

INTERPRETATION NOTE: NO. 31 (ISSUE 2)

DATE : 30 March 2012
ACT : VALUE-ADDED TAX ACT NO. 89 OF 1991 (the Act)
SECTION : SECTIONS 11(1) AND 11(2), READ WITH SECTION 11(3)
SUBJECT : DOCUMENTARY PROOF REQUIRED FOR THE ZERO-RATING OF GOODS OR SERVICES

Preamble

In this Note unless the context indicates otherwise –

- “**section**” means section of the Act; and
- any word or expression bears the meaning ascribed to it in the Act.

1. Purpose

This Note sets out the documentary proof that is acceptable to the Commissioner in terms of section 11(3), in instances where goods or services are supplied at the zero rate.

2. Background

A basic principle of VAT is that goods or services supplied by a vendor in the course or furtherance of the vendor's enterprise should generally be subject to VAT at the standard rate (that is, 14%). Sections 11(1) and (2), however, make provision for a vendor to supply certain goods or services at the zero rate. In order to zero-rate these supplies, a vendor must also comply with the provision of section 11(3) which requires a vendor to obtain and retain sufficient documentation to substantiate the zero-rating of such supplies.

3. The law

For ease of reference, the relevant sections of the Act, which have to be considered in determining when the zero-rating can be applied, are quoted in **Annexure A**.

4. Application of the law

The provisions of section 11(3), place an obligatory requirement on a vendor to substantiate the zero-rating of the supply of goods or services in terms of section 11(1) and (2).

5. Documentary proof

To substantiate the application of the zero rate to goods or services supplied in terms of section 11(1) and (2), the documentary proof that a vendor is required to obtain and retain in terms of section 11(3), is set in Tables A and B.

5.1 Supply of goods [section 11(1)]

Table A below provides an overview of the documentary proof to be obtained and retained by a vendor in respect of a supply of goods in terms of section 11(1), as well as references to the relevant sections of the Act.

Table A – Vendors making a *supply of goods* in terms of section 11(1)

ITEM	DESCRIPTION OF SUPPLY	DOCUMENTARY PROOF REQUIRED
A	Movable goods as a “direct export” [s 11(1)(a)(i), read with paragraph (a) of the definition of “ <i>exported</i> ” in s 1]	Refer to paragraph 5.1 of Interpretation Note No. 30 (Issue 2) dated 15 March 2006.
B	Goods to foreign-going ship or foreign-going aircraft [s 11(1)(a)(i), read with paragraphs (b) and (c) of the definition of “ <i>exported</i> ” in s 1]	<ul style="list-style-type: none"> a) The vendor’s copy of the zero-rated tax invoice; b) The foreign-going aircraft or foreign-going ship owner’s or charterer’s order or the contract with the vendor; c) Proof that the vendor delivered the goods to the aircraft or ship – i.e. a copy of the dispatch delivery order, with acknowledgement of receipt of the goods by the aircraft’s pilot, ship’s captain or a responsible person appointed by the captain or pilot; d) <u>Proof of export</u> on which the aircraft’s pilot, ship’s captain or a responsible person appointed by the pilot or captain, as the case may be, signed acknowledgement of receipt for the goods; and e) <u>Proof of payment</u>.
C	Movable goods as an “indirect export” [s 11(1)(a)(ii), read with paragraph (d) of the definition of “ <i>exported</i> ” in s 1]	Refer to Part Two of the VAT Export Incentive Scheme. ¹
D	Goods forming part of a repair service supplied in respect of goods temporarily admitted into the Republic of South Africa (the Republic) from an export country [s 11(1)(b) (see also s 11(2)(g)(ii)]	<ul style="list-style-type: none"> a) The vendor’s copy of the zero-rated tax invoice; b) The original <u>VAT262 form</u>, with Parts A to D completed in full; and c) <u>Proof of payment</u>.
E	Goods used exclusively in an export country or in a customs controlled area (CCA) of an industrial development zone (IDZ) [s 11(1)(c)]	<ul style="list-style-type: none"> a) The vendor’s copy of the zero-rated tax invoice; b) A copy of the contract between the lessee or other person and the vendor; c) <u>Proof of payment</u>; and d) In the case of use in an export country: <u>Proof of export or proof that the movable goods are situated outside the Republic at the time of supply</u>; or e) In the case of use in a CCA of an IDZ: The original VAT267 form endorsed by an IDZ

¹ VAT Export Incentive Scheme, published as Notice 2761 of 1998 in *Government Gazette* No. 19471 of 13 November 1998.

ITEM	DESCRIPTION OF SUPPLY	DOCUMENTARY PROOF REQUIRED
		operator when the goods entered the CCA.
F	Goods used exclusively in a business conducted in an export country [s 11(1)(d)]	a) The vendor's copy of the zero-rated tax invoice; b) A copy of the contract between the lessee or other person and the vendor; c) <u>Proof of payment</u> , which must also evidence that the rent or other consideration was effected from the export country where the business operates or trades.
G	Disposal of an enterprise or part thereof as a going concern [s 11(1)(e)]	Refer to paragraph 4.17 of Interpretation Note No. 57 dated 31 March 2010.
H	Gold to the South African Reserve Bank, South African Mint Company (Pty) Ltd or registered banks [s 11(1)(f)]	a) The vendor's copy of the zero-rated tax invoice; b) <u>Proof of payment</u> ; c) A copy of the order or contract from either the South African Reserve Bank, the South African Mint Company (Pty) Ltd or any bank registered under the Banks Act No. 94 of 1990 (the Banks Act); and d) Proof that the gold has been received by either the South African Reserve Bank, the South African Mint Company (Pty) Ltd or any bank registered under the Banks Act.
I	Goods used or consumed for agricultural, pastoral or other farming purposes [s 11(1)(g)]	a) The vendor's copy of the zero-rated tax invoice; and b) A copy of the recipient's Notice of Registration (i.e. the VAT103 form), authorising the recipient to acquire the goods contemplated in Part A of Schedule 2 at the zero rate.
J	Fuel levy goods [s 11(1)(h)]	The vendor's copy of the zero-rated tax invoice.
K	Crude for the purpose of being refined for the production of fuel levy goods [s 11(1)(hA)]	The vendor's copy of the zero-rated tax invoice.
L	Deemed supply of goods consigned or delivered to a branch or main business in an export country [s 11(1)(i)]	Refer to paragraph 5.1 of Interpretation Note No. 30 (Issue 2) dated 15 March 2006.
M	Certain specified foodstuffs [s 11(1)(j)] (Part B of Schedule 2)	The vendor's copy of the zero-rated tax invoice.
N	Gold coins issued by the South African Reserve Bank [s 11(1)(k)]	The vendor's copy of the zero-rated tax invoice.
O	Illuminating kerosene (marked) [s 11(1)(l)]	The vendor's copy of the zero-rated tax invoice which must specify that the illuminating kerosene is marked.

