

Value-Added Tax

Guide for Vendors

10 IMPORTANT PRINCIPLES

- 1 VAT charged on supplies made (output tax) less VAT paid to your suppliers (input tax) = the amount of **VAT payable/refundable**.
- 2 **Goods exported** to clients in an export country are charged with VAT @ 0%. If the goods are to be exported by your client in RSA, you must charge VAT @14% - your client (if a vendor) may claim the VAT charged by you as input tax.
- 3 **Vendors collect VAT on behalf of the State** – please make sure that you pay it over on time. (Otherwise you will be liable for any penalties and interest charged).
- 4 You must keep **records** of all your transactions for at least **5 years**.
- 5 As a general rule, **input tax may not be claimed** on expenses incurred on the acquisition of **motor cars** and **entertainment**, even if utilised for making taxable supplies.
- 6 **You may not register for VAT or claim any input tax** on goods or services acquired to make **exempt supplies**.
- 7 You are required to **inform SARS within 21 days of any changes in your registered particulars** such as your business address, banking details and trading name.
- 8 If you have **underpaid VAT** as a result of a mistake, **report it to your local SARS office** as soon as possible rather than leaving it for the SARS auditors to detect.
- 9 You can **pay your VAT by using various electronic methods**, including internet banking, debit order and electronic funds transfer (EFT). You may also pay at First National Bank instead of carrying cash to your local SARS cash office.
- 10 **Report fraudulent activities** to SARS by calling the **toll-free number 0800 00 2870**. You may report an incident anonymously if you wish.

FOREWORD

The VAT 404 is a basic guide where technical and legal terminology has been avoided wherever possible. Although fairly comprehensive, the guide does not deal with all the legal detail associated with VAT and is not intended for legal reference.

You will find a number of specific terms used throughout the guide which are defined in the Value-Added Tax Act, 1991. These terms are listed in Chapter 19 in a simplified form to make the guide more user-friendly. Chapter 18 also contains a list of structured frequently asked questions and answers which can serve as a quick reference to finding answers to your questions.

Should there be any aspects relating to VAT which are not clear or not dealt with in this guide, or should you require further information or a specific ruling on a legal issue, you may address your enquiry in writing to your local SARS office, or visit the SARS website at www.sars.gov.za.

The following guides have also been issued and may be referred to for more information relating to the specific VAT topics concerned:-

- Guide For Registration Of Vendors (VAT 402)
- Trade Classification For VAT 101 Application (VAT 403)
- Share Block Schemes (VAT 412)
- Deceased Estates (VAT 413)
- Associations Not For Gain And Welfare Organisations (VAT 414)

This guide is based on the VAT legislation as at 31 March 2004. All previous editions of the Guide for Vendors (VAT 404) have been withdrawn with effect from 1 April 2004.

All references to “the VAT Act” are to the Value-Added Tax Act, 1991.

Prepared by:
Law Administration
SARS
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CHAPTER 1

INTRODUCTION

1.1 WHAT IS VAT?

Value-added tax (more commonly known by its abbreviation, VAT) is an indirect tax levied by vendors on the supply of goods or services. Vendors, who are registered for VAT, are generally obliged to charge and collect VAT on taxable supplies from their customers or clients on behalf of SARS.

VAT is levied and accounted for at the prescribed rate, which is presently 14% (standard rate), and is ultimately paid by the final consumers of goods and services. For certain goods and services, a special rate of 0% VAT (zero rate) is applied, while a limited range of goods and services are exempt. VAT is also levied on the importation of goods and services.

VAT is only charged on taxable supplies made by a vendor. Taxable supplies include supplies for which VAT is charged at either the standard rate or zero rate, but does not include:

- salaries and wages
- hobbies or any private recreational pursuit (unless the hobby becomes a business)
- private sale of personal or domestic items
- exempt supplies (see chapter 6)

1.2 HOW DOES VAT WORK?

The VAT that is charged by a vendor to customers is called **output tax**.

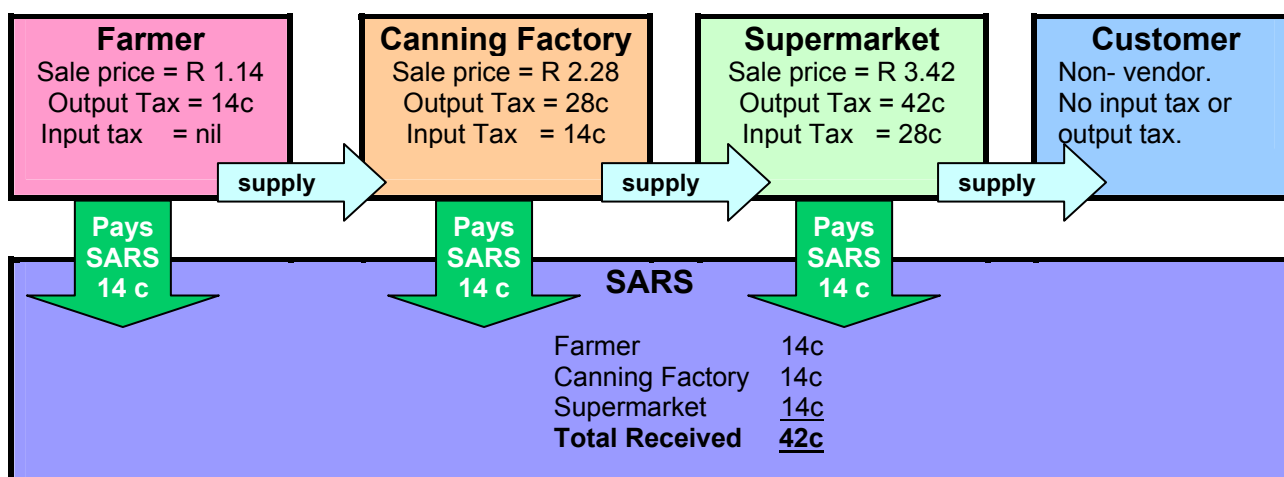
VAT paid by you as a registered vendor on your purchases from another registered vendor, as well as VAT paid on other business expenses charged by vendors (e.g. rent) is known as **input tax**.

Output tax less the input tax in a particular tax period equals the amount payable/refundable to/by SARS.

Example:

A canning factory buys pineapple pieces from a farmer (registered for VAT) for R 1.14 (including 14c VAT). The factory sells the tin of pineapple pieces to a supermarket for R 2.00 (excluding VAT), and charges VAT of 28c ($R\ 2.00 \times 14\%$) on the sale. The total selling price would thus be R 2.28. The 28c VAT is the supermarket's input tax and the canning factory's output tax. The supermarket sells the tin of pineapple pieces to the customer (not registered for VAT) for R 3.42 inclusive of VAT ($R\ 3.00 + 0.42c$ VAT). The 42c VAT is the supermarket's output tax. There is no input tax on the 42c as the customer is not a vendor.

