South African Revenue Service

VAT RULING: VR 005

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 subsidiary of an investment holding company in the fuel industry.

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 wholly owned subsidiary of an ultimate investment holding company which is listed on the Johannesburg Stock Exchange.

4. Description of the transactions

The Applicant is responsible for developing, implementing and managing international ventures based on the Applicant’s proprietary technology.

The Applicant is a company which conducts the following activities:

- Rendering of management services
- Technical services

- Administration support services

The following income streams are received:

- Local interest
- Foreign interest
- Joint venture (JV) distributions
- JV charges

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

including –

- JV distributions, limited to management fees charged.

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[1], apply the varied turnover-based method of apportionment as set out below:

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

where –

y = Apportionment ratio/percentage

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

including –

- zero-rated net interest income calculated as the greater of –
  - actual interest rate charged by the Applicant less an imputed interest expense using JIBAR[2] when calculating the cost of borrowings; and
  - Prime Interest Rate less JIBAR;
- include all other interest received from accounts held with offshore financial institutions;

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

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

[2] Johannesburg Interbank Average Rate.

including –

- net interest income calculated as the greater of –
  - actual interest rate charged by the Applicant less an imputed interest expense using JIBAR when calculating the cost of borrowings; and
  - Prime Interest Rate less JIBAR;
- include all other interest received from accounts held with financial institutions;

excluding –

- interest received from current accounts (that is cheque accounts) held with financial institutions which are used for the day-to-day operations;

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 –

- JV distributions received, calculated by averaging the JV distribution income over a period of five years (that is, the current and previous four financial years) and multiplying the averaged JV distribution amount by the margin, that is the difference between the Prime Interest Rate and JIBAR.

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

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

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