ITEM	DESCRIPTION OF SUPPLY	DOCUMENTARY PROOF REQUIRED
P	Movable goods to a customs <u>controlled area enterprise (CCA)</u> or an IDZ operator in a CCA of an IDZ [s 11(1)(m)]	<ul style="list-style-type: none"> a) The vendor's copy of the zero-rated tax invoice; b) A copy of the order or contract from the <u>CCA</u> or the IDZ operator; c) Proof that the vendor used its own mode of transport or that the vendor paid the transport costs; and d) The original VAT267 form endorsed by an IDZ operator when the goods entered the CCA.
Q	Fixed property situated in a CCA of an IDZ supplied to a <u>CCA</u> or an IDZ operator under any agreement of sale or letting or any other agreement for use or permission to use [s 11(1)(mA)]	<ul style="list-style-type: none"> a) The applicable agreement confirming that the fixed property is situated in a CCA; and b) Proof that the purchaser/lessee is a <u>CCA</u> or an IDZ operator.
R	Any old order right or OP26 right converted into a new right pursuant to the relevant item in the Mineral and Petroleum Resources Development Act No. 28 of 2002 (the MPRD Act) [s 11(1)(n)(i)]	Approval from the Department of Mineral Resources that the old order right or OP26 right has been converted into a new right pursuant to Item 7(3) in Schedule II to the MPRD Act.
S	Disposal of an enterprise or part thereof as a going concern, between separately registered vendors falling within the same legal entity [s 11(1)(p)]	<ul style="list-style-type: none"> a) The vendor's copy of the zero-rated tax invoice; b) A copy of the purchaser's Notice of Registration (i.e. the VAT 103 form); and c) A declaration by the seller confirming the disposal as a going concern.
T	Goods supplied to a person who is not a resident of the Republic and not a vendor (non-resident) and where such goods are delivered to that non-resident's customer who is a vendor in the Republic [s 11(1)(q)]	<ul style="list-style-type: none"> a) The vendor's copy of the zero-rated tax invoice; b) Written confirmation from the non-resident that it is not a resident of the Republic and not a vendor for South African VAT purposes; c) A copy of the non-resident's customer's Notice of Registration (i.e. the VAT103 form); d) A declaration from the non-resident's customer confirming that the goods are to be used wholly for the purpose of consumption, use or supply in the course of making taxable supplies; and e) <u>Proof of payment</u> from the non-resident for the goods.
U	Compensation paid by a public authority in terms of section 19 of the Animal Diseases Act No. 35 of 1984 (the Animal Diseases Act) for the supply of a "controlled animal or thing" to that public authority [s 11(1)(r)]	A document issued to the vendor by the public authority confirming that the compensation is paid in terms of section 19 of the Animal Diseases Act No. 35 of 1984.

ITEM	DESCRIPTION OF SUPPLY	DOCUMENTARY PROOF REQUIRED
V	Goods (being fixed property) supplied to the Minister of the department of Rural Development & Land Reform (previously known as the Minister of Land Affairs) who acquired those goods in terms of the Provision of Land and Assistance Act No. 126 of 1993 (PLA Act), or section 42E of the Restitution of Land Rights Act No. 22 of 1994 [s 11(1)(s)]	<ul style="list-style-type: none"> a) The vendor's copy of the zero-rated tax invoice; b) A copy of the contract of sale or a copy of the Department of Rural Development & Land Reform Form/Notice; and c) <u>Proof of payment.</u>
W	Goods (being fixed property) supplied to a person to the extent that the consideration for those goods is an advance or subsidy granted in terms of the PLA Act [s 11(1)(t)]	<ul style="list-style-type: none"> a) The vendor's copy of the zero-rated tax invoice; b) A copy of the contract of sale or a copy of the Department of Rural Development & Land Reform Form/Notice; and c) <u>Proof of payment</u> to the extent that the payment is received from the Department of Rural Development & Land Reform.
X	Goods, other than the supply of goods by an inbound duty and tax free shop, which have been imported and entered for storage in a licensed Customs and Excise storage warehouse but have not been entered for home consumption [s 11(1)(u)]	<ul style="list-style-type: none"> a) Goods that are supplied and are to be exported from a licensed Customs and Excise storage warehouse to an export country require the following documentation: <ul style="list-style-type: none"> i) the vendor's copy of the zero-rated tax invoice; ii) <u>the recipient's order or the contract between the recipient and the vendor;</u> iii) a copy of the <u>transport document</u> (road manifest); iv) <u>proof of export</u>; and v) <u>proof of payment.</u> b) Goods that are supplied within the licensed Customs and Excise storage warehouse require the following documentation: <ul style="list-style-type: none"> i) the vendor's copy of the zero-rated tax invoice; ii) <u>the recipient's order or the contract between the recipient and the vendor;</u> iii) the relevant Customs documentation; and iv) <u>proof of payment.</u> c) Goods that are supplied from a licensed Customs and Excise storage warehouse to another licensed Customs and Excise storage warehouse require the following documentation: <ul style="list-style-type: none"> i) the vendor's copy of the zero-rated tax invoice; ii) <u>the recipient's order or the contract between the recipient and the vendor;</u> iii) the relevant Customs documentation; iv) a copy of the transporter's tax invoice, and where applicable, proof that the transporter is a licensed remover of goods as prescribed in terms of the Customs and Excise Act; and v) <u>proof of payment.</u>

ITEM	DESCRIPTION OF SUPPLY	DOCUMENTARY PROOF REQUIRED
Y	Goods supplied by an inbound duty and tax-free shop [s 11(1)(v)]	<ul style="list-style-type: none"> a) The vendor's copy of the zero-rated tax invoice; and b) A copy of the monthly consolidated "ex warehouse" entry with the purpose code A14-40; and c) <u>Proof of payment.</u>

5.2 Supply of services [section 11(2)]

Table B below provides an overview of the documentary proof to be obtained and retained by a vendor in respect of a supply of services in terms of section 11(2), as well as references to the relevant sections of the Act.