This is depicted in the following diagram:-



CHAPTER 2

REGISTERING YOUR BUSINESS

2.1 WHEN DO YOU BECOME LIABLE TO REGISTER FOR VAT ?

You will be liable to register for VAT if the income earned from selling goods or fees earned from services supplied is more than R300 000 per annum, or is reasonably expected to exceed this amount. If liable, you must complete a form VAT 101 and submit it to your local SARS office not later than 21 days from the date of liability. This type of registration is referred to as a **compulsory registration**.

A person who is registered, or who is obliged to register is referred to as a “vendor”.

[Note: it is the **legal person** and not the trading name of a business which is required to register. Refer to paragraph 2.7 for more details].

The term **person** includes the following:

- A sole proprietor, i.e. an individual carrying on business in their own name or under a trade name
- A company or close corporation
- A partnership (including a verbal partnership) or joint venture
- A deceased or insolvent estate
- A trust
- An incorporated body of persons e.g. an entity established under its own enabling act of parliament
- An unincorporated body of persons, e.g. club, society or association with its own constitution
- A local authority and certain public authorities
- A welfare organisation

The following are circumstances where you will **not** have to register:

- Where it is unlikely that your sales (taxable supplies) will exceed R300 000 per annum;
- If only exempt supplies are made (See Chapter 6 for examples);
- Employees who earn a salary or wage from their employers. (Excluding independent contractors);
- Where the main business or branch concerned only makes supplies outside RSA ;
- Recreational pursuits or hobbies (unless carried on as if it were a business); or
- Private occasional transactions, e.g. occasional sale of domestic/household goods, personal effects or a private motor vehicle.

If your sales or fees earned do not exceed R 300 000, you can register for VAT voluntarily if you meet certain conditions. [See paragraph 2.5]. This type of registration is referred to as a **voluntary registration**.

Note : Remember that the R 300 000 threshold applies to the total value of taxable supplies (turnover) and not the net income (profit) that your business has made for the period.

2.2 WHERE MUST I REGISTER?

You should submit your application for registration to the SARS branch office nearest to the place where your business is carried on. Where you have several enterprises/branches/divisions which will operate under one VAT number, you should register in the area where the main enterprise/branch/division is located.

2.3 WHAT DOCUMENTS MUST I SUBMIT WITH MY APPLICATION?

It is very important that you submit the correct documents with your application to register, otherwise there may be a delay in obtaining your VAT number. The general documentary requirements are summarised on the following page.

2.3.1 Compulsory Registrations

a) The appropriate VAT registration form

- VAT 101 - first time applications/main branch; or
- VAT 102 - for any separate branches/divisions.

b) Documents confirming identity

- Certified copy of the vendor's I.D. and the spouse's I.D. if married in community of property ;
- In case of juristic persons such as companies, cc's and trusts, the representative vendor's I.D.;
- In the case of a foreign enterprise, the personal particulars of the appointed representative in South Africa
- Copy of the relevant registration certificate from the Registrar of Companies/ Close Corporations (e.g. CK 1 , CK 2, CM 1, CM 29, etc);
- Certified copy of the founding document - if applicable (e.g. trust deed, partnership agreement, etc), or letterhead in the case of a local or public authority. In the case of a verbal partnership, complete form VAT 128. (Note - Articles of Association for a company are no longer required).

c) Other general documents (all applications)

- latest bank statement, cancelled cheque or letter from the bank confirming your South African bank details. If the bank account is not in the vendor's name, form VAT 119i must be completed;
- letter of appointment as external bookkeeper/ accountant/auditor if Part 7 of the VAT 101 has been completed;
- A recent copy of municipal account or lease as proof of address;
- Business plan, feasibility study, signed contracts, franchise agreement or projections or other proof indicating that the value of taxable supplies is likely to exceed R 300 000 (not required if you have already exceeded R 300 000) ;
- Form VAT 125 - declaration by representative vendor (in the case of companies, cc's, body corporates and other legal entities). This is only required if using the old VAT 101 registration form as this has now been integrated into Part 10 of the new VAT 101; and
- Trading license (if applicable for that business e.g. liquor, fishing, etc).

2.3.2 Voluntary Registrations

- The forms and documents as per a compulsory registration above ; and
- Proof of actual turnover having exceeded R 20 000 p/a (e.g. invoices, sales records, bank deposits, etc). If turnover can only be met after a lengthy period of time, such as in a plantation farming enterprise or mining enterprise, proof and reasons are to be submitted in terms of paragraph 11.3 of the VAT 101. Certain types of vendors do not have to meet this requirement (viz. share block companies, welfare organizations and local authorities).

If you conduct any of the following types of enterprise, the following documents will also be required for a voluntary registration:-

- Commercial accommodation enterprise - proof of turnover greater than R 60 000 or likely to exceed that amount;
- Welfare organization – certified copies of the income tax exemption certificate and the proof of registration under the Non-Profits Organisations Act.
- Going concern purchased – copy of contract and VAT no. of the seller.

Once you have been registered, you will receive a VAT registration certificate (VAT 103). You can also check if your registration has been processed by entering your details under "VAT vendor search" on the SARS website. [Go to ⇒ www.sars.gov.za ⇒ VAT ⇒ VAT vendor search].

SARS employees are not allowed to advise you verbally of your VAT number. If you have not yet received your certificate and require some proof of registration, you can request the local branch office to give you a letter confirming this fact.

Allow at least 10 working days for the local branch office to process your documents. The certificate will be posted to the postal address given on your registration application and should be received within 2 weeks of your application being processed.

2.3.3 Diesel Refund Applicants

If you have an enterprise which consumes diesel in carrying on an enterprise involved in primary production activities such as agriculture, mining, fishing and coastal shipping, you can also register for the Diesel Refund Scheme which is being administered through the existing VAT system.

In order to claim a diesel refund, any qualifying diesel user may register at their local SARS branch office for the scheme by completing form VAT 101D and attaching it to the other documents required above for your VAT registration. VAT registration is a pre-requisite for participation in the scheme.

[See Diesel Refund Guide for more details].

Application forms and booklets providing details of the rules and procedures of the scheme are available at your local SARS branch office or from the SARS website: www.sars.gov.za under the “VAT” or “Customs” site.

Important Note: Diesel Refunds

Make sure that you actually qualify for the scheme before registering, as any incorrect refunds claimed would have to be paid back to SARS, together with penalty and interest (plus additional tax in the case of fraudulent claims).

