National Credit Act 34 of 2005. In the event of repayment default by a debtor, the ICA between the Applicant and the debtor provides for repossession of the motor vehicle by the Applicant. If the debtor is not registered as a vendor under the VAT Act, the Applicant deducts the amount determined in accordance with section 16(3)(a)(i) of the VAT Act read with paragraph (c) of the definition of “input tax” in section 1 of the VAT Act in respect of the repossession and credits the respective debtor’s account with the amount.

The Applicant proposes, instead of crediting the respective debtor’s account with the amount, to credit “other income” as disclosed on its Statement of Comprehensive Income.

### **5. Conditions and assumptions**

This binding private ruling is not subject to any additional conditions and assumptions.

### **6. Ruling**

The ruling made in connection with the proposed transaction is as follows:

- a) The Applicant will be entitled to an input tax deduction in accordance with section 16(3)(a)(i) of the VAT Act read with paragraph (c) of the definition of “input tax” under section 1 of the VAT Act, in respect of the supply (not being a taxable supply) deemed by section 8(10) of the VAT Act to be made to the Applicant on the repossession of a motor vehicle under the ICA. This deduction is subject to compliance with the requirements of section 16(2)(c) of the VAT Act.
- b) The amount determined in accordance with section 16(3)(a)(i) of the VAT Act read with paragraph (c) of the definition of “input tax” in section 1 of the VAT Act, does not constitute “gross income” as defined in section 1(1) of the Act nor will it result in any capital gains tax consequences under the Eighth Schedule to the Act.

### **7. Period for which this ruling is valid**

This binding private ruling is valid for a period of five years from 11 September 2024.