Table B – Vendors making a supply of services in terms of section 11(2)

ITEM	DESCRIPTION OF SUPPLY	DOCUMENTARY PROOF REQUIRED
A	International transport services in respect of goods [s 11(2)(a)]	<ul style="list-style-type: none"> a) The vendor's copy of the zero-rated tax invoice issued by the supplier of the international transport services; b) A copy of the transport contract and the applicable <u>transport document</u>, indicating the collection and delivery addresses or the point of origin and the point of destination of the transport; c) Proof of delivery of the goods; and d) <u>Proof of payment.</u>
B	International transport services in respect of passengers [s 11(2)(a)]	<ul style="list-style-type: none"> a) The vendor's copy of the zero-rated tax invoice issued by the supplier of the international transport service; and b) A copy of the passenger list issued by the supplier of the international transport service.
C	Domestic air transportation associated with the international carriage by air of passengers [s 11(2)(b)]	<ul style="list-style-type: none"> a) The vendor's copy of the zero-rated tax invoice issued by the supplier of the international transport service; and b) A copy of the passenger list issued by the supplier of the international transport service.
D	Local transport services of goods provided by the same supplier of the international transport services [s 11(2)(c)]	<p>Note: Local transport services provided by a subcontractor to a vendor supplying the services that are zero-rated in terms of this section must levy VAT on services provided at the standard rate – see paragraph 3.1 of VAT Practice Note: No. 10 – 1 October 1991 (PN10).</p> <ul style="list-style-type: none"> a) The vendor's (i.e. the vendor supplying the local and international transport services) copy of the zero-rated tax invoice; b) A copy of the transport contract and the applicable <u>transport document</u>, indicating the collection and delivery addresses or the point of origin and the point of destination of the transport; c) Proof of delivery of the goods; and d) <u>Proof of payment.</u>
E	Insuring or the arranging of the insurance or the arranging of the international	<ul style="list-style-type: none"> a) The vendor's copy of the zero-rated tax invoice; b) A copy of the insurance or transport contracts; and c) In the case of the arranging of international

ITEM	DESCRIPTION OF SUPPLY	DOCUMENTARY PROOF REQUIRED
	transportation of passengers or goods [s 11(2)(d)]	transportation of goods: i) a copy of the <u>transport document</u> ; and ii) proof of delivery of the goods.
F	Certain services comprising the transport of goods or any ancillary transport services supplied directly to a person who is not a resident of the Republic and not a vendor [s 11(2)(e)] (see also paragraphs 3.2 and 4.2 of PN10)	<ul style="list-style-type: none"> a) The vendor's copy of the zero-rated tax invoice; b) <u>The recipient's order or the contract between the recipient and the vendor</u>; c) Written confirmation from the recipient that the recipient is not a resident of the Republic and not a vendor for South African VAT purposes; d) <u>Proof of payment</u>; and e) In the case of services comprising the transport of goods but excluding ancillary transport services: <ul style="list-style-type: none"> i) a copy of the applicable South African Revenue Service (SARS) Customs <u>proof of export</u>, proof of import or proof of transshipment document; and ii) a copy of the <u>transport document</u>.
G	Services supplied directly in connection with land or improvements to land in an export country [s 11(2)(f)]	<ul style="list-style-type: none"> a) The vendor's copy of the zero-rated tax invoice; and b) <u>The recipient's order or the contract between the recipient and the vendor</u>, confirming that the land is situated in an export country.
H	<p>Services supplied that relate to [s 11(2)(g)]:</p> <ul style="list-style-type: none"> a) movable property situated in an export country, or b) certain movable goods temporarily admitted into the Republic from an export country [see also s 11(1)(b)], or c) movable goods supplied to a "<i>foreign-going ship</i>" or a "<i>foreign going aircraft</i>" for use or consumption in such ship or aircraft; or d) repair, maintenance, cleaning or re-conditioning of a "<i>foreign-going ship</i>" or a "<i>foreign-going aircraft</i>" 	<ul style="list-style-type: none"> a) The vendor's copy of the zero-rated tax invoice; b) The recipient's order or contract between the recipient and the vendor; and c) Section 11(2)(g)(i): Confirmation from the recipient that the movable property was situated in an export country at the time that the services were rendered, if this is not stated in the order or contract; or d) Section 11(2)(g)(ii): <ul style="list-style-type: none"> i) in respect of goods entered under Item No's 470.02/00.00/01.00 and 470.02/00.00/02.00 in paragraph 8 of Schedule 1: the original <u>VAT262 form</u>, with Parts A to D fully completed; or ii) in respect of goods entered under all the other Item No's under Item No's 470.00 or 480.00 in paragraph 8 of Schedule 1: a copy of the import or removal documentation, as prescribed in terms of the Customs and Excise Act reflecting the temporary admittance of the goods into the Republic; or e) Section 11(2)(g)(iv): particulars of the foreign-going aircraft/foreign-going ship (i.e. make/type, name, registration number and country of registration) furnished by the recipient, where not stated in the recipient's order or contract between the recipient and the vendor.
I	Certain services rendered to a person who is not a resident of the Republic and is not a vendor where the services are in connection	<ul style="list-style-type: none"> a) The vendor's copy of the zero-rated tax invoice; b) The recipient's order or contract between the recipient and the vendor; c) Written confirmation from the recipient that the recipient is not a resident of the Republic and not a