2.4 HOW DO I CALCULATE THE VALUE OF TAXABLE SUPPLIES?

The value of taxable supplies (turnover) is calculated on an ongoing basis. When closing off your books for the month, you need to keep a running total of your turnover for the past 12 months. If this total has exceeded the R 300 000 threshold in any particular month, you must register from the 1st day of the next month. You also need to consider the next 12 months as well, because if it is likely that you will exceed the limit, you must register immediately, or at least within 21 days of becoming aware that you will be liable to register.

Example:

Bongi Zulu trades as “Bongi Construction”. He tenders for a building contract of R 1 million. Presently the fees earned from construction activities average R 5 000 per month (R 60 000 p/a).

If Bongi Construction is not awarded the contract, Bongi has an option to register voluntarily, or he can elect not to register.

However, if awarded the contract, his projected annual taxable supplies will be R 1 060 000. Bongi would then know that he is going to exceed the R 300 000 registration threshold, and in this case, it will be compulsory for him to register his enterprise immediately. He will have 21 days in which to do this.

The table below gives a general indication of what should be included and what to exclude when calculating the value of taxable supplies, to determine if you are liable for VAT registration.

Included	Excluded
○ Sales / fees earned from goods and services supplied in the Republic ○ Sale of goods exported to an export country ○ Services rendered outside the Republic ○ Sales from all branches and divisions falling under that person inside the Republic ○ Deemed supplies. (See Chapter 5).	○ Sales from stock or capital assets when closing down your business or substantially reducing (permanently) the scale of your business ○ Sales from old plant, machinery or other capital assets when replacing them with new assets ○ Any exempt supplies ○ Unconditional gifts received by associations not for gain and welfare organizations ○ VAT

2.5 VOLUNTARY REGISTRATION

As mentioned in paragraph 2.1 above, a person can apply for voluntary registration even though the total value of taxable supplies is less than R300 000. There is however a requirements that the value of taxable supplies already made must have exceeded R 20 000 in the past 12 month period.

Note that it may be advantageous for a person to register voluntarily where goods or services are supplied mainly to other vendors and where the customer concerned will be able to claim the input tax thereon. It will generally not be advantageous for a person to register voluntarily where:-

- the main or only supplies are services and where there are minimal expenses on which input tax would be claimed ;or
- the enterprise's main expense is in respect of salaries and wages (an expense on which no input tax may be claimed) ; or
- the enterprise makes most of their supplies to the ordinary man in the street who is the final consumer of those goods or services (not registered for VAT).

Remember that if you choose to register, you will have to carry out all the duties of a vendor. For example, you will have to charge VAT, submit returns, make VAT payments on time and keep proper records for at least 5 years from the date of liability. (See Chapter 16 for more details).

Also note that you may only be registered in respect of any taxable supplies made, so if you decide to register, you can only charge VAT on taxable supplies. You may not charge VAT on supplies which are exempt from VAT. (See Chapter 6 for examples of exempt supplies).

2.6 REFUSAL OF A VOLUNTARY REGISTRATION APPLICATION

The Commissioner may refuse to register a person for **voluntary registration** if any of the following requirements are not met by the applicant:-

- the person has no fixed place of residence or business in RSA; or
- does not keep proper accounting records; or
- has not opened a banking account in the Republic; or
- has previously been registered as a vendor under VAT or General Sales Tax (GST) and failed to perform the duties of a vendor; or
- has not met the minimum threshold requirement of R 20 000 turnover for the past 12 months (as discussed in paragraphs 2.3 and 2.5 above).

2.7 SEPARATE REGISTRATION (BRANCHES, DIVISIONS AND SEPARATE ENTERPRISES)

A vendor may register separately any enterprises, branches or divisions carried on by him/her for VAT purposes. This means that it is possible for a vendor to have more than one VAT registration number if the enterprise is carried on in branches or divisions. A separate form VAT 102 must be completed for each enterprise/division/branch for which a separate registration is required.

It is important to note that a person who operates several enterprises, or who operates an enterprise in branches or divisions cannot avoid the liability to register for VAT by considering the turnover of each branch or division individually. In such cases, the turnover of all the enterprises/divisions/branches must be added together to determine the total value of the supplies. (Only associations not for gain can apply to be excluded from this rule).

There are **2 conditions** under which separate registration can be granted for any separate enterprise, division or branch, namely:-

- an **independent system of accounting** for each business must be maintained , and
- the entity must be **capable of being separately identified** (i.e. either by the nature of the activities or the geographic location).

The implication of separate registration is that each separately registered enterprise/division/branch is treated as a vendor in its own right.

Each enterprise/division/branch will therefore be required to:-

- retain the **same tax period** as the main branch (except for farmers)
- submit **separate returns and payments**
- retain the **same accounting basis** as the parent body and keep its **own accounting records**; and
- remain registered until cancelled by the parent body or until the parent body's registration is cancelled.

In addition, any transfers of taxable goods or services between the separately registered enterprises/divisions or branches must be accounted for on a VAT 201 return covering that period. As with any other supply, the recipient will require a tax invoice to claim the applicable input tax.

Example:

Mrs Naidoo is a sole proprietor and trades under the following 3 trading names:-

Naidoo's Curry Den
Turnover of R 210 000

Interflora Florists
Turnover of R 190 000

Bobby's Shoe Retailers
Turnover of R 120 000

The combined turnover of the 3 businesses is R 520 000. Since the type of supplies being made are not exempt (see Chapter 6 for examples of exempt supplies), they will constitute "**taxable supplies**". The "**person**" carrying on all 3 businesses is Mrs Naidoo, a sole proprietor. Since she is liable for VAT registration, she is referred to as a "**vendor**" and must account for VAT @ 14% on all the sales in each business from the date of liability. Mrs Naidoo will only be issued with one VAT number, but she can apply for 3 separate VAT numbers if she meets the 2 conditions for separate registration, as mentioned in paragraph 2.7 above.

If SARS agrees to allocate separate VAT numbers, each separate business is deemed to be a **separate person** and VAT must be charged on supplies between the separate businesses, as well as to any other person.

2.8 CANCELLATION OF REGISTRATION

A vendor may apply for cancellation of registration if:-

- the value of taxable supplies falls below the limit of R300 000 in a 12 month period ;or
- the enterprise closes down and will not commence again within the next 12 months ; or
- where the enterprise never actually commenced or will not commence within the next 12 months.

Cancellation of registration normally takes effect from the last day of the tax period on which the application is made. Remember though, that you cannot deregister without taking care of any outstanding liabilities or obligations incurred under the Act while you were registered. For example, you can not be taken off the VAT register if you still owe SARS returns for past tax periods or if any VAT payments are outstanding.

The Commissioner may also decide to deregister a person who has successfully applied for voluntary registration and it subsequently appears that the requirements mentioned under paragraph 2.6 above have not been complied with. Any of a vendor's separately registered enterprises/divisions/branches may also be cancelled if:-

- The vendor applies in writing;
- The main registration is cancelled; or
- It appears to the Commissioner that the duties under the VAT Act have not been carried out properly.

