

INTERPRETATION NOTE: NO. 49 (ISSUE 2)

DATE : 13 March 2013

ACT : VALUE-ADDED TAX ACT NO. 89 OF 1991 (the VAT Act)
SECTION : SECTION 1(1), DEFINITION OF THE TERM “INPUT TAX” READ WITH SECTIONS 16(2) AND 16(3)
SUBJECT : DOCUMENTARY PROOF REQUIRED IN TERMS OF SECTION 16(2) TO SUBSTANTIATE A VENDOR’S ENTITLEMENT TO “INPUT TAX” OR A DEDUCTION AS CONTEMPLATED IN SECTION 16(3)

1. Purpose

This Note provides guidelines on the documentary proof that must be obtained and retained under section 16(2) to substantiate a vendor’s entitlement to “input tax” as defined in section 1(1), or a deduction as contemplated in section 16(3)(c) to (n).

2. Background

Value-added tax (VAT) is aimed at taxing final consumption. As a result, where a vendor acquires goods or services for purposes of consumption, use or supply in the course of making taxable supplies, that vendor is entitled, subject to the provisions of sections 16(2), 16(3), 17(1), 17(2) and 20 to deduct from the amount of output tax –

- the VAT paid in respect of a taxable supply made to that vendor;
- an amount equal to the tax fraction of any payment made by the vendor in respect of second-hand goods. For the period prior to 10 January 2012, the deduction of input tax was, in respect of second-hand goods which consist of “fixed property” as defined, limited to the amount of transfer duty or stamp duty paid;
- an amount equal to the tax fraction of the outstanding cash value in respect of goods repossessed by the vendor under an instalment credit agreement; or
- a deduction as contemplated in sections 16(3)(c) to (n).

3. The law

For ease of reference, the relevant sections of the VAT Act are quoted in the **Annexure**.

4. Application of the law

Section 16(2) highlights one of the important characteristics of VAT, being the obtaining and retaining of documentation to facilitate a proper audit trail in respect of a self-assessment tax. In this regard, sections 16(2)(a) to (e) specify the documentation that a vendor must be in possession of when deducting input tax in terms of sections 16(3)(a) and (b). Failure to obtain and retain the specified documentation will result in the input tax being disallowed. Section 16(2)(f) requires a vendor to obtain and retain documentary evidence as is acceptable to the

Commissioner, to substantiate the entitlement to the deduction referred to in sections 16(3)(c) to (n). This Note also sets out the documentation to be obtained and retained by a vendor to substantiate such deduction.

It must be noted that section 16(2)(f) cannot be used to override the documentary requirements of sections 16(2)(a) to (e).

5. Documentary proof

Vendors are required to obtain and retain the documents listed in Table A (vendors on invoice basis) or Table B (vendors on payments basis) as required by section 16(2) to substantiate a deduction of input tax as contemplated in section 16(3)(a) and (b). Table C lists the documentary requirements in respect of deductions as per sections 16(3)(c) to (n). Unless otherwise indicated, the vendor must be in possession of all items listed in the applicable Table at the time of making the deduction and must retain such documents as contemplated in section 55 for the period contemplated in section 29 of the Tax Administration Act No. 28 of 2011.

In instances where the tax invoice, debit note or credit note, is held by an agent, the vendor deducting input tax must be in possession of a statement containing the following information as contemplated in sections 54(3)(a) and 20(4)(e) – (g):

- (a) A full and proper description of the goods (indicating, where applicable, that the goods are second-hand goods) or services supplied;
- (b) The quantity or volume of the goods or services supplied;
- (c) 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.

As a general rule, a vendor does not need to be in possession of a tax invoice to qualify for a deduction of input tax on a supply for which the total consideration in money does not exceed R50, provided the vendor making the deduction is in possession of a document that is acceptable to the Commissioner (for example, a receipt or cash slip).

5.1 Input tax deduction in respect of vendors registered on the invoice basis

The standard basis of accounting for VAT is the invoice basis. A vendor registered on the invoice basis is generally entitled to deduct input tax in the period during which the invoice is received or payment is made, whichever is earlier. This deduction is subject to the vendor being in possession of a valid tax invoice.

Table A provides an overview of the documentary proof to be obtained and retained by a vendor that is registered on the *invoice basis* as well as references to the relevant sections of the VAT Act.

Table A – Applicable to a vendor registered on the invoice basis

ITEM	DESCRIPTION OF SUPPLY	DOCUMENTARY PROOF REQUIRED
A	Goods and services acquired under a taxable supply [s 16(3)(a)(i)]	Tax invoice. ⁵
B	Second-hand goods (other than fixed property) acquired under a non-taxable supply [s 16(3)(a)(ii)(aa)]	<p>a) VAT 264 form.</p> <p>b) Proof of payment.¹</p> <p>In addition to the above, the following information and documents must be verified and retained by the vendor making the deduction:</p> <ul style="list-style-type: none"> • Where the supplier is a natural person, his/her identity number and a photocopy of his/her identity document. • Where the supplier is not a natural person, the name and any legally allocated registration number of the supplier and a photocopy of the business letterhead or other similar document of the supplier.
C	Second-hand goods: Fixed property acquired under a non-taxable supply [s 16(3)(a)(ii)(bb)(A)]	<p>A purchase or sale agreement which contains the following information:²</p> <p>a) The name of the supplier, and where –</p> <ol style="list-style-type: none"> i) the supplier is a natural person, the supplier's identity number must be recorded and verified with an identity document; or ii) the supplier is not a natural person – <ul style="list-style-type: none"> • the identity number of the natural person representing the supplier in respect of the supply must be recorded and verified with an identity document, and • the legally allocated registration number of the supplier (not the natural person) must be recorded and verified with the business letterhead or other similar document. <p>Provided that the recipient must retain in the case of a –</p> <ul style="list-style-type: none"> • natural person, a copy of such identity document; and • a person other than a natural person, a copy of such business letterhead or other similar document. <p>b) The address of the supplier.</p> <p>c) The date upon which the second-hand goods were acquired.</p> <p>d) The description of the goods.</p> <p>e) The quantity or volume of the goods.</p> <p>f) The consideration for the supply.</p> <p>g) A declaration from the supplier stating whether the supply is a taxable supply or not.</p> <p>In the event that the purchase or sale agreement does not contain the above information, the vendor must obtain and retain any other document containing the above information.</p>

