

PRACTICE NOTE NO: 10

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International transportation of goods and related activities (Section 11 of the Act)

1. Introduction

The supply of any international transport services usually involves more than one party and various goods or services are supplied in order to effect the movement of goods from one point to another. It is important for any person involved in the supply or transport services, ancillary transport services and the arranging thereof to determine what service he is rendering and in what capacity he is acting. The determination of what service is being rendered will determine at what rate VAT must be charged on that service, i.e. whether at the standard rate of 10 per cent or at zero per cent. The determination of the capacity in which he is acting will determine in which manner any VAT charged by other parties involved in the entire transport chain should be treated.

In order to determine what service is being rendered it is essential to examine the terms of the contract between the supplier of the service and the recipient of the service.

In order to determine the capacity in which a person is acting the contractual relationship between that person and his client must be examined. The person supply transport services, ancillary transport services or arranging these services will often need to involve other parties in order to render his total service. He may contract with these parties as a principal or as an agent on behalf of his client.

The name or style under which such a person carries on his trade is irrelevant. The contractual relationship between his client and himself is the determining factor. Where the person enters into contracts with other parties in his own name and upon his own liability and responsibility he is acting as a principal. Any goods or services supplied to him in order to enable him to render his service will give rise to an input tax deduction in his hands. When, in addition to the charge for his own service, the costs of these goods or services are passed onto his client, whether a profit margin is added to these costs or not, the rate of VAT applicable to this total service is determined by the nature of his own service. The itemising of the various goods or services acquired in order to render his service does not affect this principle.

Where the person acts as an agent on behalf of his client any goods or services acquired on behalf of his client will not give rise to an input tax deduction in his own hands and the costs of the goods or services, including any VAT charged by the supplier of those goods or services, will be passed onto his client. Depending on the client's circumstances the VAT charged on the goods or services may give rise to an input tax deduction in the client's hands.

Where the person enters into contracts for the supply of goods or services to his client on his client's behalf and upon his client's liability and responsibility he is acting as an agent. There is one exception to the rule that an agent cannot obtain an input tax deduction in his own hands in respect of goods or services acquired on behalf of his principal. This exception is dealt with in paragraph 6 of this practice note.

2. International transport services

In terms of section 1(2)(a) of the Act, the supply of the service of transporting goods is zero-rated provided:

- the goods are transported from a place outside the Republic and the specified countries to another place outside the Republic and the specified countries; or
- the goods are transported from a place in the Republic or a specified country to a place in an export country; or
- the goods are transported from a place in an export country to a place in the Republic or a specified country.

The afore-going provisions apply only to the service which comprises the transportation of the goods. Any other services rendered in connection with the transportation of goods such as packing, loading, stevedoring, container handling, cargo inspection, preparation of documentation etc, are incidental or subsidiary to the service of transportation and are not covered by the rules in this paragraph.

2.1 Transportation of goods from a place outside the Republic and the specified countries to another place outside the Republic and the specified countries

In order to qualify for a zero-rating the point of origin of the transport of the goods must be located outside the Republic and the specified countries and the point of destination of the transport of the goods must be located outside the Republic and the specified countries. Where the goods physically pass through the Republic or the specified countries en route to the point of destination the supply of the services of transporting the goods will still qualify for zero-rating provided the vendor in responsible for the entire movement of the goods from the point of origin to the point of destination.

2.2 Transport of goods from a place in the Republic or a specified country to a place in an export country

In order to qualify for a zero-rating the point of origin of the transport of the goods must be located within the Republic or a specified country and the point of destination of the transport of the goods must be located in an export country. The vendor supplying the service of transporting the goods, must be responsible for the entire movement of the goods from the point of origin to the point of destination.

2.3 Transport of goods from a place in an export country to a place in the Republic or a specified country

In order to qualify for a zero-rating the point of origin of the transport of the goods must be located in an export country and the point of destination of the transport of the goods must be located with the Republic or a specified country. The vendor supplying the services of transporting of the goods must be responsible for the entire movement of the goods from the point of origin to the point of destination.