The effect of the cancellation of a branch registration is that all duties under the VAT Act revert to the vendor (parent body/main branch). See Chapter 5, paragraph 5.8 "Deemed Supplies" for the VAT implications of cancelling any VAT registration number.

CHAPTER 3

TAX PERIODS

3.1. WHICH TAX PERIODS ARE AVAILABLE?

You are required to submit returns and account for VAT to SARS according to the tax period allocated to you. Tax periods cover one, two, six or twelve calendar months. On acceptance of your registration by SARS, you will be allocated one of these categories. Tax periods end on the last day of a calendar month. You may, however apply to the SARS branch office in writing for your tax period to end on another fixed day or date, which is limited to 10 days before or after the month end (the 10 day rule). This must be approved in writing and can only be changed with the written approval of SARS.

3.1.1 Two-month tax period (Category A or B)

This is the standard tax period, which is generally allocated at the time of registration. Under this category you are required to submit one return for every two calendar months.

- Category A is a two month period ending on the last day of January, March, May, July, September and November.
- Category B is a two month period ending on the last day of February, April, June, August, October and December.

3.1.2 One-month tax period (Category C)

Under this category you are required to submit one return for each calendar month.

You will be registered according to Category C when –

- your turnover exceeds or is likely to exceed **R 30 million** in any twelve month period. Where you operate more than one business, or operate a business with branches, the sales of all the businesses or branches must be added together to determine a total turnover. This applies, whether or not the other businesses or branches have separate VAT numbers;
- you have applied in writing for this category; or
- you have repeatedly failed to perform any obligations as a vendor.

You will cease to be registered under Category C if you apply in writing to be allocated to a different tax period and SARS is satisfied that you meet the requirements of the relevant category. Should your turnover exceed R 30 million subsequent to your registration for VAT, you are required to notify SARS to amend your registration to a Category C tax period within 21 days of becoming liable to register for a Category C tax period. Failure to notify SARS may result in interest and penalties being levied.

3.1.3 Six-month tax period (Category D)

Under this category you are required to submit one return for every six calendar months.

This is a category solely for farmers, farming enterprises or associations not for gain that are carrying on a farming activity, with a total turnover of less than **R1 million** per year. Your allocation under this category means that you are required to submit your returns for a six month period usually ending on the last day of February and August. You may, however, apply to the local SARS branch office to alter the end of the period to another month. An individual's six month period will be on the last day of February and August. A Company or Close Corporation's financial year end date will determine on which months their tax periods will end.

3.1.4 Twelve-month tax period (Category E)

Under this category you are required to submit one return for twelve calendar months.

This category is for vendors whose tax periods are periods of twelve months ending on the last day of their "year of assessment" as defined in section 1 of the Income Tax Act or where any vendor falling within this category makes written application therefore on the last day of such other month as the Commissioner may approve. The vendor applying for registration under this category must comply with the following:

- Where the vendor is a company or a trust fund; and
- The vendors activities consist solely of the letting of fixed properties or the renting of movable goods, or to the administration or management of such companies which are connected persons in relation to the vendor; and
- The connected person who receives the supply must be registered for VAT and must be entitled to deductions of the full amount of input tax in respect of those supplies; and
- The vendor must agree with the recipients that tax invoices are issued only once a year at the end of the year of assessment, (as defined) of the vendor making the supplies.

3.2 ALLOCATION AND CHANGE OF CATEGORY

3.2.1 New registrations for VAT

The Commissioner shall determine whether the vendor falls within Category A or Category B. If tax periods other than A or B or C are required, the vendor needs to meet the set requirements.

3.2.2 Vendors already registered for VAT

A request for a change of category can only be implemented with effect from a future date, and can not be backdated, except in the following instances:-

- if the wrong category has been captured in the registration process; or
- if the circumstances of the vendor have changed so that he/she is required to be registered within a different category. (E.g. If the taxable supplies exceed R 30 million p/a, Category C is applicable).

3.3 CHANGE OF TAX PERIOD (WHEN THE REQUIREMENTS OF THE VENDOR CHANGE)

Change of category from two monthly to monthly (subject to the aforementioned exceptions) can generally only be effected from a future date and can not be backdated.

The Commissioner shall determine whether the vendor falls within Category A or Category B. If tax periods other than A or B are required, the vendor needs to meet the requirements as set by the Commissioner.

If the total value of the taxable supplies of the vendor has in the period of any 12 months ending on the last day of any month of the calendar year exceeded R30 million, the system will programmatically change the category from A or B to C. Furthermore, the vendor is also required to inform SARS when their turnover exceeds R 30 million. The vendor will be informed by means of a VAT103 of the change of category. If however, the category has been changed to C and in the next 12 months the taxable supplies should be less than R30 million, the vendor must inform the branch office in writing thereof.

When the vendor falls within Category D and the total value of the taxable supplies of the vendor has in a period of 12 months ending on the last day of any month of the calendar year exceeded R1 million, the system will programmatically change the category from D to A or B. The vendor will be informed by means of a VAT103 of the change of category. If however the category has been changed to A or B and in the next 12 months the taxable supplies should be less than R1 million the vendor must inform the branch office in writing thereof.

3.4 THE 10 DAY RULE

Whilst the tax period normally ends on the last day of the month, there is provision for vendors to adopt a date ending on a day other than the end of the month. If a vendor has an accounting date within 10 days before or after the end of the month in which the tax period ends, the vendor may use that date as the last day for the tax period. A vendor who wishes to apply this option must ***select a fixed day or date approved by the Commissioner before or after the end of the tax period and to apply the date consistently from one tax period to the next.***

For example, a vendor may select the 27th day of a month (fixed date), or the last Friday in the month (fixed day but not a fixed date). The election by the vendor to utilise a cut-off date allowed under the 10 day rule does not affect the due date for submitting the return (i.e. the 25th day after the end of the month covered by that tax period).

CHAPTER 4

ACCOUNTING BASIS

One of the underlying principles of the South African VAT system is that it is an invoice based tax. This means that vendors are generally required to account for VAT on the basis of invoices being issued or received. This method of accounting is referred to as the “invoice basis” or “accrual basis”. However, certain vendors may qualify to use a different method referred to as the “payments basis” or “cash basis” of accounting. The differences between these two methods, as well as the requirements for each are discussed below.

4.1 INVOICE BASIS

Under this method of accounting, vendors must account for the full amount of VAT included in the price of the goods or services supplied in the tax period in which the **time of supply** has occurred. This applies to the output tax liability on cash and credit sales as well as the input tax that may be claimed on cash and credit purchases.