ITEM	DESCRIPTION OF SUPPLY	DOCUMENTARY PROOF REQUIRED
		In addition to the above, for all fixed property acquired on or after 10 January 2012, proof that the fixed property is registered, in a deeds registry, in the name of the vendor deducting input tax.
D	Second-hand goods: Shares in a share block company acquired under a non-taxable supply [s 16(3)(a)(ii)(bb)(B)]	Records as set out under section 16(3)(a)(ii)(bb)(A) [see Item C above]. ³ In addition to the above, for all shares acquired in a share block company on or after 10 January 2012, a copy of the signed use agreement between the company operating the share block scheme and a member of that company.
E	Fixed property or real rights therein acquired under a taxable supply [s 16(3)(a)(iiA)]	a) Tax invoice ¹ and ⁵ / a deed of sale containing the information as required in terms of section 20(4). b) Proof of payment.
F	Importation of goods [s 16(3)(a)(iii)]	a) Customs Declaration or other document prescribed in terms of the Customs and Excise Act No. 91 of 1964. b) Proof that the VAT levied on goods imported into the Republic of South Africa has been paid to SARS Customs (that is, by the vendor or that vendor's agent).
G	Locally manufactured goods where the excise duty or environmental levy has not been included in the selling price [s 16(3)(a)(iv)]	a) Declaration Form (CD1). b) DA 75 <i>Ad Valorem</i> Excise Duty Form or DA 161A Environmental Levy Account for Plastic Bags Form or DA 260 Excise Account Form or DA 176 Environmental Levy Account for Electricity or DA 177 Environmental Levy Account for Carbon Dioxide Emission Levy or DL 163 Diamond Export Levy Return. c) Proof that VAT has been paid to SARS Customs (e.g. receipt issued by SARS Customs).
H	Credit and debit notes [s 16(3)(a)(v)]	Copy of the credit note or debit note. ⁵
I	Irrecoverable debts [s 16(3)(a)(v)]	a) Accounting records reflecting the balance of the outstanding debt and amount of VAT written off. b) Proof that the VAT was charged and declared in a VAT return.

5.2 Input tax deduction in respect of vendors registered on the payments basis

A vendor accounting for VAT on the payments basis is entitled to deduct input tax on its purchases in the period during which payment for the purchases is made. The vendor making the deduction must be in possession of proof of payment (for example, a receipt, cash slip or bank statement) in order to qualify for a deduction of input tax. The deduction is, however, limited to the *extent of any payment made*. Furthermore, the vendor must hold a valid tax invoice at the time the input tax is deducted.

Table B provides an overview of the documentary proof to be obtained and retained by vendors that are registered on the *payments basis* in addition to the proof of payment made as well as references to the relevant sections of the VAT Act.

Table B – Applicable to a vendor registered on the payments basis

ITEM	DESCRIPTION OF SUPPLY	DOCUMENTARY PROOF REQUIRED
A	<p>Goods or services acquired under a taxable supply [s 16(3)(b)(i)]</p> <p>Second-hand goods (other than fixed property) acquired under a non-taxable supply [s 16(3)(b)(i)]</p> <p>Second-hand goods: Fixed property acquired under a non-taxable supply [s 16(3)(b)(i)]</p>	<p>Tax invoice.⁵</p> <p>Records as set out under section 16(3)(a)(ii)(aa) [see Table A Item B].</p> <p>A purchase or sale agreement which contains the following information:²</p> <p>a) The name of the supplier, and where –</p> <p>i) the supplier is a natural person, the supplier's identity number must be recorded and verified with an identity document; or</p> <p>ii) the supplier is not a natural person –</p> <ul style="list-style-type: none"> • the identity number of the natural person representing the supplier in respect of the supply must be recorded and verified with an identity document, and • the legally allocated registration number of the supplier (not the natural person) must be recorded and verified with the business letterhead or other similar document. <p>Provided that the recipient must retain in the case of a –</p> <ul style="list-style-type: none"> • natural person, a copy of such identity document; and • a person other than a natural person, a copy of such business letterhead or other similar document. <p>b) The address of the supplier.</p> <p>c) The date upon which the second-hand goods were acquired.</p> <p>d) The description of the goods.</p> <p>e) The quantity or volume of the goods.</p> <p>f) The consideration for the supply.</p> <p>A declaration from the supplier stating whether the supply is a taxable supply or not.</p> <p>In the event that the purchase or sale agreement does not contain the above information, the vendor must obtain and retain any other document containing the above information.</p>
	<p>Second-hand goods: Shares in a share block company acquired under a non-taxable supply [s 16(3)(b)(i)]</p>	<p>Records as set out under section 16(3)(a)(ii)(bb)(A) [see Table A Item C].³</p>
B	<p>Importation of goods [s 16(3)(b)(ii)]</p>	<p>Records as set out under section 16(3)(a)(iii) [see Table A Item F].</p>

ITEM	DESCRIPTION OF SUPPLY	DOCUMENTARY PROOF REQUIRED
C	Locally manufactured goods where the excise duty or environmental levy has not been included in the selling price [s 16(3)(b)(ii)]	Records as set out under section 16(3)(a)(iv) [see Table A Item G].
D	Goods and services acquired under a taxable supply [s 16(3)(b)(iii)]	Tax invoice. ⁵
E	Credit and debit notes [s 16(3)(b)(iv)]	Copy of the credit or debit note. ⁵
F	Irrecoverable debts [s 16(3)(b)(v)]	a) Accounting records reflecting the balance of the outstanding debt and amount of VAT written off. b) Proof that the VAT was charged and declared in a VAT return.

5.3 Special deductions against output tax

In instances where any of the documentation set out below cannot be obtained, the Commissioner may, in terms of section 16(2)(f), consider the circumstances of that vendor and allow alternative documentary proof to be obtained and retained by the vendor to allow a deduction specified in section 16(3)(c) to (n). In order for the Commissioner to consider this alternative documentary proof, the vendor must submit a written application to the Commissioner which may be submitted either by e-mail to **VATRulings@sars.gov.za** or by fax to 086 540 9390. The vendor must obtain a VAT ruling allowing the alternative documentary proof before making the deduction.

Table C – Special deductions against output tax

ITEM	DESCRIPTION OF SUPPLY	DOCUMENTARY PROOF REQUIRED
A	Indemnity payments [s 16(3)(c)]	<p>a) Copy of the original insurance contract including an electronic or voice-recorded copy where applicable.</p> <p>b) Proof that the supply of the contract of insurance is a taxable supply, e.g. a copy of the insurance contract or the tax invoice.</p> <p>c) Proof that the indemnity payment (in money) was made, for example, payment advice, bank statement or internet payment confirmation.</p> <p>Take note that a section 16(3)(c) deduction will not be allowed in the following circumstances:</p> <ul style="list-style-type: none"> • Where goods are acquired by the insurer in order to reinstate or replace the goods insured. In this instance, if the insurer is in possession of a valid tax invoice, input tax may be deducted as contemplated in section 16(3)(a); or • Where the contract of insurance is subject to VAT at the rate of zero per cent and at the time that the indemnity payment is made, the person indemnified is neither a

