VAT RULING: VR 003

DATE: 27 February 2024

ACT : VALUE-ADDED TAX ACT 89 OF 1991 (VAT Act)

SECTION : SECTIONS 17(1) AND 41B

SUBJECT : APPORTIONMENT

Preamble

This value-added tax (VAT) ruling is published with the consent of the Applicant to which it has been issued and is binding only upon SARS and applies only to the Applicant. This ruling is published for general information. It does not constitute a practice generally prevailing.

1. Summary

This ruling approves the method of apportionment being the varied turnover-based method which is applied to a vendor which is a holding company and an investment company.

2. Relevant tax laws

In this ruling, all references to sections hereinafter are to sections of the VAT Act unless otherwise stated. Unless the context indicates otherwise any word or expression in this ruling bears the meaning ascribed to it in the VAT Act.

This ruling concerns the interpretation and application of the following provisions of the VAT Act:

- Section 1(1) – definition of "input tax"
- Section 16
- Section 17(1)

3. Parties to the application

The Applicant is a sizeable investment company with access to larger transactions and increased investment portfolio diversification.

4. Description of the transactions

The Applicant's asset value enable it to develop robust investment platforms in key growth areas, particularly in the infrastructure, media, information and communications technology (ICT), healthcare, resources, power, property and financial services.

The following income streams are received:

- Director fees
- Sundry income
- Management fees; expense recoveries from group companies
- Bank interest
- Invest in short term deposits in terms of the groups treasury policy
- Preference shares dividend

The Commissioner for SARS (the Commissioner) is requested to issue a ruling under section 41B, read with section 17(1), confirming that the Applicant may apply the varied turnover-based method which includes all income streams with the following variations:

Including –

- net interest margin where funds are borrowed to on-lend (Where the cost of funding is higher than the interest received from related party, the interest received should be limited to nil);
- dividends calculated by multiplying the dividends received during the year with the net interest margin (that is, the prime interest rate less JIBAR[1]); and

Excluding –

- interest earned from bank accounts (current, term investment, call and money market accounts which includes the interest earned in respect of funds deposited in terms investments);
- proceeds from disposal of capital investments held for long term investment purposes;

with effect from the commencement of the **2023** financial year.

5. Conditions and assumptions

This VAT ruling is subject to the Standard Terms, Conditions and Assumptions issued by the Commissioner, and the provisions of Chapter 7 of the Tax Administration Act 28 of 2011, excluding sections 79(4)(*f*), (*k*), (6) and 81(1)(*b*).

6. Ruling

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

The Applicant may, for the purpose of determining the ratio to be applied to the VAT incurred relating to mixed expenses[2], apply the varied turnover-based method of apportionment as set out below:

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

[1]zhannesburg Interbank Average Rate.

[2] Refers to expenses incurred partly for making taxable supplies and partly for other non-taxable purposes (for example, exempt supplies or private use).

where –

y = Apportionment ratio/percentage

a = The value of all taxable supplies made during the period

b = The value of all exempt supplies made during the period –

including –

- net interest income (the net interest margin on loans granted to the related parties, should be the greater of –
  - ➢ the actual interest rate charged to the related party less deemed interest expense (JIBAR/ZORONIA), or
  - ➢ Prime Interest Rate less JIBAR/ZORONIA);
- all other interest received from accounts held with financial institutions;

excluding –

- interest received from operating bank account (that is for example the current accounts) held with financial institutions which are used for the day-to-day operations; and

c = The sum of any other amounts of income 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) –

including –

- dividend income received, calculated as follows:
  - ➢ Dividend amount received multiplied with the margin, that is the difference between Prime Interest Rate and JIBAR/ZORONIA.

Note: All income streams should be taken into account when determining the apportionment ratio based on the formula above, except as otherwise provided in the formula. All the other notes in respect of the formula for the standard turnover-based method contained in BGR 16[3] shall apply (where applicable)

The prime interest rate to be used for all the adjustments listed above is the applicable prime interest rate at the end of the financial year.

The JIBAR to be used for all adjustments listed above is the 12-month term rate quoted on the last day of the financial year.

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[3] Binding General Ruling 16 (Issue 2) dated 30 March 2015.

7. Period for which this ruling is valid

This VAT ruling applies only in respect of the transaction(s) set out above and is –

(a) valid from date of issue;

(b) applicable to the financial year commencing on 1 July 2022; and

(c) valid until 30 June 2026.

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