ITEM	DESCRIPTION OF SUPPLY	DOCUMENTARY PROOF REQUIRED
	with a “foreign-going ship” or a “foreign-going aircraft” or temporarily imported containers [s 11(2)(h)]	<p>vendor for South African VAT purposes where not stated in the recipient’s order or contract between the recipient and the vendor; and</p> <p>d) Section 11(2)(h)(i): Written confirmation from the recipient that the ship or aircraft is a “foreign-going ship” or a “foreign-going aircraft” as defined in section 1; or</p> <p>e) Section 11(2)(h)(ii): Written confirmation from the recipient that the ship or aircraft is a “foreign-going ship” or a “foreign-going aircraft” as defined in section 1.</p>
J	Arranging of certain services for a person who is not a resident of the Republic and is not a vendor [s 11(2)(i)]	<p>a) The vendor’s copy of the zero-rated tax invoice;</p> <p>b) <u>The recipient’s order or the contract between the recipient and the vendor;</u> and</p> <p>c) Written confirmation from the purchaser that the recipient is not a resident of the Republic and not a vendor for South African VAT purposes, where not stated in the recipient’s order or contract between the recipient and the vendor.</p>
K	Repair, maintenance, cleaning or reconditioning of railway trains operated by a person who is not a resident of the Republic and is not a vendor [s 11(2)(j)]	<p>a) The vendor’s copy of the zero-rated tax invoice;</p> <p>b) <u>The recipient’s order or the contract between the recipient and the vendor;</u> and</p> <p>c) Written confirmation from the purchaser that the recipient is not a resident of the Republic and is not a vendor for South African VAT purposes, where not stated in the recipient’s order or contract between the recipient and the vendor.</p>
L	Services physically rendered in an export country or to a <u>CCA</u> or an IDZ operator in a CCA of an IDZ [s 11(2)(k)]	<p>a) The vendor’s copy of the zero-rated tax invoice;</p> <p>b) <u>The recipient’s order or the contract between the recipient and the vendor;</u></p> <p>c) A copy of the vendor’s passport bearing a stamp of entry into the export country; and</p> <p>d) Services physically rendered to a <u>CCA</u> or an IDZ operator in a CCA of an IDZ: The original page of the VAT267 form endorsed by an IDZ operator to evidence the entry and exit of the vendor or the vendor’s employee into and out of a CCA of an IDZ, in order to perform the services.</p>
M	Certain services supplied to a person who is not a resident of the Republic [s 11(2)(l)]	<p>a) The vendor’s copy of the zero-rated tax invoice;</p> <p>b) <u>The recipient’s order or the contract between the recipient and the vendor;</u></p> <p>c) Written confirmation from the recipient that the recipient is not a resident of the Republic, where not stated in the recipient’s order or contract between the recipient and the vendor; and</p> <p>d) Section 11(2)(l)(ii)(aa): i) <u>proof of export;</u> and ii) a copy of the relevant <u>transport document;</u> or</p> <p>e) Section 11(2)(l)(ii)(bb): i) a copy of the non-resident’s local recipient’s Notice of Registration (i.e. the VAT103 form); and ii) a copy of the non-resident’s local recipient’s order or the contract between the non-resident and the</p>

ITEM	DESCRIPTION OF SUPPLY	DOCUMENTARY PROOF REQUIRED
		non-resident's local recipient.
N	Services connected with intellectual property rights for use outside the Republic [s 11(2)(m)]	<ul style="list-style-type: none"> a) The vendor's copy of the zero-rated tax invoice; and b) A copy of the contract between the vendor and the recipient, wherein the parties agree in writing on the extent to which the rights are for use outside the Republic.
O	Grants paid by public authorities or municipalities to welfare organisations [s 11(2)(n)]	<ul style="list-style-type: none"> a) Proof that the public authority or municipality paid a grant to a welfare organisation, for example a copy of the agreement or other applicable document; b) The welfare organisation's (grantee's) copy of the zero-rated tax invoice where applicable; and c) Proof that the payment is from the public authority or municipality.
P	Services supplied to a branch or main business situated in an export country [s 11(2)(o)]	<ul style="list-style-type: none"> a) The vendor's copy of the zero-rated tax invoice; b) The branch or main business's order or the contract between the branch or main business and the vendor; and c) Section 11(2)(o)(ii)(aa): proof of export; or d) Section 11(2)(o)(ii)(bb): <ul style="list-style-type: none"> i) a copy of the branch or main business's local recipient's Notice of Registration for VAT purposes (i.e. the VAT103 form); and ii) a copy of the main business's local recipient's order or the contract between the branch or main business and the branch or main business's local recipient.
Q	Services supplied by a foreign donor funded project, being a vendor, to an international donor [s 11(2)(q)]	<ul style="list-style-type: none"> a) The foreign donor funded project's (grantee's) copy of the zero-rated tax invoice; and b) A copy of the agreement or other applicable documentation/correspondence in respect of which international donor funding was received.
R	Services of vocational training provided to employees of an employer who is not a resident of the Republic and not a vendor [s 11(2)(r)]	<ul style="list-style-type: none"> a) The vendor's copy of the zero-rated tax invoice; b) The recipient's order or a contract between the recipient and the vendor; and c) Written confirmation from the recipient that the recipient is not a resident of the Republic and not a vendor for South African VAT purposes, where not stated in the recipient's order or contract between the recipient and the vendor.
S	Grants paid by public authorities or municipalities to a vendor in terms of an approved national housing scheme [s 11(2)(s)]	<ul style="list-style-type: none"> a) A copy of the agreement or any other applicable documentation/correspondence between the vendor and the public authority or municipality pertaining to the payment that is made in terms of an approved national housing scheme; and b) Proof that the payment is from a public authority or a municipality.
T	Grants paid by certain public authorities, municipalities or	<ul style="list-style-type: none"> a) The vendor's copy of the zero-rated tax invoice, where applicable;