ITEM	DESCRIPTION OF SUPPLY	DOCUMENTARY PROOF REQUIRED
		<p>vendor nor a resident of the Republic; or</p> <ul style="list-style-type: none"> Where the indemnity payment results from a supply of goods or services to the insured and at the time of the supply, the goods are situated outside the Republic or the services are physically rendered outside the Republic.
B	<p>Betting transactions: Awarding of a prize or winnings [s 16(3)(d)]</p> <p><i>Money</i></p> <p><i>Goods and services (including a taxable supply of second-hand goods but excluding fixed property)</i></p> <p><i>Taxable supply of fixed property</i></p> <p><i>Second-hand goods other than fixed property</i></p> <p><i>Second-hand goods: Fixed property</i></p>	<p>If the prize or winnings constitutes money, proof of payment of the money is required, for example, payment advice, bank statement, internet payment confirmation etc.</p> <p>If a prize awarded constitutes goods or services, the tax invoice for the acquisition of the goods or services and the date that the prize was awarded.</p> <p>The records required under Table A Item E.</p> <p>Records as set out under section 16(3)(a)(ii)(aa) [see Table A Item B] or a purchase or sale agreement which contains the said records.¹</p> <p>The records as set out under section 16(3)(a)(ii)(bb)(A) [see Table A Item C].</p>
C	<p>Betting transactions: National Lottery Distribution Trust Fund [s 16(3)(dA)]</p>	<p>Proof of payment to the National Lottery Distribution Trust Fund, for example, payment advice, bank statement or internet payment confirmation.</p>
D	<p>Betting transactions: Provincial betting taxes payable in terms of the Provincial Revenue Fund [s 16(3)(e)]</p>	<p>a) Copy of the return for the betting tax submitted to the relevant Province.</p> <p>b) Proof of payment of the betting tax paid to the relevant Provincial Revenue Fund, for example, payment advice, bank statement or internet payment confirmation.</p>
E	<p>Adjustments: Increase in taxable application or use of goods or services [s 16(3)(f)]</p> <p><i>Goods or services acquired on a date falling within a period of 5 years immediately preceding the date of the adjustment:</i></p> <ul style="list-style-type: none"> <i>Goods or services</i> <i>Importation of goods</i> <i>Second-hand goods other than fixed property</i> <i>Second-hand goods: Fixed property</i> 	<p>Tax invoice⁵ and proof of the open market value.</p> <p>Records as set out under section 16(3)(a)(iii) [see Table A Item F].⁴</p> <p>Records as set out under section 16(3)(a)(ii)(aa) [see Table A Item B] or a purchase or sale agreement which contains the said records.¹</p> <p>Records as set out under section 16(3)(a)(ii)(bb)(A) [see Table A Item C].</p>

ITEM	DESCRIPTION OF SUPPLY	DOCUMENTARY PROOF REQUIRED
	<ul style="list-style-type: none"> • <i>Second-hand goods: Shares in a share block company</i> <p><i>Goods or services acquired on a date prior to a period of 5 years immediately preceding the date of the adjustment</i></p>	<p>Records as set out under section 16(3)(a)(ii)(bb)(A) [see Table A Item D].</p> <p>a) Copy of the asset register; b) Copy of the financial statements; and c) A calculation (using the formula provided in the VAT Act [see the Annexure]) reflecting the determination of the amount of the deduction.</p>
F	<p>Documentary proof obtained after input tax or a deduction was denied in terms of section 16(2) [s 16(3)(g)]</p> <p><i>Goods or services</i></p> <p><i>Importation of goods</i></p> <p><i>Second-hand goods (other than fixed property)</i></p> <p><i>Second-hand goods: Fixed property</i></p> <p><i>Second-hand goods: Shares in a share block company</i></p>	<p>Tax invoice, debit note, credit note.⁵</p> <p>Records as set out under section 16(3)(a)(iii) [see Table A Item F].⁴</p> <p>Records as set out under section 16(3)(a)(ii)(aa) [see Table A Item B] or a purchase or sale agreement which contains the said records.¹</p> <p>Records required under Table A Item C.</p> <p>Records as set out under section 16(3)(a)(ii)(bb)(B) [see Table A Item D].</p>
G	<p>Adjustments: Input tax in respect of a non-taxable portion of a supply which is or deemed to be a taxable supply of goods or services [s 16(3)(h)]</p> <p><i>Goods or services acquired on a date falling within a period of 5 years immediately preceding the date of the adjustment:</i></p> <ul style="list-style-type: none"> • <i>Goods or services</i> • <i>Importation of goods</i> • <i>Second-hand goods other than fixed property</i> • <i>Second-hand goods: Fixed property</i> • <i>Second-hand goods: Shares in a share block company</i> 	<p>Tax invoice⁵ and proof of the open market value.</p> <p>Records as set out under section 16(3)(a)(iii) [see Table A Item F].⁴</p> <p>Records as set out under section 16(3)(a)(ii)(aa) [see Table A Item B].¹</p> <p>Records as set out under section 16(3)(a)(ii)(bb)(A) [see Table A Item C].</p> <p>Records as set out under section 16(3)(a)(ii)(bb)(A) [see Table A Item D].</p>

ITEM	DESCRIPTION OF SUPPLY	DOCUMENTARY PROOF REQUIRED
	<i>Goods or services acquired on a date prior to a period of 5 years immediately preceding the date of the adjustment</i>	a) Copy of the asset register; b) Copy of the financial statements; and c) A calculation (using the formula provided in the VAT Act [see the Annexure]) reflecting the determination of the amount of the deduction.
H	Redemption of tokens, vouchers or stamps [s 16(3)(i)]	a) The redeemed token, voucher or stamp. b) Proof that the underlying supply of goods or services was taxable at the rate of 14%.
I	<p>Properties in possession [s 16(3)(j)]</p> <p><i>Unrecovered loan balance</i></p> <p><i>Acquisition of the property by the vendor (e.g. at a sale in execution)</i></p> <p><i>Subsequent sale of the property by the vendor</i></p>	<p>a) Copy of the accounting records reflecting the outstanding balance or a certificate of balance.</p> <p><u>Note:</u> No deduction will be allowed in instances where the person in default continues to be held liable for payment of the amount on which the deduction is calculated.</p> <p>a) A copy of the loan agreement.</p> <p>b) A copy of the court order authorising the sale in execution and a copy of the writ of execution (not required in the case of abandonment).</p> <p>c) A copy of the sale agreement as presented by the Sheriff's auctioneer at the sale in execution or the judgment or authorisation document in the case of an abandonment authorised by the Master of the High Court.</p> <p>d) Proof of payment for the acquisition and in respect of amounts paid to third parties and accounting entries to account for the purchase or 'buy in' price paid.</p> <p>e) Proof of registration in a deeds registry of the property in the name of the vendor.</p> <p>f) A declaration by the person whose property has been sold stating that the property had not been held or applied for the purpose of making taxable supplies.</p> <p>a) Copy of the deed of sale.</p> <p>b) Proof of payment received in respect of the subsequent sale of the property by the vendor.</p>

ITEM	DESCRIPTION OF SUPPLY	DOCUMENTARY PROOF REQUIRED
J	Deductions allowed in respect of payments to suppliers which are not vendors in the small-scale farming scheme approved by the Minister of Finance [s 16(3)(k)]	<ul style="list-style-type: none"> a) Copy of SARS' ruling approving the methodology for determining the rate to be applied to the product together with the supporting calculation wherein the approved methodology was used to determine the amount to be deducted. b) The annual report by an independent auditor subsequent to the review of the supporting calculation by such auditor. c) Goods received note substantiating the product delivered by the small grower. d) Proof of payment of the VAT to the small-scale farmer, for example, receipt, bank statement or internet payment confirmation.
K	Deductions in respect of the purchase and use of diesel [s 16(3)(l)]	<ul style="list-style-type: none"> a) Copy of SARS' letter approving the methodology for determining the rate to be applied to the eligible diesel purchased and used, together with the supporting calculation wherein the approved methodology was used to determine the amount to be deducted. b) The annual report by an independent auditor subsequent to the review of the supporting calculation by such auditor. c) Goods received note substantiating the eligible diesel purchased and used. d) Proof of payment of the VAT to the small-scale farmer, for example, receipt, bank statement or internet payment confirmation.
L	Deductions allowed in respect of excess consideration refunded [s 16(3)(m)]	<ul style="list-style-type: none"> a) Proof that the output tax has been accounted for on the excess amount received as contemplated in section 8(27). b) Proof that the excess amount has been refunded to the customer, for example, receipt, bank statement, deposit slip or internet payment confirmation or proof that the overpayment is offset against the customer's outstanding liability.
M	Deductions allowed in respect of goods returned to a customs controlled area [s 16(3)(n)]	<ul style="list-style-type: none"> a) VAT 267 form. b) Proof that the amount was included in output tax previously declared or accounted for.