According to the **general time of supply rule**, a supply occurs at the **earlier of** the following events :-

- At the time that an invoice is issued, or
- At the time any payment is received by the supplier

(Note: Section 9 of the VAT Act also contains special time of supply rules. Where a special rule applies, the general rule will not apply. Examples include rental agreements, fixed property, coin operated machines, etc).

All vendors must account for VAT on the invoice (or accrual) basis unless application has been made and permission has been received from the Commissioner to use the payments basis of accounting. (Note however that fixed property transactions are treated on the payments basis – see paragraph 4.4.2 below).

Vendors must therefore account for the full amount of output tax on any supplies made in the tax period, even where payment has not yet been received from the recipient. Similarly, the full amount of input tax may be claimed on supplies received in the tax period, even where payment has not yet been made. A tax invoice must however be held by the vendor claiming the input tax. Furthermore, the vendor also needs to consider if the input tax on any particular supply is specifically denied before claiming it.

Some of the advantages and disadvantages of the invoice basis of accounting are set out in the table below.

Advantages	Disadvantages
○ Claim VAT incurred on purchases prior to payment ○ Fewer adjustments required when reconciling for income tax purposes ○ Easy to calculate and implement accounting systems (Based on invoices issued/received for sales and purchases).	○ Account for VAT on sales prior to receiving payment from debtors ○ List of debtors and creditors must be retained at the end of each tax period ○ Can lead to cash flow problems

4.2 PAYMENTS BASIS

The payments basis (or cash basis) uses the same time of supply rule mentioned above, but the vendor only accounts for VAT on actual payments made and actual payments received in respect of taxable supplies during the period. The payments basis is therefore intended to help small businesses. (Note however the special cases discussed in paragraphs 4.4.1 and 4.4.3 below which are to be treated as if the vendor is registered on the invoice basis).

A vendor must apply in writing to SARS before being allowed to apply the payments basis, which, if approved, will only apply from a future tax period as specified by SARS. A vendor who no longer qualifies for the payments basis must also notify SARS within 21 days of the end of the tax period concerned and use the invoice basis from that date onwards.

The payments basis is only available to:-

- **public & local authorities** as well as **associations not for gain** (irrespective of their turnover)
- vendors who are **natural persons** (or partnerships consisting only of natural persons) whose total taxable supplies at the end of a tax period have **not exceeded R2,5 million** in the previous 12 months, or are not likely to exceed R2,5 million in the next 12 months.

A few advantages and disadvantages of the payments basis of accounting are set out in the table below.

Advantages	Disadvantages
○ Suits small business ○ Facilitates cash flow ○ Advantageous when the vendor allows lengthy periods of credit	○ Not available to everyone ○ Claim VAT only after payments made to suppliers ○ More difficult to implement accounting systems to manage, administer and calculate accurately (e.g. reconciliation with income tax returns and adjustments).

Note : Juristic persons such as companies and trusts do not qualify for the payments basis.

Example: Comparison of invoice basis vs payments basis of accounting

Assume the following sales and purchases figures (including VAT) for the tax period Jan to Feb 2004. (Input tax and output tax is calculated by applying the tax fraction 14/114 to each amount).

	<u>Invoice basis</u>	<u>Payments basis</u>
Total sales R 57 000	Output tax R 7 000	
Total purchases R 22 800	Input tax R 2 800	
Cash received: Sales R 11 400	Output tax	R 1 400
Cash paid: Purchases R 22 800	Input tax	R 2 800
	VAT payable/(refundable) R 4 200	(R 1 400)

4.3 CHANGE OF ACCOUNTING BASIS

A change of accounting basis may occur where the vendor voluntarily wants to adopt a more suitable system for the type of business concerned (provided the requirements are met). This could involve a change from the invoice to the payments basis, or vice versa, depending on the advantages and disadvantages for that particular business. The vendor can apply to change the basis of accounting by completing form VAT 117.

Alternatively, SARS may require a vendor to change from the payments basis to the invoice basis because the vendor ceases to qualify for the payments basis.

For example :-

- A vendor who is an individual may have achieved business growth over time and manage to exceed the annual turnover of R2,5 million which is the threshold prescribed in the VAT Act; or
- A vendor who is an individual may decide to conduct the business activities under a different legal entity such as a company. (This will also require a new registration to be processed and a new VAT number issued).

However, if the increased turnover is solely as a result of selling off your enterprise assets, permanently reducing the size of your business or due to abnormal circumstances of a temporary nature, the payments basis may be retained with the permission of SARS.

Whatever the reason for changing accounting bases, **the vendor must submit a calculation and a list of debtors and creditors to the SARS office where registered and make the necessary adjustment on the return for the period concerned.** SARS will send the vendor a form VAT 118 which will indicate the tax period from which the change will apply as well as how to do the required calculation.

Example: Change in accounting basis adjustment

Sam is a sole proprietor and trades under the name “Sam’s Discount World”. He is registered on the payments basis and noticed that the turnover for the previous 12 months has increased to R 2.9 million.

He now has to make the required adjustment in respect of debtors and creditors. The SARS forwards Sam a VAT 118 which indicates that Sam must change to the invoice basis as from 1 August 2003.

On the 31 July 2003, Sam draws up the list which reflects the balance of debtors to be R 250 000 (including VAT) and the balance of creditors to be R 215 000 (including VAT).

The following calculation must now be performed:-

Debtors:	R 250 000
Less Creditors	<u>R 215 000</u>
Difference	<u>R 35 000</u>

VAT on the difference is:-
 $R35\,000 \times 14/114 = R4\,298.25$
 Sam declares this amount in block 12 on his VAT return (output tax).

If, the amount owing to creditors was greater than the amount owing by debtors, the difference would represent input tax. For example, if Sam's creditors amounted to R300 000 and the debtors amounted to R200 000, the calculation would have been as follows:-

Debtors:	R 200 000
Less Creditors	<u>R 300 000</u>
Difference	<u>(R 100 000)</u>

VAT on the difference is:-
 $R100\,000 \times 14/114 = R12\,280.70$
 which would be deducted in block 18 on the VAT return (input tax).

4.4 SPECIAL CASES

In most cases, the accounting basis will determine **how much** output tax must be paid or input tax claimed on a particular supply. There are however special provisions which treat certain supplies differently, irrespective of the accounting basis. These are as follows:-

4.4.1 Instalment credit agreement

Suppliers of taxable goods and/or services under an instalment credit agreement must account for the **full amount of output tax irrespective of the accounting basis** on which they are registered. Similarly, the recipient will be able to claim the full input if the goods were acquired for making taxable supplies. (i.e. these supplies are treated as if on the invoice basis).