ITEM	DESCRIPTION OF SUPPLY	DOCUMENTARY PROOF REQUIRED
	constitutional institutions to or on behalf of vendors [s 11(2)(t)]	b) A copy of the agreement or any other applicable documentation/correspondence between the vendor and the public authority, municipality or constitutional institution pertaining to the payment of the grant; and c) Proof that the payment is from a public authority, municipality or constitutional institution.
U	Services deemed to be supplied by a designated entity to a public authority or municipality in respect of a payment received in terms of the Skills Development Act No. 97 of 1998 (the Skills Development Act) [s 11(2)(u)]	A copy of any applicable documentation/correspondence in respect of the payment made in terms of the Skills Development Act.
V	Services relating to goods supplied under warranty by a warrantor who is not a resident of the Republic and is not a vendor [s 11(2)(v)]	a) The vendor's copy of the zero-rated tax invoice; b) A copy of the warranty agreement or any other documentation setting out the terms of the warranty and the warrantor's particulars; and c) Written confirmation from the warrantor that the warrantor is not a resident of the Republic and not a vendor for South African VAT purposes, where not stated in the copy of the warranty agreement or any other relevant documentation.
W	Municipal rates levied by a municipality [s 11(2)(w)]	The municipality's copy of the tax invoice reflecting the municipal rates levied at the zero rate.
X	Services supplied by the owner of a horse, being a vendor, to the operator of a horse-racing event to the extent of any consideration paid as a result of the successful participation of that horse in that event [s 11(2)(x)]	a) The vendor's copy of the zero-rated tax invoice; b) A copy of the remittance advice/statement issued by the operator of the horse-racing event; and c) <u>Proof of payment.</u>

6. Conclusion

The documentation referred to above is, for the purposes of section 11(3), the documentation that is acceptable to the Commissioner and which must be obtained and retained by the vendor in order to apply the zero rate in terms of the provisions of section 11(1) or 11(2) in respect of a supply of goods or services. A vendor making a zero-rated supply must be in possession of the applicable documentary proof within a period of two months calculated from the earlier of the time an invoice is issued by the supplying vendor or the time any payment of consideration is received by the supplying vendor in respect of the supply, except where a supply of goods is made in terms of section 11(1)(a)(i), read with paragraph (a) of the definition of "exported" in

section 1² and section 11(1)(a)(i)(aa), read with paragraph (d) of the definition of “exported” in section 1³.

In the event that the vendor is not in possession of the applicable documentary proof within the two-month period, subject to the aforementioned exceptions, the vendor must account for output tax by applying the tax fraction to the consideration [that is, the consideration is deemed to include VAT in terms of section 64(1)]. This does not apply in respect of supplies that would have been exempt from VAT in terms of section 12 had it not been zero-rated in terms of section 11 (for example, the supply of financial services to a person who is not a resident of the Republic). These supplies will revert to being exempt. The rate of tax applicable to the adjustment is the rate of tax in force at the time of supply.

A vendor who does not have all the documentary proof required, may, before the expiry of the two-month period mentioned above submit a written application for a VAT ruling, in terms of section 41B, to request the Commissioner to consider the circumstances of that vendor and to determine whether the alternative documentary proof obtained by the vendor would be acceptable.

Section 37 places on the vendor, the burden of proof to retain documentation to substantiate the vendor’s entitlement to apply the zero rate to the supply of goods or services.

Legal and Policy Division
SOUTH AFRICAN REVENUE SERVICE
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² Refer to Interpretation Note No. 30 (Issue 2) dated 15 March 2006.

³ Refer to the VAT Export Incentive Scheme.

Annexure A – The law

Section 1 – Definition of “exported”

“**exported**”, in relation to any movable goods supplied by any vendor under a sale or an instalment credit agreement, means—

- (a) consigned or delivered by the vendor to the recipient at an address in an export country as evidenced by documentary proof acceptable to the Commissioner; or
- (b) delivered by the vendor to the owner or charterer of any foreign-going ship contemplated in paragraph (a) of the definition of “foreign-going ship” or to a foreign-going aircraft when such ship or aircraft is going to a destination in an export country and such goods are for use or consumption in such ship or aircraft, as the case may be; or
- (c) delivered by the vendor to the owner or charterer of any foreign-going ship contemplated in paragraph (b) of the definition of “foreign-going ship” for use in such ship; or
- (d) removed from the Republic by the recipient for conveyance to an export country in accordance with the provisions of an export incentive scheme approved by the Minister;

Section 1 – Definition of “tax invoice”

“**tax invoice**”, means a document as required by section 20;

Section 11(1) – Zero-rating of supplies of goods

Where, but for this section, a supply of goods would be charged with tax at the rate referred to in section 7 (1), such supply of goods shall, subject to compliance with subsection (3) of this section, be charged with tax at the rate of zero per cent where—

- (a) the supplier has supplied the goods (being movable goods) in terms of a sale or instalment credit agreement and—
 - (i) the supplier has exported the goods in the circumstances contemplated in paragraph (a), (b) or (c) of the definition of “exported” in section 1; or
 - (ii) the goods have been exported by the recipient and the supplier has elected to supply the goods at the zero rate as contemplated in Part 2 of an export incentive scheme referred to in paragraph (d) of the definition of “exported” in section 1: Provided that—
 - (aa) where a supplier has supplied the goods to the recipient in the Republic otherwise than in terms of this subparagraph, such supply shall not be charged with tax at the rate of zero per cent; and
 - (bb) where the goods have been removed from the Republic by the recipient in accordance with the provisions of an export incentive scheme referred to in paragraph (d) of the definition of “exported” in section 1, such tax shall be refunded to the recipient in accordance with the provisions of section 44(9); or
- (b) the goods have been supplied in the course of repairing, renovating, modifying, or treating any goods to which subsection (2)(g)(ii) or (iv) refers and the goods supplied—
 - (i) are wrought into, affixed to, attached to or otherwise form part of those other goods; or
 - (ii) being consumable goods, become unusable or worthless as a direct result of being used in that repair, renovation, modification or treatment process; or

