

VAT RULING: VR 017

DATE: 31 March 2026

ACT : VALUE-ADDED TAX ACT 89 OF 1991 (the VAT Act)
SECTION : SECTIONS 8(20), 9(9), 10(22B), 11(1)(a)(i), 16(2)(dA), 16(3)(a)(iii), 41B AND 54(2A)(b)
SUBJECT : VAT TREATMENT OF AUCTIONEERING ARTWORK FOR NON-RESIDENTS

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 the South African Revenue Service (SARS) and applies only to the Applicant. This VAT ruling is published for general information. It does not constitute a practice generally prevailing.

1. Summary

This ruling clarifies the VAT obligations of agents importing goods on behalf of non-resident principals.

2. Relevant tax laws

In this VAT 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 VAT ruling bears the meaning ascribed to it in the VAT Act.

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

- Section 8(20)
- Section 9(9)
- Section 10(22B)
- Section 11(1)(a)(i)
- Section 16(2)(dA)
- Section 16(3)(a)(iii)
- Section 54(2A)(b)

3. Parties to the application

The Applicant is a South African resident private company.

4. **Background and facts**

The Applicant is a fine art auctioneer and art consultant and is a registered vendor for VAT purposes. The Applicant auctions the artwork on behalf of, amongst others, resident and non-resident owners.

The Applicant will enter into an agreement with the owner (non-resident and not registered for VAT) to import the artwork into the Republic and to sell the artwork, on behalf of the owner at one of the Applicant's auctions. The imported artwork is intended to be supplied to customers in the Republic and in some instances, customers outside the Republic.

The value of the artwork on importation is determined by an art specialist who will research the market and then determine a value at which the artwork may sell at auction. In some cases, the final bid on the artwork differs from the estimated value at the time of importation. The Applicant then prepares and submits a voucher of correction (VOC) to adjust the original value of importation to the value as per the auction results. The VOC prepared and issued is also declared on the Applicant's VAT return in the period when the VOC was submitted and taxes due are paid.

5. **Conditions and assumptions**

This VAT ruling is subject to the Standard Terms, Conditions and Assumptions issued by the Commissioner for SARS, 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 binding private ruling issued to the Applicant is as follows:

- (a) The Applicant may deduct input tax on imported artwork under section 54(2A)(b) in respect of goods imported on behalf of a non-resident owner. This is only allowed if the Applicant has the documents required by section 16(2)(dA).
- (b) Under section 8(20) and section 9(9), the Applicant is deemed to supply the artwork at the value under section 10(22B) when the import VAT is paid and not at the time of the auction sale (deemed supply). The VAT Act does not allow for any exceptions or for the Commissioner to have a discretion in this regard.
- (c) The Applicant supplies the artwork as an agent and therefore the supply is under section 54 made by the non-resident owner as principal (the actual supply). Therefore, the Applicant cannot rely on section 11(1)(a)(i) to zero-rate the foreign sales of artwork as it is not a supply made by the Applicant.

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

This VAT ruling applies only in respect of the transaction(s) set out above and is effective from 21 November 2024.