The services of transporting goods which falls within the parameters described above, is termed an "international transport service" for the purposes of this practice note. Any reference to an "international transport service" in this practice note should be construed accordingly.

3. Local Transport Services

The supply of any service of transporting goods between a place in the Republic of a specified country and another place in the Republic or a specified country is subject to VAT at the standard rate of 10 per cent.

For the purposes of this practice note the service of transporting goods from a point of origin located within:

- the Republic; or
- a specified country,

to a point of destination located within:

- the Republic; or
- a specified country,

will be termed a "local transport service". Any reference to a "local transport service" should be construed accordingly.

There are two exceptions to the general rule that local transport services are subject to VAT at the standard rate of 10 per cent.

3.1 Local transport services provided as part of an international transport service

In terms of section 11(2)(c), local transport services are zero-rated provided:

- the local transport service is provided as an integral part of the supply of an international transport service; and
- the local transport service is provided by the same supplier as the international transport service.

In order to qualify for a zero-rating the local transport service must be provided as an integral part of the international transport service and must therefore be provided as part of the same contract.

The local transport service must furthermore be provided by the supplier of the international transport service in the contractual sense. It is important to note that the supplier of a transport service in the contractual sense is not necessarily the person who physically performs the service, although this may be the case.

Example 1

A freight forwarder contracts with an exporter to deliver the exporter's goods from the factory door in Johannesburg to a customer in Liverpool. The freight forwarder is acting as a principal and subcontracts with other parties in order to provide his total service. The forwarder subcontracts with Spoornet to move the goods from Johannesburg to Durban and subcontracts with a shipping line to move the goods from Durban to Liverpool.

Spoornet will charge VAT at 10 per cent to the freight forwarder on its services of transporting the goods from Johannesburg to Durban as it is providing a local transport service to the freight forwarder. The freight forwarder will be entitled to claim a deduction of input tax in respect of the local transport service.

The shipping line, if registered as a vendor, will charge VAT at zero per cent on its services of transporting the goods from Durban to Liverpool as it is providing an international transport service to the freight forwarder.

The freight forwarder when charging the exporter for the entire service of transporting the goods from Johannesburg to Liverpool will charge VAT at zero per cent. Whilst the forwarder is supplying both an international and local transport service, the local transport service is also subject to the zero rate as it is provided as part of the same supply as the international transport service and is provided by the same supplier, i.e. the freight forwarder.

Example 2

An exporter approaches a freight forwarder to arrange the movement of his goods from Johannesburg to Liverpool. The freight forwarder approaches a ship's agent and contracts with the ship's agent on the exporter's behalf to provide the carriage from Johannesburg to Liverpool. This ship's agent contracts with the freight forwarder as agent of his principal, a shipowner, who is registered as a vendor. The ship's agent, acting in his capacity as agent for the shipowner contracts with Spoornet to move the goods from Johannesburg to Durban.

Spoornet will charge VAT at 10 per cent on its services of transporting the goods from Johannesburg to Durban as it is providing a local transport service to the shipowner. The ship's agent, in this example, is acting as an agent for the shipowner, and whether or not Spoornet's tax invoice is made out to the shipowner or to the ship's agent, the shipowner as principal will be entitled to claim a deduction of input tax in respect of the local transport service.

The shipowner will charge VAT at zero per cent on his entire service of transporting the goods from Johannesburg to Liverpool. The subcontracted local transport service has been supplied as part of the international transport service and is supplied by the same supplier, the shipowner. The ship's agent, who has acted as the shipowner's agent in this example, may issue a tax invoice to the freight forwarder in respect of the services supplied by his principal, the shipowner. If the ship's agent does not issue the tax invoice on behalf of the shipowner, the shipowner will be obliged to issue the tax invoice.