- (c) the goods (being movable goods) are supplied to a lessee or other person under a rental agreement, charter party or agreement for chartering, if the goods are used exclusively in an export country or by a customs controlled area enterprise or an IDZ operator in a customs controlled area: Provided that this subsection shall not apply where a "motor car" as defined in section 1 is supplied to a person located in a customs controlled area;
- (d) the goods (being movable goods) are supplied to a lessee or other person under a rental agreement, charter party or agreement for chartering, if those goods are used by that lessee or other person exclusively in any commercial, financial, industrial, mining, farming, fishing or professional concern conducted in an export country and payment of rent or other consideration under that agreement is effected from such export country; or
- (e) the supply is to a registered vendor of an enterprise or of a part of an enterprise which is capable of separate operation, where the supplier and the recipient have agreed in writing that such enterprise or part, as the case may be, is disposed of as a going concern: Provided that—
 - (i) such enterprise or part, as the case may be, shall not be disposed of as a going concern unless—
 - (aa) such supplier and such recipient have, at the time of the conclusion of the agreement for the disposal of the enterprise or part, as the case may be, agreed in writing that such enterprise or part, as the case may be, will be an income-earning activity on the date of transfer thereof; and
 - (bb) the assets which are necessary for carrying on such enterprise or part, as the case may be, are disposed of by such supplier to such recipient; and
 - (cc) in respect of supplies on or after 1 January 2000, such supplier and such recipient have at the time of the conclusion of the agreement for the disposal of such enterprise or part, as the case may be, agreed in writing that the consideration agreed upon for that supply is inclusive of tax at the rate of zero per cent;
 - (ii) where the enterprise or part, as the case may be, disposed of as a going concern has been carried on in, on or in relation to goods or services applied mainly for purposes of such enterprise or part, as the case may be, and partly for other purposes, such goods or services shall, where disposed of to such recipient, for the purposes of this paragraph and section 18A be deemed to form part of such enterprise or part, as the case may be, notwithstanding the provisions of paragraph (v) of the proviso to the definition of "enterprise" in section 1; or
- (f) the supply is to the South African Reserve Bank, the South African Mint Company (Proprietary) Limited or any bank registered under the Banks Act, 1990 (Act No. 94 of 1990), of gold in the form of bars, blank coins, ingots, buttons, wire, plate or granules or in solution, which has not undergone any manufacturing process other than the refining thereof or the manufacture or production of such bars, blank coins, ingots, buttons, wire, plate, granules or solution; or
- (g) the supply is of such goods used or consumed for agricultural, pastoral or other farming purposes as are set forth in Part A of Schedule 2, provided such supply is made in compliance with such conditions as may be prescribed in the said Part; or
- (h) the goods consist of fuel levy goods referred to in Fuel Item Levy numbers 195.10.03, 195.10.17, 195.20.01 and 195.20.03 in Part 5A of Schedule No. 1 to the Customs and Excise Act; or
- (hA) the goods consist of petroleum oil and oils obtained from bituminous minerals, known as crude, referred to in Heading No. 27.09 in Chapter 27 of Part 1 of Schedule No. 1 to the Customs and Excise Act when supplied for the purpose of being refined for the production of fuel levy goods as defined in section 1 of the Customs and Excise Act; or
- (hB)

- (i) the goods are supplied as contemplated in section 8(9);
- (j) the goods consist of such foodstuffs as are set forth in Part B of Schedule 2, but subject to such conditions as may be prescribed in the said Part; or
- (k) the goods are gold coins supplied as such and which the Reserve Bank has issued in the Republic in accordance with the provisions of section 14 of the South African Reserve Bank Act, 1989 (Act No. 90 of 1989), or which remain in circulation as contemplated in the proviso to subsection (1) of that section; or
- (l) the goods consist of illuminating kerosene (marked) intended for use as fuel for illuminating or heating, referred to in Fuel Item Levy number 195.10.13 in Part 5A of Schedule No. 1 to the Customs and Excise Act and are not mixed or blended with another substance; or
- (m) a vendor supplies movable goods, (excluding any "motor car" as defined in section 1), in terms of a sale or instalment credit agreement to a customs controlled area enterprise or an IDZ operator and those goods are physically delivered to that customs controlled area enterprise or IDZ operator in a customs controlled area either—
 - (i) by the supplier; or
 - (ii) by a VAT registered cartage contractor, whose main activity is that of transporting goods and who is engaged by the supplier to deliver the goods and that supplier is liable for the full cost relating to that delivery;
- (mA) a vendor supplies fixed property situated in a customs controlled area to a customs controlled area enterprise or an IDZ operator under any agreement of sale or letting or any other agreement under which the use or permission to use such fixed property is granted;
- (n) the goods consist of—
 - (i) any old order right or OP26 right as defined in Schedule II of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), converted into a new right pursuant to item 7(3) of that Schedule if that supply is made pursuant to that conversion; or
 - (ii);
- (o)
- (p) (i) the supply of an enterprise or part of an enterprise as a going concern, by a vendor to that vendor's branch or division, which branch or division is separately registered in terms of section 50(2): Provided that that enterprise or part, as the case may be, shall not be disposed of as a going concern unless—
 - (aa) that enterprise or part is capable of separate operation; and
 - (bb) will be an income-earning activity on the date of transfer thereof; and
 - (cc) a tax invoice issued in accordance with section 20 in relation to that supply is inclusive of tax at the rate of zero per cent; or
 (ii) the supply of an enterprise, branch or division, as contemplated in section 50(2), as a going concern to a separately registered enterprise of that vendor: Provided that that enterprise or part, as the case may be, shall not be disposed of as a going concern unless—
 - (aa) that enterprise or part is capable of separate operation; and
 - (bb) will be an income-earning activity on the date of transfer thereof; and
 - (cc) a tax invoice issued in accordance with section 20 in relation to that supply is inclusive of tax at the rate of zero per cent;
- (q) the goods—
 - (i) are supplied by a vendor to a person who is not a resident of the Republic and not a vendor and who has contracted with that vendor to deliver goods to a recipient, who is a vendor in the Republic; and

- (ii) form part of a supply by the person referred to in paragraph (i) to the recipient; and
- (iii) are used by the recipient wholly for the purposes of consumption, use or supply in the course of making taxable supplies; or
- (r) compensation is paid by a public authority in terms of section 19 of the Animal Diseases Act, 1984 (Act No. 35 of 1984) for the supply of a "controlled animal or thing" as defined in that Act to that public authority:
- (s) the goods (being fixed property) are supplied to the Minister of Land Affairs who acquired those goods in terms of the Provision of Land and Assistance Act, 1993 (Act No. 126 of 1993), or section 42E of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994); or
- (t) the goods (being fixed property) are supplied to a person to the extent that the consideration for those goods is an advance or subsidy granted in terms of the Provision of Land and Assistance Act, 1993 (Act No. 126 of 1993); or
- (u) the supply of goods, other than the supply of goods by an inbound duty and tax free shop, which have been imported and entered for storage in a licensed Customs and Excise storage warehouse but have not been entered for home consumption; or
- (v) the supply of goods by an inbound duty and tax free shop.