4.4.2 Fixed property supplied on or after 6 June 1996

Vendors making taxable supplies (sales) of fixed property on or after 6 June 1996 must **account for output tax only insofar as the consideration for the supply has been received, irrespective of the accounting basis** on which they are registered. Similarly the recipient may only claim input tax to the extent that payment of the consideration has been made (i.e. these supplies are treated as if on the payments basis). This rule does not apply where the supply is to a “connected person” in relation to the supplier, if the purchaser is also a vendor and can claim a full input tax credit on the supply.

4.4.3 Consideration charged is R 100 000 or more

Where the supply is made on or after 5 June 1997 for a consideration of R 100 000 or more, **vendors registered on the payments basis (other than local and public authorities) must account for the full amount of output tax in the period** in which the supply occurs. (i.e. the supply is treated as if on the invoice basis.) This rule does not apply to the sale of fixed property as there is a special rule for these supplies as discussed in paragraph 4.4.2 above.

CHAPTER 5

TAXABLE SUPPLIES

5.1 DEFINITION

A taxable supply is any supply of goods or services made by a vendor in the course or furtherance of an enterprise carried on by him/her on which VAT must be charged.

VAT is charged on taxable supplies at either of the following rates:

- **Standard rate, currently 14%**
- **Zero rate (i.e. 0%)**

5.2 STANDARD RATED SUPPLIES

As a general rule, all goods and services are standard rated unless specifically zero-rated or exempt. Standard rated supplies include the supply of :-

- | | |
|--|--|
| ⇒ aircraft fuel | ⇒ books and newspapers |
| ⇒ building materials and services | ⇒ business assets sold |
| ⇒ cigarettes, cooldrinks and liquor | ⇒ white bread |
| ⇒ electricity, water and refuse removals | ⇒ clothing |
| ⇒ hotel accommodation | ⇒ furniture |
| ⇒ lawyer's services | ⇒ meat or fish |
| ⇒ local aeroplane flights | ⇒ medicines |
| ⇒ transport of goods. | ⇒ medical services (other than by State hospitals) |
| ⇒ motor vehicles and spares | ⇒ paraffin (excluding illuminating kerosene) |
| ⇒ motor repairs | ⇒ telephone services |
| ⇒ postage stamps | ⇒ washing powder |
| ⇒ restaurant services | ⇒ entrance fees to sporting events |

5.3 SALE OF SCRAP, OFF CUTS AND BY-PRODUCTS

The sale of any scrap, off cut, by-product, empty drum, pallet, container, etc., by a vendor is subject to VAT at the standard rate. Often vendors do not charge VAT when selling these items. For example, in the engineering industry, the metal scrap generated in the workshop and subsequently sold is also subject to VAT at the standard rate.

5.4 ZERO-RATED SUPPLIES

Zero-rated supplies are taxable supplies, taxed at a rate of 0%. These include:-

- **certain foodstuffs** (except when sold as a meal or refreshment) such as:-

⇒ brown bread	⇒ dried mealies
⇒ brown bread flour excl. bran	⇒ samp
⇒ eggs	⇒ fresh/frozen fruit and vegetables
⇒ dried beans	⇒ lentils
⇒ maize meal	⇒ rice
⇒ pilchards in tins or cans	⇒ vegetable oil excluding olive oil
⇒ mealie rice	⇒ edible legumes and pulses of leguminous plants
⇒ milk, cultured milk, milk powder and dairy powder blend	⇒ illuminating kerosene
- **fuel levy goods** (e.g. petrol and diesel);
- the sale of a business or part of a business as a **going concern** (if in writing and meeting certain requirements) ;
- **certain services provided to foreign residents** and businesses in respect of goods **temporarily imported** for modification, service or repair and the importer furnishes you with a VAT 262 form which has been completed and certified by the Controller of Customs; and
- **direct and certain indirect exports** (see chapter 10).

5.5 BASIC FOODSTUFFS

In terms of the VAT Act, vendors may sell certain foodstuffs at the zero rate. Recent findings have shown that many vendors are incorrectly applying the zero rate in the following circumstances:

- **Standard rated ingredients are added to a zero-rated product.** In such cases VAT must be levied at the standard rate on the product. For example :-
 - ⇒ A pack of vegetables containing a pack of flavoured butter.
 - ⇒ A pack of rice containing a sachet of flavouring.
 - ⇒ A pack of salad, to which salad dressing has been added.
 - ⇒ Milk to which whey powder, animal or vegetable fat has been added.
- **Where zero-rated foodstuffs are served as a meal prepared so as to be ready for immediate consumption,** VAT at the standard rate must be levied. For example :-
 - ⇒ A glass of milk served in a restaurant
 - ⇒ A pack of salad ready to eat
 - ⇒ Fruit prepared as a fruit salad
 - ⇒ A sandwich

Where a vendor has incorrectly applied the zero rate he/she is liable for VAT calculated at 14/114 of the amount charged to the customer. SARS auditors will be on the lookout for vendors who have incorrectly applied the zero rate and will levy additional tax and penalties where it is found that the vendor concerned intended to evade tax.

5.6 THE SALE OF AN ENTERPRISE AS A GOING CONCERN

In order for the sale of an enterprise or part of an enterprise as a going concern to qualify for the zero-rating of VAT, the following requirements have to be met:

- both parties must be VAT vendors;
- the business must be an income-earning activity on the date of transfer;
- the whole business or a part of it which is capable of separate operation must be disposed of; and
- both parties must agree in writing that the enterprise is sold as a going concern and that the zero rate of VAT will be applied.

A concession was introduced in November 1994 as a transitional measure whereby the parties concerned were allowed to enter into a written addendum in cases where the original written agreement did not comply with all the above requirements for a going concern. Several abuses have taken place where vendors have manipulated this concession to obtain undue VAT benefits. For this reason, it has become necessary for SARS to withdraw this concession of a separate contract. As from the November 2000 tax period, where new contracts are entered into and any of the requirements for the zero-rating of the sale of a going concern are not met, the supply of the enterprise will be subject to VAT at the 14% standard rate.

5.7 ILLUMINATING OR HEATING PARAFFIN (KEROSENE)

As from 1 April 2001, the sale of illuminating paraffin will be subject to VAT at the zero rate. Any vendor charging VAT at 14% on the sale of illuminating paraffin after 31 March 2001 is liable to criminal prosecution.

Please note that this change applies to illuminating paraffin only. Any other forms of paraffin or illuminating paraffin that is blended or mixed with any other products must be charged with VAT at the standard rate.

5.8 DEEMED SUPPLIES

As a registered vendor, you may sometimes be required to pay output tax even though you have not actually supplied any goods or services. These are called deemed supplies.