6. Conclusion

Input tax or any deduction under section 16(3) should be deducted in the VAT return in the period during which the time of supply occurs, or for imported goods, the period during which the VAT on importation is paid. The vendor must be in possession of the relevant documentary proof in terms of section 16(2) in order to qualify for the deduction.

Input tax or a deduction may be deducted in a later period if the vendor is unable to deduct input tax or a deduction in the aforementioned period (for example: because evidence is not received in time). In terms of the first proviso to section 16(3), this later period may not be more than five (5) years after the tax period when the input tax or special deduction should have been made. If the Commissioner is satisfied that the deduction was not permissible in accordance with the practice generally prevailing, the five (5) year period is limited to six (6) months.

Legal and Policy Division
SOUTH AFRICAN REVENUE SERVICE
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¹ Input tax deduction is limited to any payment made.

² Prior to 10 January 2012, input tax was limited to the transfer duty paid. With effect from 10 January 2012, input tax is no longer limited to the amount of transfer duty paid. In order to qualify for the deduction, the transfer of the fixed property must have been effected by registration in a deeds registry and the fixed property must have been registered in the name of the vendor.

³ Prior to 1 April 2009, input tax was limited to the stamp duty paid. For the period 1 April 2009 to 10 January 2012, input tax was limited to the amount of transfer duty paid. With effect from 10 January 2012, input tax is no longer limited to the amount of transfer duty paid. In order to qualify for the deduction, a signed use agreement must have been entered into between the company that operates the share block scheme and a member of that company.

⁴ Input tax deduction is limited to VAT paid on importation.

⁵ For purposes of this Note, the term "tax invoice" includes a document issued by the supplier in compliance with section 20(7) and the term "debit note" or "credit note" includes a document issued by the supplier in compliance with section 21(5).

Annexure – The law

Section 1(1) – Definition of the term “input tax”

On or after 10 January 2012 (changes italicised and underlined)

“input tax”, in relation to a vendor, means—

- (a) tax charged under section 7 and payable in terms of that section by—
 - (i) a supplier on the supply of goods or services made by that supplier to the vendor; or
 - (ii) the vendor on the importation of goods by him; or
 - (iii) the vendor under the provisions of section 7(3);
- (b) an amount equal to the tax fraction (being the tax fraction applicable at the time the supply is deemed to have taken place) of the lesser of any consideration in money given by the vendor for or the open market value of the supply (not being a taxable supply) to him by way of a sale on or after the commencement date by a resident of the Republic (other than a person or diplomatic or consular mission of a foreign country established in the Republic that was granted relief, by way of a refund of tax as contemplated in section 68) of any second-hand goods situated in the Republic; and
- (c) an amount equal to the tax fraction of the consideration in money deemed by section 10(16) to be for the supply (not being a taxable supply) by a debtor to the vendor of goods repossessed under an instalment credit agreement: Provided that the tax fraction applicable under this paragraph shall be the tax fraction applicable at the time of supply of the goods to the debtor under such agreement as contemplated in section 9(3)(c),

where the goods or services concerned are acquired by the vendor wholly for the purpose of consumption, use or supply in the course of making taxable supplies or, where the goods or services are acquired by the vendor partly for such purpose, to the extent (as determined in accordance with the provisions of section 17) that the goods or services concerned are acquired by the vendor for such purpose;

Section 1(1) – Definition of the term “input tax”

On or before 9 January 2012

“input tax”, in relation to a vendor, means—

- (a) tax charged under section 7 and payable in terms of that section by—
 - (i) a supplier on the supply of goods or services made by that supplier to the vendor; or
 - (ii) the vendor on the importation of goods by him; or
 - (iii) the vendor under the provisions of section 7(3);
- (b) an amount equal to the tax fraction (being the tax fraction applicable at the time the supply is deemed to have taken place) of the lesser of any consideration in money given by the vendor for or the open market value of the supply (not being a taxable supply) to him by way of a sale on or after the commencement date by a resident of the Republic (other than a person or diplomatic or consular mission of a foreign country established in the Republic that was granted relief, by way of a refund of tax as contemplated in section 68) of any second-hand goods situated in the Republic: Provided that where such second-hand goods consist of—
 - (i) fixed property in respect of the acquisition of which transfer duty is, in terms of the Transfer Duty Act, payable or would have been payable had an exemption from transfer duty (whether in terms of the Transfer Duty Act or any other Act of Parliament) not been applicable; or

- (ii) a share in a share block company in respect of the original issue or registration of transfer of which stamp duty is, in terms of the Stamp duties Act, payable or would have been payable had an exemption from stamp duty (whether in terms of the Stamp Duties Act or any other Act of Parliament) not been applicable,

such amount shall not exceed the amount of transfer duty or stamp duty, as the case may be, which is or would have been payable in respect of such acquisition, original issue or registration of transfer, as the case may be; and

- (c) an amount equal to the tax fraction of the consideration in money deemed by section 10(16) to be for the supply (not being a taxable supply) by a debtor to the vendor of goods repossessed under an instalment credit agreement: Provided that the tax fraction applicable under this paragraph shall be the tax fraction applicable at the time of supply of the goods to the debtor under such agreement as contemplated in section 9(3)(c),

where the goods or services concerned are acquired by the vendor wholly for the purpose of consumption, use or supply in the course of making taxable supplies or, where the goods or services are acquired by the vendor partly for such purpose, to the extent (as determined in accordance with the provisions of section 17) that the goods or services concerned are acquired by the vendor for such purpose;

Section 16 – Calculation of tax payable

On or after 10 January 2012 (changes italicised and underlined)

(1) The tax payable by a vendor shall be calculated by him in accordance with the provisions of this section in respect of each tax period during which he has carried on an enterprise in respect of which he is registered or is required to be registered in terms of section 23: Provided that the Commissioner may authorise a vendor to calculate the tax payable in accordance with a method which the Minister may prescribe by regulation.