The freight forwarder, when charging the exporter for his service of arranging the transport of the goods from Johannesburg to Liverpool, will zero rate his services as he has arranged the entire transportation of the goods from Johannesburg to Liverpool by the same supplier, i.e. the shipowner. This aspect is dealt with in paragraph 5.

As the freight forwarder is merely arranging the transport of the goods and is not providing the transport service in this example, the freight forwarder is required to issue a tax invoice in respect of his services of arranging the transport only. The charge for the services of the shipowner may be included on the tax invoice of the freight forwarder, but it should be clearly identified as being in respect of a supply made by another party.

Example 3

An exporter approaches a freight forwarder to arrange the movement of his goods from Johannesburg to Liverpool. The freight forwarder approaches a ship's agent and contracts with the ship's agent on the exporter's behalf to provide the carriage from Johannesburg to Liverpool. The ship's agent contracts with the freight forwarder as agent of his principal, a shipowner, who is not registered as a vendor as the shipowner does not conduct an enterprise in the Republic. The ship's agent, acting in his capacity as agent for the shipowner contracts with Spoornet to move the goods from Johannesburg to Durban.

Spoornet will charge VAT at 10 per cent on its services of transporting the goods from Johannesburg to Durban as it is providing a local transport service to the shipowner via the ship's agent. The ship's agent, in this example, is acting as an agent for the shipowner, and whether or not Spoornet's tax invoice is made out to the shipowner or to the ship's agent, the ship's agent will be entitled to claim a deduction of input tax in respect of the local transport service and pass the cost of Spoornet's services on to the shipowner free of VAT. This aspect is dealt with in paragraph 6.

The shipowner will not charge VAT on his entire service of transporting the goods from Johannesburg to Liverpool as he is not registered as a vendor. The subcontracted local transport service has been supplied to the shipowner by Spoornet through an agent. The ship's agent, who has acted as the shipowner's agent in this example, may issue an invoice to the freight forwarder in respect of the services supplied by his principal, the shipowner. The invoice should not be called a tax invoice as the supplier, the shipowner, is not registered as a vendor.

The freight forwarder, when charging the exporter for his service of arranging the transport of the goods from Johannesburg to Liverpool, will zero rate his services as he has arranged the entire transportation of the goods from Johannesburg to Liverpool by the same supplier, i.e. the shipowner. This aspect is dealt with in paragraph 5.

As the freight forwarder is merely arranging the transport of the goods and is not providing the transport service in this example, the freight forwarder is required to issue a tax invoice in respect of his service of arranging the transport only. The charge for the services of the shipowner may be included on his tax invoice, but it should be clearly identified as being in respect of a supply made by another party.

3.2 Local transport services supplied directly in connection with the importation or exportation of goods to non-residents, otherwise than through an agent or other person

In terms of section 11(2)(e), local transport services are zero-rated provided they are supplied:

(a) directly in connection with -

- (i) the exportation of goods from the Republic or a specified country; or
- (ii) the importation of goods into the Republic or a specified country; or
- (iii) the movement of goods through the Republic or the specified country from one export country to another export country; and

(b) directly to a person who is -

- (i) not a resident of the Republic; and
- (ii) not resident nor carrying on business in a specified country; and
- (iii) not a vendor,

otherwise than through an agent or other person.

To qualify for the zero rating the supply of the local transport service must meet at least one of the conditions enumerated in (a) and all of the conditions in (b). It is important to note that the local transport service must be provided to the non-resident otherwise than through an agent or other person who is a vendor. This means that the supplier of the local transport service must contract with the non-resident directly and not through an agent of the non-resident or other intercessionary in the Republic or a specified country.

4. Ancillary transport service

Ancillary transport services are services which are rendered directly in connection with the transportation of goods, but which are merely incidental to or subsidiary to the transportation service. Ancillary transport services include packing, loading, stevedoring, container handling, cargo inspection, preparation of documentation essential to the movement of the goods and storage.

Supplies of ancillary transport services are as a general rule subject to VAT at the standard rate. There are two exceptions to this general rule.