Circumstances that will give rise to deemed taxable supplies include the following:

- goods/services taken for own use
- certain fringe benefits to staff
- assets retained at the time of deregistering as a vendor
- short-term insurance claims that have been paid to you in respect of your business (e.g. insurance payout received for damaged stock)
- subsidies or grants received from the State

Example:

The delivery van of Peter's Delivery is involved in an accident on 25 March 2003. His insurance company pays him R 57 000.00 on 1 June 2003, to compensate for his loss. Peter's Delivery must now account for VAT in his June 2003 VAT return in respect of this insurance payout, as his is registered under a Category B tax period. Therefore $R\ 57\ 000.00 \times 14/114 = R\ 7\ 000.00$.

Peter's Delivery must account for R 7 000.00 in block 12 in their June 2003 VAT return.

Example:

David's Wholesalers (a registered vendor for VAT purposes) purchases a "motor car" for R 114 000.00 (including VAT of R 14 000.00) on 1 March 2003. David's Wholesalers is not entitled to claim an input tax credit in respect of the acquisition of the motor car. An employee of David's Wholesalers is granted the right to use the motor car with effect from 1 March 2003, and David's Wholesalers bears the full cost of maintaining the motor car. David's Wholesalers accounts for VAT in the Category B tax period. David's Wholesalers must account for output tax on the supply of the fringe benefit as follows;

Consideration in money = determined value of motor car $\times 0,003$
 $= (R\ 114\ 000.00 - R\ 14\ 000.00) \times 0,003$
 $= R\ 300.00$
 The amount of output tax payable per month will be:
 $= R\ 300.00 \times 14/114$
 $= R\ 36.84$

David's Wholesalers will therefore be liable for output tax on the fringe benefits for the months of March 2003 and April 2003 and every tax period thereafter as follows;

Block 1 of VAT 201 = $R\ 300.00 \times 2 = R\ 600.00$
 Block 4 of VAT 201 = $R\ 36.84 \times 2 = R\ 73.68$

CHAPTER 6

EXEMPT SUPPLIES

6.1 INTRODUCTION

Exempt supplies are supplies of goods or services on which VAT is not chargeable at either the standard rate or the zero rate and does not form part of your taxable turnover. If you make only exempt supplies, you cannot register as a vendor for VAT purposes. Accordingly, VAT incurred on any expenses in order to make exempt supplies may not be claimed as input tax.

Exempt supplies include the following:

- financial services (interest, life insurance, medical schemes, provident, pension and retirement annuity funds)
- donated goods or services sold by non-profit bodies (e.g. church bazaars)
- renting a dwelling for use as a private home (but not holiday accommodation)
- passenger transport in South Africa by taxi, bus, or train
- educational services (crèches, primary and secondary schools, universities, technikons and other institutions registered under an educational Act)

Example:

Mrs Bauchoo runs a crèche and an after care centre. She charges R 300 per month for each of the 100 children enrolled in the crèche. Her expenses amount to R 11 400, of which R 1 400 related to VAT.

Income (R 300.00 X 100)	R 30 000
Expenses (including VAT)	R 11 400
Profit	R 18 600

Mrs Bauchoo will not register as a vendor because she is rendering educational services which are exempt supplies for VAT purposes.

Example:

Mr Van Heerden donates his old clothes to a church as well as some wood from his carpentry business (which will be made into chairs) for sale at the church's annual bazaar.

The VAT implications are as follows:-

- The sale of the clothes by the church will be an exempt supply. No input tax may be claimed in making these supplies.
- The sale of the manufactured chairs will also be exempt if at least 80% of the value of the materials used in making the chairs consists of donated goods and services. Once again, no input tax may be claimed in respect of making or selling the chairs.
- However, if value of the wood constituted say 70% of the value and the other 30% of the value of the chairs such as glue, nails, paint, fabric, rubber stoppers, transport and other taxable services had to be purchased, the supply would be taxable at the standard rate if the church was a vendor. In such a case, input tax could be claimed on the goods or services from vendors which were acquired in order to manufacture and sell the chairs.

6.2 LETTING AND SUB-LETTING OF DWELLINGS

VAT is not levied on the letting of dwellings, under a lease agreement even if one person lets out a number of residential dwellings to another person who sub-lets them as dwellings (homes).

As long as the nature of the supply under both the main lease and the sub-leases constitutes a “dwelling” (or dwellings) as defined in section 1 of the Act, the exemption in terms of section 12(c) of the Act will apply. However, if the nature of the supply under the sub-lease is different from the main lease, for example if one of the dwellings is let as office premises, the exemption will not apply and VAT must be levied in respect of the office premises.

6.3 SUPPLY OF FIXED PROPERTY SITUATED OUTSIDE THE REPUBLIC

The supply of land (together with existing improvements) by way of sale or letting is exempt from VAT if the land is situated outside the Republic.

6.4 THE TRANSPORTATION OF FARE-PAYING PASSENGERS BY ROAD OR RAIL

The supply of transport services is exempt from VAT if the transportation :–

- is for fare-paying passengers and their personal effects by road or rail;
- is supplied in the course of a transport business;
- is supplied in a vehicle operated by the supplier of the transportation service; and
- does not constitute international transportation of passengers.

Where all these conditions are met, the transporter cannot charge VAT on the fares he charges and cannot claim any VAT incurred on purchases relating to the carrying on of that transport activity.

6.5 EDUCATIONAL SERVICES

The supply of educational services by the following entities is exempt from VAT:

- All State schools or schools registered under the **South African Schools Act, 1996** or a further education and training institution registered under the **Further Education and Training Act, 1998**.
- Universities, technikons, colleges and other institutions providing higher education which are registered under the **Higher Education Act, 1997**.
- Institutions (Public Benefit Organisations or PBO's) which are exempt from income tax in terms of **section 30 of the Income Tax Act** formed for:-
 - Promoting adult basic education;
 - Promoting education and training of religious or social workers ;
 - Educating and training persons with permanent physical or mental impairment ;
 - Training unemployed persons to enable them to obtain employment ; or
 - Providing bridging courses to indigent persons to enable them to enter a higher education institution

Institutions qualifying for VAT exemption must ensure that registration with their regulatory body has been completed by 1 March 2002. If the institution has not applied for registration with the regulatory body, such activities conducted by the institution will attract VAT at the standard rate.

Crèches and after-school care centres were previously treated as educational institutions and thus exempt from VAT. Crèches and after-school care centres are now specifically exempt from VAT in terms of section 12(j) of the VAT Act and are therefore not required to register. This exemption applies with effect from 1 March 2002.

CHAPTER 7

INPUT TAX

7.1 WHAT WILL QUALIFY AS INPUT TAX?

Generally, the VAT charged by a vendor to another vendor on any goods or services required for the business will qualify as input tax in the hands of the recipient. It does not matter if the goods or services are acquired for the purposes of consumption or use by the business itself, or for the purposes of making a supply to another person. It is important that input tax is only claimed insofar as the supplies are utilised for the purposes of making **taxable supplies** in the course or furtherance of the **enterprise**.