(2) No deduction of input tax in respect of a supply of goods or services, the importation of any goods into the Republic or any other deduction shall be made in terms of this Act, unless—

- (a) a tax invoice or debit note or credit note in relation to that supply has been provided in accordance with section 20 or 21 and is held by the vendor making that deduction at the time that any return in respect of that supply is furnished; or
- (b) a tax invoice is in terms of section 20(6) or (7) not required to be issued, or a debit note or credit note is in terms of section 21 not required to be issued; or
- (c) sufficient records are maintained as required by section 20(8) where the supply is a supply of second-hand goods or a supply of goods as contemplated in section 8(10) and in either case is a supply to which that section relates; or
- (d) a bill of entry or other document prescribed in terms of the Customs and Excise Act together with the receipt for the payment of the tax in relation to the said importation have been delivered in accordance with that Act and are held by the vendor making that deduction, or by his agent as contemplated in section 54(3)(b), at the time that any return in respect of that importation is furnished; or
- (e) a tax invoice or debit or credit note has been provided as contemplated in section 54(2), and a statement as contemplated in section 54(3)(a) is held by the vendor at the time a return in respect of the supply to the vendor is furnished; or
- (f) the vendor, in any other case, is in possession of documentary proof, as is acceptable to the Commissioner, substantiating the vendor's entitlement to the deduction at the time a return in respect of the deduction is furnished:

Provided that where a tax invoice or debit note or credit note in relation to that supply has been provided in accordance with this Act, or a bill of entry or other document has been delivered in accordance with the Customs and Excise Act, or the vendor is in possession of documentary proof substantiating any other deduction, as the case may be, the Commissioner may determine that no deduction for input tax in relation to that supply or importation shall be made unless that tax invoice or debit note or credit note or that bill of entry or other document is retained in accordance with the provisions of section 55(3).

(3) Subject to the provisions of subsection (2) of this section and the provisions of sections 15 and 17, the amount of tax payable in respect of a tax period shall be calculated by deducting from the sum of the amounts of output tax of the vendor which are attributable to that period, as determined under subsection (4), and the amounts (if any) received by the vendor during that period by way of refunds of tax charged under section 7(1)(b) and (c) and 7(3)(a), the following amounts, namely—

- (a) in the case of a vendor who is in terms of section 15 required to account for tax payable on an invoice basis, the amounts of input tax—
 - (i) in respect of supplies of goods and services (not being supplies of second-hand goods to which paragraph (b) of the definition of “input tax” in section 1 applies and supplies referred to in subparagraph (iiA)) made to the vendor during that tax period;
 - (ii) (aa) subject to the provisions of item (bb), in respect of supplies of second-hand goods to which paragraph (b) of the definition of “input tax” in section 1 applies to the extent that payment of any consideration which has the effect of reducing or discharging any obligation (whether an existing obligation or an obligation which will arise in the future) relating to the purchase price for those supplies has been made during that tax period;
 - (bb) in respect of supplies of second-hand goods to which paragraph (b) of the definition of “input tax” in section 1 applies which consist of—
 - (A) fixed property in respect of which the provisions of section 9(3)(d) apply if transfer of that fixed property was effected by registration in a deeds registry and the fixed property was registered in the name of the vendor that makes the deduction during that tax period;
 - (B) a share in a share block company which confers a right to or an interest in the use of immovable property if a signed use agreement has been entered into between the company that operates the share block scheme and a member of that company;
 - (iiA) in respect of taxable supplies made to the vendor under sales concluded on or after 6 June 1996 in respect of which the provisions of section 9(3)(d) apply (other than supplies in respect of which the provisions of section 10(4) apply), to the extent that payment of any consideration which has the effect of reducing or discharging any obligation (whether an existing obligation or an obligation which will arise in the future) relating to the purchase price for those supplies has been made during that tax period;
 - (iii) charged in terms of section 7(1)(b) in respect of goods imported into the Republic by the vendor and invoiced or paid, whichever is the earlier, during that tax period;
 - (iv) charged in terms of section 7(3)(a) in respect of goods subject to excise duty as contemplated in that section and invoiced or paid, whichever is the earlier, during that tax period;
 - (v) calculated in accordance with section 21(2)(b) or 21(7) or section 22(1), 22(1A) or 22(4), as applicable to the vendor:

Provided that this paragraph does not apply where a vendor acquires goods or services that are to be awarded as a prize or winnings and in respect of which that vendor qualifies or will qualify for a deduction in terms of paragraph (d);

- (b) in the case of a vendor who is in terms of section 15 required to account for tax payable on a payments basis, the amounts of input tax—
- (i) in respect of supplies of goods and services made to the vendor in respect of which the provisions of section 9(1), (3)(a), (b) or (d) or (4) apply, to the extent that payments of any consideration which has the effect of reducing or discharging any obligation (whether an existing obligation or an obligation which will arise in the future) relating to the purchase price for those supplies have been made during that tax period.
 - (ii) charged in terms of section 7(1)(b) in respect of goods imported into the Republic by the vendor or in terms of section 7(3)(a) in respect of goods subject to excise duty as contemplated in that section and paid by the vendor during the tax period;
 - (iii) in respect of supplies of goods and services made to the vendor during the tax period, excluding supplies of goods and services to which subparagraph (i) of this paragraph applies;
 - (iv) calculated in accordance with section 21(2)(b) or 21(7), as applicable to the vendor, to the extent that payments in respect of the tax so calculated have been made during the tax period;
 - (v) calculated in accordance with section 22(1), as applicable to the vendor:
Provided that this paragraph does not apply where a vendor acquires goods or services that are to be awarded as a prize or winnings and in respect of which that vendor qualifies or will qualify for a deduction in terms of paragraph (d);
- (c) an amount equal to the tax fraction of any payment made during the tax period by the vendor to indemnify another person in terms of any contract of insurance: Provided that this paragraph—
- (i) shall only apply where the supply of that contract of insurance is a taxable supply or where the supply of that contract of insurance would have been a taxable supply if the time of performance of that supply had been on or after the commencement date;
 - (ii) shall not apply where that payment is in respect of the supply of goods or services to the vendor or the importation of any goods by the vendor;
 - (iii) shall not apply where the supply of that contract of insurance is a supply charged with tax at the rate of zero per cent under section 11 and that other person is, at the time that that payment is made, not a vendor and not a resident of the Republic;
 - (iv) shall not apply where that payment results from a supply of goods or services to that other person where those goods are situated outside the Republic or those services are physically performed elsewhere than in the Republic at the time of that supply;
- (d) an amount equal to the tax fraction of any amount paid during the tax period by the supplier of the services contemplated in section 8 (13) as a prize or winnings to the recipient of such services: Provided that where the prize or winnings awarded constitutes either goods or services, the deduction must be limited to the input tax on the initial cost of acquiring those goods or services;
- (dA) an amount equal to the tax fraction of any amount paid by the supplier of the services as contemplated in section 8(13) to the National Lottery Distribution Trust Fund, established by section 21 of the Lotteries Act, 1997 (Act No. 57 of 1997);
- (e) an amount equal to the tax fraction of any amount of tax on totalizator transactions or tax on betting levied and paid for the benefit of any Provincial Revenue Fund by the supplier of the services contemplated in section 8(13);
- (f) the amounts calculated in accordance with section 18(4) or (5) in relation to any goods or services applied during the tax period as contemplated in that section;