4.1 Ancillary transport services provided as part of an international transportation of goods (section 11(2)(c))

Two conditions must be met before any ancillary transport service is zero-rated under section 11(2)(c):

- the ancillary transport service must be provided as an integral part of the supply of an international transport service; and
- the ancillary transport service must be supplied by the same supplier as the international transport service.

In order to qualify for zero-rating the ancillary transport service must be provided as an integral part of an international transport service and must therefore be provided as part of the same contract.

The ancillary transport service must furthermore be provided by the supplier of the international transport service in the contractual sense. The supplier of the ancillary transport service in the contractual sense is not necessarily the person who physically performs the service, although this may be the case.

Example 1:

A clearing and forwarding agent contracts with an importer to have goods transported from the factory door of the importer's supplier in Liverpool to the importer's warehouse in Germiston. The clearing and forwarding agent is acting as a principal and subcontracts with other parties in order to provide his total service. The forwarding and clearing agent subcontracts with a shipping line to transport the goods from Liverpool to Durban. He subcontracts with a stevedore to have the goods unloaded from the ship. He prepares the customs documentation and clears the goods through Customs. He subcontracts with Spoornet to transport the goods from Durban to Johannesburg. He then transports the goods from Johannesburg to the importer's premises in Germiston himself.

The shipping line, if registered as a vendor, will charge VAT at zero per cent to the clearing and forwarding agent on its services of transporting the goods from the factory door of the importer's supplier in Liverpool to Durban.

The stevedore will charge VAT at the standard rate of 10 per cent to the clearing and forwarding agent on his services of unloading the goods from the ship. Whilst his services are supplied as part of the international transport of the goods, the stevedore is not responsible for the transportation of the goods from Liverpool to Durban. He may thus not zero rate his services.

Spoornet will charge VAT at the standard rate of 10 per cent to the clearing and forwarding agent on its services of transporting the goods from Durban to Johannesburg. Whilst Spoornet's services are supplied as part of the international transport of the goods, Spoornet is not the supplier of the international transport service and may thus not zero rate its services.

The forwarding and clearing agent will charge VAT at the rate of zero per cent on its entire service of moving the goods from the factory door in Liverpool to the importer's premises in Germiston. The fact

that the various charges for the different facets of the entire transport service are separately itemised on his invoice to the importer does not affect the position at all. The VAT charged by the stevedore and Spoornet will, of course, qualify as input tax in the hands of the forwarding and clearing agent as he is acting as a principal and the services rendered by the stevedore and Spoornet are acquired in order to perform his service of transporting the goods from Liverpool to Germiston.

Example 2:

An importer buys goods on a CIF basis. While the goods are in transit to the Republic the importer contracts with clearing and forwarding agents to clear the goods through Customs and to transport them to the importer's warehouse. The clearing and forwarding agent subcontracts with a trucking firm to transport the goods from Durban to the importer's warehouse.

The trucking firm will charge VAT at the standard rate of 10 per cent to the clearing and forwarding agent on its services of transporting the goods from Durban to the importer's warehouse.

The clearing and forwarding agent will charge VAT at the standard rate of 10 per cent on its services of clearing the goods and transporting the goods to the importer's warehouse. The services of the clearing and forwarding agent do not form part of an international transport service supplied by him. The VAT charged by the trucking firm will qualify as input tax in the hands of the forwarding and clearing agent as he is acting as a principal and the services rendered by the trucking firm are acquired in order to perform his service of clearing the goods and transporting them to the importer's warehouse.

4.2 Ancillary transport services supplied, directly in connection with the importation or exportation of goods, to non-residents, otherwise than through an agent or other person.

In terms of section 11(2)(e), ancillary transport services are zero-rated provided they are supplied:

(a) directly in connection with -

- (i) the exportation of goods from the Republic or a specified country; or
- (ii) the importation of goods into the Republic or a specified country; or
- (iii) the movement of goods through the Republic or the specified countries from one export country to another export country; and

(b) directly to a person who is -

- (i) not a resident of the Republic; and
- (ii) not a resident nor carrying on business in a specified country; and
- (iii) not a vendor,

otherwise than through an agent or other person.