Provided that paragraphs (a), (b), (c), (d) and (i) of this subsection shall not apply in respect of any supply of goods by a vendor if in respect of such goods input tax contemplated in paragraph (b) of the definition of "input tax" in section 1 has been deducted in terms of section 16(3) by that vendor or any other person where that vendor and that other person are connected persons.

Section 11(2) – Zero-rating of supplies of services

Where, but for this section, a supply of services would be charged with tax at the rate referred to in section 7(1), such supply of services shall, subject to compliance with subsection (3) of this section, be charged with tax at the rate of zero per cent where—

- (a) the services (not being ancillary transport services) comprise the transport of passengers or goods—
 - (i) from a place outside the Republic to another place outside the Republic; or
 - (ii) from a place in the Republic to a place in an export country; or
 - (iii) from a place in an export country to a place in the Republic; or
- (b) the services comprise the transport of passengers from a place in the Republic to another place in the Republic to the extent that that transport is by aircraft and constitutes "international carriage" as defined in Article 1 of the Convention set out in the Schedule to the Carriage by Air Act, 1946 (Act No. 17 of 1946); or
- (c) the services (including any ancillary transport services) comprise the transport of goods from a place in the Republic to another place in the Republic to the extent that those services are supplied by the same supplier as part of the supply of services to which paragraph (a) applies; or
- (d) the services comprise the insuring or the arranging of the insurance or the arranging of the transport of passengers or goods to which any provision of paragraph (a), (b) or (c) applies; or
- (e) the services comprise the transport of goods or any ancillary transport services supplied directly in connection with the exportation from or the importation into the Republic of goods or the movement of goods through the Republic from one export country to another export country, where such services are supplied directly to a person who is not a resident of the Republic and is not a vendor, otherwise than through an agent or other person; or

- (f) the services are supplied directly in connection with land, or any improvement thereto, situated in any export country; or
- (g) the services are supplied directly in respect of—
 - (i) movable property situated in any export country at the time the services are rendered; or
 - (ii) goods temporarily admitted into the Republic from an export country which are exempt from tax on importation under Items 470 and 480 of paragraph 8 of Schedule 1; or
 - (iii) goods in respect of which the provisions of paragraph (b) or (c) of the definition of “exported” in section 1 apply; or
 - (iv) the repair, maintenance, cleaning or reconditioning of a foreign-going ship or foreign-going aircraft; or
- (h) the services comprise—
 - (i) the handling, pilotage, salvage or towage of any foreign-going ship or foreign-going aircraft while situated in the Republic; or
 - (ii) services provided in connection with the operation or management of any foreign-going ship or foreign-going aircraft; or
 - (iii) the storage, repair, maintenance, cleaning, management or arranging the provision of a container referred to in paragraph (1)(i) of Schedule 1 or the arranging of those services,

where the services are supplied directly to a person who is not a resident of the Republic and is not a vendor, otherwise than through an agent or other person; or
- (i) the services of arranging—
 - (i) the supply of goods as contemplated in paragraph (b) or (c) of the definition of “exported”; or
 - (ii) the supply of services referred to in paragraph (g)(iv) or (h); or
 - (iii) the transport of goods (including ancillary transport services) within the Republic, for a person who is not a resident of the Republic and is not a vendor; or
- (j) the services comprise the repair, maintenance, cleaning or reconditioning of a railway train operated by a person who is not a resident of the Republic and is not a vendor; or
- (k) the services are physically rendered elsewhere than in the Republic or to a customs controlled area enterprise or an IDZ operator in a customs controlled area; or
- (l) the services are supplied to a person who is not a resident of the Republic, not being services which are supplied directly—
 - (i) in connection with land or any improvement thereto situated inside the Republic; or
 - (ii) in connection with movable property (excluding debt securities, equity securities or participatory securities) situated inside the Republic at the time the services are rendered, except movable property which—
 - (aa) is exported to the said person subsequent to the supply of such services; or
 - (bb) forms part of a supply by the said person to a registered vendor and such services are supplied to the said person for purposes of such supply to the registered vendor; or
 - (i) to the said person or any other person, other than in circumstances contemplated in subparagraph (ii)(bb), if the said person or such other person is in the Republic at the time the services are rendered,

and not being services which are the acceptance by any person of an obligation to refrain from carrying on any enterprise, to the extent that the carrying on of that enterprise would have occurred within the Republic; or

- (m) the services comprise—
- (i) the filing, prosecution, granting, maintenance, transfer, assignment, licensing or enforcement, including the incidental supply by the supplier of such services of any other services which are necessary for the supply of such services, of intellectual property rights, including patents, designs, trade marks, copyrights, know-how, confidential information, trade secrets or similar rights; or
 - (ii) the acceptance by any person of an obligation to refrain from pursuing or exercising in whole or in part any such rights, where and to the extent that those rights are for use outside the Republic; or
- (n) the services comprise the carrying on by a welfare organisation of the activities referred to in the definition of "welfare organisation" in section 1 and to the extent that any payment in respect of those services is made in terms of section 8(5) those services shall be deemed to be supplied by that organisation to a public authority or municipality; or
- (o) the services are supplied as contemplated in section 8(9) by a vendor, not being services which are supplied directly—
- (i) in connection with land or any improvements thereto situated inside the Republic; or
 - (ii) in connection with movable property (excluding debt securities, equity securities or participatory securities) situated inside the Republic at the time the services are rendered, except movable property which—
 - (aa) is consigned or delivered to the said person at an address in an export country subsequent to the supply of such services; or
 - (bb) forms part of a supply by the said person to a registered vendor and such services are supplied to the said person for purposes of such supply to the registered vendor; or
 - (i) to the said person or any other person, other than in the circumstances contemplated in subparagraph (ii)(bb), if the said person or such other person is in the Republic at the time that the services are rendered; or
- (p)
- (q) the services are deemed to be supplied in terms of section 8(5B);
- (r) the services comprise of the vocational training of employees (other than educational services contemplated in section 12(h)) for an employer who is not a resident of the Republic and who is not a vendor; or
- (s) the services are deemed to be supplied to a public authority or municipality in terms of section 8(23); or
- (t) the services are deemed to be supplied in terms of section 8(5A); or
- (u) the services are deemed to be supplied in terms of section 8(5) by a designated entity in respect of any payment made in terms of section 10(1)(f) of the Skills Development Act, 1998 (Act No. 97 of 1998), to that designated entity; or
- (v) the services relate to goods under warranty to the extent that the services are—
- (i) provided in terms of that warranty;
 - (ii) supplied to the warrantor for consideration under that warranty given by the warrantor who is—
 - (aa) not a resident of the Republic;
 - (bb) not a vendor; and
 - (cc) outside the Republic at the time the services are rendered; and

- (i) in respect of goods that were subject to tax upon importation (in terms of section 7(1)(b) of this Act); or
- (w) a “municipal rate” as defined in section 1, is levied by a municipality; or
- (x) the services are supplied by a vendor, being the owner of a horse, to the operator of a horse-racing event to the extent of any consideration paid as a result of the successful participation of that horse in that event.