- (g) any amount of input tax in relation to any supply or other deduction in respect of which subsection (2) of this section has operated to deny a deduction and the vendor has obtained, during the tax period, the prescribed document or records in relation to that supply;
- (h) in the case of a vendor who has supplied goods or services during that tax period otherwise than in terms of section 18(2), an amount determined in accordance with the formula

$$A \times B \times C,$$

in which formula—

“A” represents the tax fraction;

“B” represents the lesser of—

- (i) (aa) the adjusted cost (including any tax forming part of such adjusted cost) to the vendor of the acquisition, manufacture, assembly, construction or production of those goods or services: Provided that where the goods or services were acquired under a supply in respect of which the consideration in money was in terms of section 10(4) deemed to be the open market value of the supply, the adjusted cost of those goods or services shall be deemed to include such open market value to the extent that it exceeds the consideration in money for that supply; or
- (bb) where the vendor was at some time after the acquisition of such goods or services deemed under section 18(4) to have been supplied with such goods or services, the amount which was represented by “B” in the formula contemplated in section 18(4) when such goods or services were deemed to be supplied to the vendor; or
- (cc) where the vendor was at some time after the acquisition of such goods or services required to make an adjustment contemplated in section 18(2) or (5), the amounts then represented by “A” in the formula contemplated in section 10(9) or “B” in the formula contemplated in section 18(5) respectively, in the most recent adjustment made in terms of section 18(2) or (5) by the vendor prior to such supply of goods or services; and
- (ii) the open market value of the supply of those goods or services at the time those goods or services are deemed to be supplied; and

“C” represents the percentage that, immediately before the time of the supply, the use or application of the goods or services for the purpose other than that of making taxable supplies was of the total use or application of the goods or services:

Provided that—

- (i) ...
- (ii) this subsection does not apply where—
- (aa) such goods or services were acquired before 1 April 2005, or an input tax deduction in respect of that acquisition was denied under proviso (iv) to section 18(4); and
- (bb) the vendor is a public authority which registered prior to 1 April 2005, notwithstanding paragraph (b)(i) of “enterprise” in section 1 or a public entity listed in Part A or C of Schedule 3 to the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (iii) this subsection does not apply where such goods or services were acquired by a municipality before 1 July 2006, or an input tax deduction in respect of that acquisition was denied in terms of paragraph (v) of the proviso to section 18(4);

- (j) an amount equal to the tax fraction of any payment made by the vendor during the tax period in respect of the redemption with him, or his agent, of the monetary value of any token, voucher or stamp contemplated in section 10(20), to a supplier of goods or services who has granted a discount on the surrender to him of such token, voucher or stamp by a recipient of a supply of goods or services if those goods or services are not charged with tax at the rate of zero per cent under section 11;
- (j) (i) in the case of a vendor who has, during the tax period, supplied a property in possession in the course or furtherance of his enterprise under a sale, an amount equal to the tax fraction of the lesser of—
- (aa) the amount (excluding any amount of tax) received in respect of the sale of such property in possession less any amount paid by the vendor in respect of the acquisition of such property in possession; and
- (bb) the amount of the unrecovered loan balance less any amount paid by the vendor in respect of the acquisition of such property in possession:
- Provided that no deduction shall be made in terms of this paragraph where the person in default is or will be held liable for payment of such lesser amount;
- (ii) for the purposes of this paragraph—
- (aa) “property in possession” means fixed property acquired by any vendor—
- (A) at a sale in execution as a result of default by any person (other than a person who held or applied such fixed property for the purpose of making taxable supplies in the course or furtherance of his enterprise immediately before such sale in execution) in respect of an unrecovered loan balance due to that vendor in terms of a credit agreement; or
- (B) as a result of an abandonment authorised by the Master of the High Court where such person has defaulted in respect of an unrecovered loan balance due to that vendor in terms of a credit agreement or gone insolvent;
- (bb) “unrecovered loan balance” means the amount of capital, interest and administrative holding costs outstanding in terms of a credit agreement at the date of sale in execution or the date of authorisation of abandonment by the Master of the High Court;
- (k) an amount of input tax as determined by the Commissioner paid by a vendor to a supplier of pastoral, agricultural or other farming products who is not a vendor, in terms of a scheme operated by the controlling body of an industry for the development of small-scale farmers approved by the Minister with the concurrence of the Minister of Agriculture and Land Affairs to compensate that supplier for tax incurred in the production of such goods;
- (l) an amount as determined by the Commissioner in lieu of a refund in respect of the purchase and use of diesel paid by a vendor to a supplier of pastoral, agricultural or other farming products who is not a vendor, in terms of a scheme operated by the controlling body of an industry for the development of small-scale farmers approved by the Minister with the concurrence of the Minister of Agriculture and Land Affairs to compensate that supplier for an amount refundable in the production of such goods;

- (m) an amount equal to the tax fraction initially applied to any excess amount contemplated in section 8(27) which is refunded by the vendor during the tax period
- (n) in the case of a vendor deemed to supply goods in terms of section 8(24), where those goods are subsequently returned to the customs controlled area, and amount equal to the tax fraction of the lesser of the value determined in terms of section 10(25) or the open market value of those goods on the date on which those goods are returned to the customs controlled area.

Provided that—

- (i) where any vendor is entitled under the preceding provisions of this subsection to deduct any amount in respect of any tax period from the said sum, the vendor may deduct that amount from the amount of output tax attributable to a later tax period which ends no later than five years after the end of the tax period during which—
 - (aa) the tax invoice for that supply should have been issued as contemplated in section 20(1);
 - (bb) goods were entered for home consumption in terms of the Customs and Excise Act;
 - (cc) second-hand goods were acquired or goods as contemplated in section 8(10) were repossessed;
 - (dd) the agent should have notified the principal as contemplated in section 54(3); or
 - (ee) in any other case, the vendor for the first time became entitled to such deduction, notwithstanding the documentary proof that the vendor must be in possession of in terms of subsection (2) of this section, and
- (ii) the said period of five years contemplated in proviso (i) of this section shall be limited to six months prior to the tax period in which the deduction is made, where the Commissioner is satisfied that the deduction was not permissible in accordance with the practice generally prevailing,

and to the extent that it has not previously been deducted by the vendor under this subsection: Provided further that the amount of input tax which, in relation to any supply of goods or services to a vendor, the vendor may deduct in respect of any payment referred to in paragraph (a)(ii) or (b)(i) of this subsection, shall be an amount which bears to the full amount of the input tax relating to that supply the same ratio as the amount of the payment bears to the full value on which tax was payable in respect of the supply.

Section 16 – Calculation of tax payable

On or before 9 January 2012

(1) The tax payable by a vendor shall be calculated by him in accordance with the provisions of this section in respect of each tax period during which he has carried on an enterprise in respect of which he is registered or is required to be registered in terms of section 23: Provided that the Commissioner may authorise a vendor to calculate the tax payable in accordance with a method which the Minister may prescribe by regulation.