To qualify for the zero-rating the supply of the ancillary transport service must meet at least one of the conditions enumerated in (a) and all of the conditions in (b). It is important to note that the ancillary transport service must be provided to the non-resident otherwise than through an agent or other person. The supplier of the ancillary transport service must therefore contract with the non-resident directly and not through an agent of the non-resident or other intercessionary in the Republic or a specified country.

5. The arranging of international transport services

The services of arranging the transport of goods is zero-rated if the transport of goods is:

- (i) from a place outside the Republic and the specified countries to another place outside the Republic and the specified countries; or
- (ii) from a place in the Republic or a specified country to a place in an export country; or
- (iii) from a place in an export country to a place in the Republic or a specified country; or
- (iv) from a place in the Republic or a specified country to another place in the Republic or a specified country where the transport within the Republic or the specified countries is supplied as part of the services of transporting goods as described in paragraphs (i) to (iii) above, and is supplied by the same supplier as those transport services.

Where a fee is charged for arranging the transport of goods the fee will be zero-rated if it is charged for arranging an international transport service or a local transport service which forms part of an international transport service supplied by the same supplier. In order for the fee to qualify for zero rating the supplier of the service must therefore as a minimum arrange the international transport service. A fee for arranging a local transport service will only qualify for zero rating in those circumstances where the local transport service is supplied by the contractual supplier of the international transport service as part of the same contract.

Example 1:

A seller of goods in Japan ships goods to an importer in South Africa on a CIF basis. The importer approaches a forwarding agent to arrange the clearance, release and delivery of the goods from Cape Town to his factory in Bloemfontein .

The services of the forwarding agent will be subject to VAT at the standard rate of 10 per cent as he merely arranges the local transport services and ancillary transport services. The forwarding agent is acting in his capacity as an agent.

Example 2:

An exporter approaches a forwarding agent to arrange for his goods to be exported. The forwarding agent enters the goods for export and arranges their loading on board a ship and the transport of those goods to Antwerp . The forwarding agent's services are subject to VAT at the rate of zero per cent as he is arranging an international transport service. The forwarding agent is acting in his capacity as an agent.

6. Goods or services acquired on behalf of a foreign principal

The general rule is that any goods or services supplied to an agent on behalf of his principal are supplied to the principal and not to the agent. The implication of this rule is that the principal and not the agent is entitled to claim an input tax deduction in respect of the supply of those goods or services. An important exception to this rule exists in the case of the international transportation of goods and related services.

In terms of section 54(6)(b)(i), provided certain conditions are met, the agent acting on behalf of a principal, who is not a resident of the Republic and is not a vendor, may treat the supply of goods or services made to him on behalf of his principal as if the supply had been made to him. The implication of this is that the agent may claim a deduction of input tax in respect of supplies in his own hands and pass the costs of those goods or services on to his principal without any VAT.

The conditions which must be met are:

- the supply to the agent must be a taxable supply charged with VAT at 10 per cent; and
- the supply must be directly in connection with -

(i) the exportation of goods from the Republic to any country or place outside the Republic (other than a specified country or a place therein); or
(ii) the arranging of such an exportation; or
(iii) the importation of goods to the Republic from any country or place outside the Republic; or
(iv) the arranging of such an importation; or
(v) the transportation of such goods within the Republic as part of an exportation or importation as described above; and

- the agent and principal agree that the agent is to act as principal in relation to the supplies.

This arrangement is not available where an agent is acting for a principal who is a resident of the Republic or is registered as a vendor.

The goods or services contemplated include:

- clearing services;

- freight;
- storage;
- preparation of documentation essential to the movement of the goods;
- insurance;
- packing;
- cargo inspections;
- stevedoring.

Withdrawn