VAT RULING: VR 006

DATE: 18 March 2024

**ACT : VALUE-ADDED TAX ACT 89 OF 1991 (the 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 in the asset-based financial services.

## 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 the holding company of various South African (local) and non-South African (foreign) subsidiaries.

## 4. Description of the transactions

In addition to acting as an investment holding company, the Applicant provides administrative support and management services to these various group companies for which it charges fees on an ongoing basis.

The Applicant operates via two divisions, namely a Holdings Division which generally services South African group companies, and the Africa Holdings Division which services other non-South African group companies. The two divisions are separately identifiable, and the financial transactions of each division are separately recorded for accounting purposes.

The following income streams are received:

- Management fees
- Ad hoc fees may be earned from providing guarantees and from expense recoveries charged to group companies
- Dividend income, primarily from ordinary shares it owns in group companies
- In addition, it owns shares in certain non-group companies, and it may from time-to-time own preference shares in group companies
- Interest income from loans provided to certain group companies and other interest-bearing investments
- Interest income earned on current (cheque) accounts, bank call accounts and money market call accounts

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 apportionment method which includes all income streams with the following variations:

including –

- dividend income, limiting to the taxable administrative support and management fees charged during the financial year in question;

excluding –

- interest income earned from bank current accounts;
- amounts distributed as a dividend in specie in terms of any restructuring transaction undertaken by the Applicant,

with effect from the commencement of the 2022 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:

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

[1] 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 (including deemed taxable supplies) made during the period

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

including –

- net trading interest, calculated by deducting an imputed interest expense (based on JIBAR[2]) from total interest received;
- in respect of loans to related parties, net interest is calculated as the greater of –
  - actual interest rate charged by the Applicant less an imputed interest expense using JIBAR; or
  - Prime Interest Rate less JIBAR;

excluding –

- interest received from current accounts (that is, for example, the cheque account) 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 –

- dividends, calculated based on the difference between Prime Interest Rate and JIBAR, multiplied by the dividends received;

excluding –

- dividend *in specie.*

**Notes:**

- The Applicant may continue calculating a separate apportionment ratio for each of its two divisions.
- Where mixed expenses cannot be separately attributed to either of the two divisions, the Applicant must calculate an apportionment ratio, based on the method as set out above for the business as a whole and apply the ratio to the said expenses.

## 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 financial year commencing on 1 January 2022; and

2 Johannesburg Interbank Average Rate.

(c) valid until 31 December 2025.

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