(2) No deduction of input tax in respect of a supply or the importation of any goods into the Republic, or any other deduction shall be made in terms of this Act, unless—

- (a) a tax invoice or debit note or credit note in relation to that supply has been provided in accordance with section 20 or 21 and is held by the vendor making that deduction at the time that any return in respect of that supply is furnished; or
- (b) a tax invoice is in terms of section 20(6) or (7) not required to be issued, or a debit note or credit note is in terms of section 21 not required to be issued; or
- (c) sufficient records are maintained as required by section 20(8) where the supply is a supply of second-hand goods or a supply of goods as contemplated in section 8(10) and in either case is a supply to which that section relates; or
- (d) a bill of entry or other document prescribed in terms of the Customs and Excise Act together with the receipt for the payment of the tax in relation to the said importation have been delivered in accordance with that Act and are held by the vendor making that deduction, or by his agent as contemplated in section 54(3)(b), at the time that any return in respect of that importation is furnished; or
- (e) a tax invoice or debit or credit note has been provided as contemplated in section 54(2), and a statement as contemplated in section 54(3)(a) is held by the vendor at the time a return in respect of the supply to the vendor is furnished; or
- (f) the vendor, in any other case, is in possession of documentary proof, as is acceptable to the Commissioner, substantiating the vendor's entitlement to the deduction at the time a return in respect of the deduction is furnished:

Provided that where a tax invoice or debit note or credit note in relation to that supply has been provided in accordance with this Act, or a bill of entry or other document has been delivered in accordance with the Customs and Excise Act, or the vendor is in possession of documentary proof substantiating any other deduction, as the case may be, the Commissioner may determine that no deduction for input tax in relation to that supply or importation shall be made unless that tax invoice or debit note or credit note or that bill of entry or other document is retained in accordance with the provisions of section 55(3).

(3) Subject to the provisions of subsection (2) of this section and the provisions of sections 15 and 17, the amount of tax payable in respect of a tax period shall be calculated by deducting from the sum of the amounts of output tax of the vendor which are attributable to that period, as determined under subsection (4), and the amounts (if any) received by the vendor during that period by way of refunds of tax charged under section 7(1)(b) and (c) and 7(3)(a), the following amounts, namely—

- (a) in the case of a vendor who is in terms of section 15 required to account for tax payable on an invoice basis, the amounts of input tax—
 - (i) in respect of supplies of goods and services (not being supplies of second-hand goods to which paragraph (b) of the definition of "input tax" in section 1 applies and supplies referred to in subparagraph (iiA)) made to the vendor during that tax period;
 - (ii) (aa) in respect of supplies of second-hand goods to which paragraph (b) of the definition of "input tax" in section 1 applies (other than supplies in respect of which the provisions of subparagraph (bb) apply), to the extent that payment of any consideration which has the effect of reducing or discharging any obligation (whether an existing obligation or an obligation which will arise in the future) relating to the purchase price for those supplies has been made during that tax period;

(bb) in respect of supplies of second-hand goods to which paragraph (b) of the definition of "input tax" in section 1 applies which consist of—

(A) fixed property in respect of the acquisition of which transfer duty is, in terms of the Transfer Duty Act, payable; or

(B) a share in a share block company in respect of the original issue or registration of transfer of which stamp duty is, in terms of the Stamp Duties Act, payable,

if the full or final amount of such transfer duty or stamp duty, as the case may be, has been paid during that tax period;

(iiA) in respect of taxable supplies made to the vendor under sales concluded on or after 6 June 1996 in respect of which the provisions of section 9(3)(d) apply (other than supplies in respect of which the provisions of section 10(4) apply), to the extent that payment of any consideration which has the effect of reducing or discharging any obligation (whether an existing obligation or an obligation which will arise in the future) relating to the purchase price for those supplies has been made during that tax period;

(iii) charged in terms of section 7(1)(b) in respect of goods imported into the Republic by the vendor and invoiced or paid, whichever is the earlier, during that tax period;

(iv) charged in terms of section 7(3)(a) in respect of goods subject to excise duty as contemplated in that section and invoiced or paid, whichever is the earlier, during that tax period;

(v) calculated in accordance with section 21(2)(b) or 21(7) or section 22(1), 22(1A) or 22(4), as applicable to the vendor:

Provided that this paragraph does not apply where a vendor acquires goods or services that are to be awarded as a prize or winnings and in respect of which that vendor qualifies or will qualify for a deduction in terms of paragraph (d);

(b) in the case of a vendor who is in terms of section 15 required to account for tax payable on a payments basis, the amounts of input tax—

(i) in respect of supplies of goods and services made to the vendor in respect of which the provisions of section 9(1), (3)(a), (b) or (d) or (4) apply, to the extent that payments of any consideration which has the effect of reducing or discharging any obligation (whether an existing obligation or an obligation which will arise in the future) relating to the purchase price for those supplies have been made during that tax period: Provided that the amount referred to in paragraph (b) of the definition of "input tax" in section 1 in respect of a supply of second-hand goods which consist of—

(aa) fixed property in respect of the acquisition of which transfer duty is, in terms of the Transfer Duty Act, payable; or

(bb) a share in a share block company in respect of the original issue or registration of transfer of which stamp duty is, in terms of the Stamp Duties Act, payable,

shall be deducted only after such transfer duty or stamp duty, as the case may be, has been paid;

(ii) charged in terms of section 7(1)(b) in respect of goods imported into the Republic by the vendor or in terms of section 7(3)(a) in respect of goods subject to excise duty as contemplated in that section and paid by the vendor during the tax period;

(iii) in respect of supplies of goods and services made to the vendor during the tax period, excluding supplies of goods and services to which subparagraph (i) of this paragraph applies;

(iv) calculated in accordance with section 21(2)(b) or 21(7), as applicable to the vendor, to the extent that payments in respect of the tax so calculated have been made during the tax period;

(v) calculated in accordance with section 22(1), as applicable to the vendor:

Provided that this paragraph does not apply where a vendor acquires goods or services that are to be awarded as a prize or winnings and in respect of which that vendor qualifies or will qualify for a deduction in terms of paragraph (d);

- (c) an amount equal to the tax fraction of any payment made during the tax period by the vendor to indemnify another person in terms of any contract of insurance: Provided that this paragraph—
- (i) shall only apply where the supply of that contract of insurance is a taxable supply or where the supply of that contract of insurance would have been a taxable supply if the time of performance of that supply had been on or after the commencement date;
 - (ii) shall not apply where that payment is in respect of the supply of goods or services to the vendor or the importation of any goods by the vendor;
 - (iii) shall not apply where the supply of that contract of insurance is a supply charged with tax at the rate of zero per cent under section 11 and that other person is, at the time that that payment is made, not a vendor and not a resident of the Republic;
 - (iv) shall not apply where that payment results from a supply of goods or services to that other person where those goods are situated outside the Republic or those services are physically performed elsewhere than in the Republic at the time of that supply;
- (d) an amount equal to the tax fraction of any amount paid during the tax period by the supplier of the services contemplated in section 8(13) as a prize or winnings to the recipient of such services: Provided that where the prize or winnings awarded constitutes either goods or services, the deduction must be limited to the input tax on the initial cost of acquiring those goods or services;
- (dA) an amount equal to the tax fraction of any amount paid by the supplier of the services as contemplated in section 8(13) to the National Lottery Distribution Trust Fund, established by section 21 of the Lotteries Act, 1997 (Act No. 57 of 1997);
- (e) an amount equal to the tax fraction of any amount of tax on totalizator transactions or tax on betting levied and paid for the benefit of any Provincial Revenue Fund by the supplier of the services contemplated in section 8(13);
- (f) the amounts calculated in accordance with section 18(4) or (5) in relation to any goods or services applied during the tax period as contemplated in that section;
- (g) any amount of input tax in relation to any supply or other deduction in respect of which subsection (2) of this section has operated to deny a deduction and the vendor has obtained, during the tax period, the prescribed document or records in relation to that supply;
- (h) in the case of a vendor who has supplied goods or services during that tax period otherwise than in terms of section 18(2), an amount determined in accordance with the formula

$$A \times B \times C,$$

in which formula—

“A” represents the tax fraction;