Section 11(3) – Documentary proof to substantiate a vendor applying the zero rate

Where a rate of zero per cent has been applied by any vendor under a provision of this section, the vendor shall obtain and retain such documentary proof substantiating the vendor’s entitlement to apply the said rate under that provision as is acceptable to the Commissioner.

Section 20 – Tax invoices

(4) Except as the Commissioner may otherwise allow, and subject to this section, a tax invoice (full tax invoice) shall be in the currency of the Republic and shall contain the following particulars:

- (a) The words “tax invoice” in a prominent place;
- (b) The name, address and VAT registration number of the supplier;
- (c) The name, address, where the recipient is a registered vendor, the VAT registration number of the recipient;
- (d) An individual serialised number and the date upon which the tax invoice is issued;
- (e) Full and proper description of the goods (indicating, where applicable, that the goods are second-hand goods) or services supplied;
- (f) the quantity or volume of the goods or services supplied;
- (g) either—
 - (i) the value of the supply, the amount of tax charged and the consideration for the supply; or
 - (ii) where the amount of tax charged is calculated by applying the tax fraction to the consideration, the consideration for the supply and either the amount of the tax charged, or a statement that it includes a charge in respect of the tax and the rate at which the tax was charged:

Provided that the requirement that the consideration or the value of the supply, as the case may be, shall be in the currency of the Republic shall not apply to a supply that is charged with tax under section 11.

(5) Notwithstanding anything in subsection (4), where the consideration in money for a supply does not exceed R3 000, a tax invoice (abridged tax invoice) shall be in the currency of the Republic and shall contain the particulars specified in that subsection or the following particulars:

- (a) The words “tax invoice” in a prominent place;
- (b) The name, address and VAT registration number of the supplier;
- (c) An individual serialised number and the date upon which the tax invoice is issued;
- (d) A description of the goods (indicating, where applicable, that the goods are second-hand goods) or services supplied;

- (e) either—
- (i) the value of the supply, the amount of tax charged and the consideration for the supply; or
 - (ii) where the amount of tax charged is calculated by applying the tax fraction to the consideration, the consideration for the supply and either the amount of the tax charged, or a statement that it includes a charge in respect of the tax and the rate at which the tax was charged:

Provided that this subsection shall not apply to a supply that is charged with tax under section 11.

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Annexure B – Glossary

For the purposes of this Note, the following words and phrases have the meaning as described below:

A computer-generated release notification reflecting the minimum of the following:

- The vendor's name; the recipient's name; the vendor's invoice number, date and the value of the goods supplied; the customs code number and the final release number, final release date and time, where –
 - the customs code number is the eight digit number issued by SARS to registered agents, importers and exporters; and
 - the final release number and final release date and time are as received via an electronically submitted release notification.

A copy of the airfreight transport document, which must, amongst others, reflect the flight number, the date and the place of departure, includes –

- an air waybill;

A copy of the sea freight transport document duly stamped where applicable or endorsed that the goods have been shipped on board, which must, amongst others, reflect the vessel's name, the date and the place of departure, includes –

- a bill of lading;
- a waybill etc.

Customs Controlled Area Enterprise (CCAEE) is either a –

- “CCAEE Rebate Manufacturer” being a CCAEE operating a licensed Customs and Excise manufacturing warehouse in a CCA of an IDZ; or
- “CCAEE Rebate Stockist” being a CCAEE operating a special licensed Customs and Excise warehouse in order to supply registered rebate manufacturers with rebated goods.

Proof of export refers to the documentary proof as required by Interpretation Note No. 30 (Issue 2) dated 15 March 2006 or the VAT Export Incentive Scheme and includes –

- (a) where export or removal documentation, as prescribed in terms of the Customs and Excise Act, is processed manually/by disk –
 - (aa) a copy of the export or removal documentation, bearing a SARS Customs date stamp where applicable; **and**
 - (bb) where movable goods were previously stopped by SARS Customs, a copy of the application for the release of such goods.

or

- (b) where export or removal documentation, as prescribed in terms of the Customs and Excise Act, is processed as an “Electronic Data Interchange” declaration –
 - (aa) a copy of the export or removal documentation; **or**
 - (bb) a copy of the customs release notification; **or**
 - (cc) a copy of a computer generated release notification; **and**
 - (dd) where movable goods were previously stopped by SARS Customs, a copy of the application for the release of such goods.

Proof of payment, includes –

- where forex is the means of payment, the Exchange Control declaration form from the South African Reserve Bank;
- proof of a bank deposit, details of a cheque payment or confirmation of an electronic bank transfer;
- in respect of a loan account, depending on whose loan account, the crediting or debiting thereof; or
- a supply of goods, i.e. a barter transaction.

Proof that the movable goods are situated outside the Republic at the time of supply, includes –

- a transport document, e.g. a document indicating, amongst others, the country of despatch and the country of receipt.

The recipient's order or the contract between the recipient and the vendor includes –

- telephone and email orders; or
- picking slips generated as a result of a telephonic order by the customer;

Transport document, includes –

- a road transport contract;
- a copy of the sea freight transport document;
- a copy of the airfreight transport document;
- a Post Office receipt;
- a railway consignment note, etc, and

VAT262 form –

is a SARS form which must be completed by an importer at the time of importation in order for a vendor to levy VAT at the zero rate in respect of services supplied directly to goods temporarily admitted into the Republic from an export country, for the purposes of being repaired or serviced.