“B” represents the lesser of—

- (i) (aa) the adjusted cost (including any tax forming part of such adjusted cost) to the vendor of the acquisition, manufacture, assembly, construction or production of those goods or services: Provided that where the goods or services were acquired under a supply in respect of which the consideration in money was in terms of section 10(4) deemed to be the open market value of the supply, the adjusted cost of those goods or services shall be deemed to include such open market value to the extent that it exceeds the consideration in money for that supply; or
- (bb) where the vendor was at some time after the acquisition of such goods or services deemed under section 18(4) to have been supplied with such goods or services, the amount which was represented by “B” in the formula contemplated in section 18(4) when such goods or services were deemed to be supplied to the vendor; or
- (cc) where the vendor was at some time after the acquisition of such goods or services required to make an adjustment contemplated in section 18(2) or (5), the amounts then represented by “A” in the formula contemplated in section 10(9) or “B” in the formula contemplated in section 18(5) respectively, in the most recent adjustment made in terms of section 18(2) or (5) by the vendor prior to such supply of goods or services; and
- (ii) the open market value of the supply of those goods or services at the time those goods or services are deemed to be supplied; and

“C” represents the percentage that, immediately before the time of the supply, the use or application of the goods or services for the purpose other than that of making taxable supplies was of the total use or application of the goods or services:

Provided that—

- (i) where such goods consist of second-hand goods contemplated in the proviso to paragraph (b) of the definition of “input tax” in section 1, the amount determined in terms of this subsection shall not exceed the amount of transfer duty or stamp duty, as the case may be, which was or would have been payable, less any amount which has previously been deducted in terms of the provisions of subsection (3)(a)(ii) or (b)(i) of this section or section 18(4) or (5), in respect of such acquisition, original issue or registration of transfer, as the case may be;
- (ii) this subsection does not apply where—
 - (aa) such goods or services were acquired before 1 April 2005, or an input tax deduction in respect of that acquisition was denied under proviso (iv) to section 18(4); and
 - (bb) the vendor is a public authority which registered prior to 1 April 2005, notwithstanding paragraph (b)(i) of “enterprise” in section 1 or a public entity listed in Part A or C of Schedule 3 to the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (iii) this subsection does not apply where such goods or services were acquired by a municipality before 1 July 2006, or an input tax deduction in respect of that acquisition was denied in terms of paragraph (v) of the proviso to section 18(4);
- (j) an amount equal to the tax fraction of any payment made by the vendor during the tax period in respect of the redemption with him, or his agent, of the monetary value of any token, voucher or stamp contemplated in section 10(20), to a supplier of goods or services who has granted a discount on the surrender to him of such token, voucher or stamp by a recipient of a supply of goods or services;

- (j) (i) in the case of a vendor who has, during the tax period, supplied a property in possession in the course or furtherance of his enterprise under a sale, an amount equal to the tax fraction of the lesser of—
- (aa) the amount (excluding any amount of tax) received in respect of the sale of such property in possession less any amount paid by the vendor in respect of the acquisition of such property in possession; and
 - (bb) the amount of the unrecovered loan balance less any amount paid by the vendor in respect of the acquisition of such property in possession:
- Provided that no deduction shall be made in terms of this paragraph where the person in default is or will be held liable for payment of such lesser amount;
- (ii) for the purposes of this paragraph—
- (aa) “property in possession” means fixed property acquired by any vendor—
 - (A) at a sale in execution as a result of default by any person (other than a person who held or applied such fixed property for the purpose of making taxable supplies in the course or furtherance of his enterprise immediately before such sale in execution) in respect of an unrecovered loan balance due to that vendor in terms of a credit agreement; or
 - (B) as a result of an abandonment authorised by the Master of the High Court where such person has defaulted in respect of an unrecovered loan balance due to that vendor in terms of a credit agreement or gone insolvent;
 - (bb) “unrecovered loan balance” means the amount of capital, interest and administrative holding costs outstanding in terms of a credit agreement at the date of sale in execution or the date of authorisation of abandonment by the Master of the High Court;
- (k) an amount of input tax as determined by the Commissioner paid by a vendor to a supplier of pastoral, agricultural or other farming products who is not a vendor, in terms of a scheme operated by the controlling body of an industry for the development of small-scale farmers approved by the Minister with the concurrence of the Minister of Agriculture and Land Affairs to compensate that supplier for tax incurred in the production of such goods;
- (l) an amount as determined by the Commissioner in lieu of a refund in respect of the purchase and use of diesel paid by a vendor to a supplier of pastoral, agricultural or other farming products who is not a vendor, in terms of a scheme operated by the controlling body of an industry for the development of small-scale farmers approved by the Minister with the concurrence of the Minister of Agriculture and Land Affairs to compensate that supplier for an amount refundable in the production of such goods;
- (m) an amount equal to the tax fraction initially applied to any excess amount contemplated in section 8(27) which is refunded by the vendor during the tax period
- (n) in the case of a vendor deemed to supply goods in terms of section 8(24), where those goods are subsequently returned to the customs controlled area, and amount equal to the tax fraction of the lesser of the value determined in terms of section 10(25) or the open market value of those goods on the date on which those goods are returned to the customs controlled area.

Provided that—

- (i) where any vendor is entitled under the preceding provisions of this subsection to deduct any amount in respect of any tax period from the said sum, the vendor may deduct that amount from the amount of output tax attributable to a later tax period which ends no later than five years after the end of the tax period during which—
 - (aa) the tax invoice for that supply should have been issued as contemplated in section 20(1);

- (bb) goods were entered for home consumption in terms of the Customs and Excise Act;
 - (cc) second-hand goods were acquired or goods as contemplated in section 8(10) were repossessed;
 - (dd) the agent should have notified the principal as contemplated in section 54 (3); or
 - (ee) in any other case, the vendor for the first time became entitled to such deduction, notwithstanding the documentary proof that the vendor must be in possession of in terms of subsection (2) of this section, and
- (ii) the said period of five years contemplated in proviso (i) of this section shall be limited to six months prior to the tax period in which the deduction is made, where the Commissioner is satisfied that the deduction was not permissible in accordance with the practice generally prevailing,

and to the extent that it has not previously been deducted by the vendor under this subsection: Provided further that the amount of input tax which, in relation to any supply of goods or services to a vendor, the vendor may deduct in respect of any payment referred to in paragraph (a)(ii) or (b)(i) of this subsection, shall be an amount which bears to the full amount of the input tax relating to that supply the same ratio as the amount of the payment bears to the full value on which tax was payable in respect of the supply.

Withdrawn