Input tax may not be claimed where goods or services are acquired for **private purposes** or for **exempt supplies**. Refer to Chapter 6 for examples of exempt supplies or to section 12 of the VAT Act for a complete list.

To qualify as input tax, two requirements must be met, namely:-

- the goods or services supplied must be acquired by the vendor wholly or partly for consumption, use or supply in the course of making taxable supplies; **and**
- VAT at the standard rate must have been charged ; **or**
- “Second-hand goods” must have been acquired under a non-taxable supply (See paragraph 7.4 for more details).

The following are typical examples of expenses on which input tax may be claimed by a vendor making taxable supplies:-

- trading stock;
- raw materials;
- manufacturing overheads;
- administrative overheads;
- marketing expenditure;
- fixed assets ;
- fixed property;
- Skills Development Levy (SDL);
- Joint Services Board (JSB) and Regional Service Council (RSC) levies.

Furthermore, a deduction of input tax can only be made in the tax period where the vendor is in possession of the appropriate documentation, as follows:-

- **Standard rated supplies** - a valid tax invoice;
- **Second-hand goods bought under a non-taxable supply** - sufficient records must be maintained by the vendor claiming the input tax as per form VAT 264 and section 20(8) of the Act. (See also paragraph 7.4); and
- **Importation of goods** - a customs bill of entry DA 550 or other prescribed customs document (e.g. a CCA 1) including the relevant proof of payment made to Customs.

7.2 WHEN AND HOW DO I CLAIM INPUT TAX ?

The input tax incurred for a supply is claimed in Part B of the VAT 201 for the particular tax period. Most of your claims will be completed in blocks 14 and 15 of the return. Block 14 of the return is where you will indicate the VAT claimed on any capital purchases made. Block 15 is used for any other goods or services used or consumed in the business in the course of making taxable supplies (including stock).

The correct tax period in which to make your claim is determined by the time of supply rules as discussed in Chapter 4. This will generally be the date that you made any payment for the supply, or the date that the invoice was issued by the supplier (whichever occurs first).

Your claim for input tax is set-off against your output tax liability on the VAT 201 form. The difference between these two amounts can either create a refund, or a liability for that tax period.

If your claim for input tax more than offsets the total output tax liability on the VAT 201 form (and any other amounts that you may owe SARS for past tax periods or other taxes), or if you have no output tax for that particular tax period, the excess input tax will be refunded to you.

Make sure that SARS has your correct banking details so that any refunds due to you can be paid safely and conveniently into your account without any unnecessary delays.

Also ensure that you have the relevant tax invoices for each supply before claiming the input tax. If you have not yet received the required tax invoice for a particular supply, you may only claim the input tax in the tax period that you obtain the document. You must however claim the input tax within a period of 5 years from the date of the supply to avoid forfeiting your claim.

7.3 HOW MUCH INPUT TAX CAN I CLAIM?

In paragraph 7.2 above we dealt with **when and how** you claim your input tax, but you also need to consider **how much** of the VAT incurred you can claim in a particular tax period.

The following factors have an effect on how much input tax you may claim:-

- The **accounting basis** on which you are registered and any special rules applicable for the particular supply (See Chapter 4 for details);
- Whether the specific inputs are **disallowed** or are **limited** in any way (See paragraphs 7.4 and 7.6 below);
- The **extent** to which the supply will be **utilised for taxable supplies** (See paragraph 7.5 below).

7.4 SECOND-HAND GOODS

In order not to disadvantage the second-hand goods market or to distort market prices, the VAT Act allows vendors under certain circumstances to claim an input tax credit on second-hand goods acquired from a non-vendor (i.e. where no VAT is actually payable to the supplier). This is known as a **notional or deemed input tax credit**.

The conditions under which a claim for input tax may be made on second-hand goods are as follows:-

- the goods must be “second-hand goods” as defined in the VAT Act;
- the supply may not be a taxable supply. (i.e. it will normally be purchased from a non-vendor);
- the supplier must be a resident of South Africa;
- the purchaser must have paid for the supply or at least made part payment (as input tax is only allowed insofar as payment has been made); and
- the prescribed records must be kept (as set out in Chapter 15).

The notional input tax is calculated by multiplying the tax fraction (presently 14/114) by the lesser of the consideration paid or the open market value (OMV). Where the OMV is less than the consideration paid, the OMV will be used to calculate the notional input tax claim.

Where the second-hand goods consist of fixed property, the input tax is limited to the stamp duty or transfer duty paid (as the case may be) and may only be deducted once the transfer duty or stamp duty has actually been paid to SARS.

Example:

A second-hand dealer buys a used fridge from a non-vendor for R 600 for resale. He pays the person R 400 immediately and the balance of R 200 in the next tax period.

Input tax is calculated as follows:-

Claim in Tax period 1	– R 400 x 14/114	= R 49.12
Claim in Tax period 2	– R 200 x 14/114	= <u>R 24.56</u>
Total		= <u>R 73.68</u>

Example:

Devco cc, a property developing enterprise buys vacant land for R50 000 from a non-vendor, on which it intends to develop houses. Devco pays the full purchase price on registration of the property into its name.

Since the sale of the land is not a taxable supply for VAT purposes, the cc must pay Transfer Duty at the applicable rate – in this case 10% of R 50 000 = R 5 000.

Therefore input tax = R 50 000 x 14/114 = R 6 140.35.

However, since only R 5 000 in transfer duty was payable, **the input tax claim is limited to R 5 000.**

7.5 APPORTIONMENT

Generally the full amount of input tax may be claimed by a vendor who makes taxable supplies. However, where goods or services are imported or otherwise acquired for mixed purposes (taxable and other non-taxable purposes), input tax may only be claimed to the extent that they are for making taxable supplies in the course of your enterprise. Therefore, when you import or otherwise acquire goods and services which are not exclusively for taxable supplies, you will be required to determine the part that relates only to taxable supplies. This means that you will be required to **attribute** the VAT expense according to the intended purpose for which it will be utilised. Where the expense cannot be directly attributed to either taxable supplies or to exempt supplies (or private/other non-taxable use), the extent of input tax which may be claimed has to be calculated according to the apportionment percentage obtained, using an **approved method**.

As from the November 2000 tax period, the only standard approved method which you may use for calculating this apportionment percentage without obtaining a specific ruling is the turnover based method.

The formula for the turnover based method is as follows:-

TURNOVER BASED METHOD FORMULA

$$\frac{\text{Total value of taxable supplies}}{\text{Total value of all supplies}} \times \text{VAT incurred} = \text{input tax claim}$$

Notes:

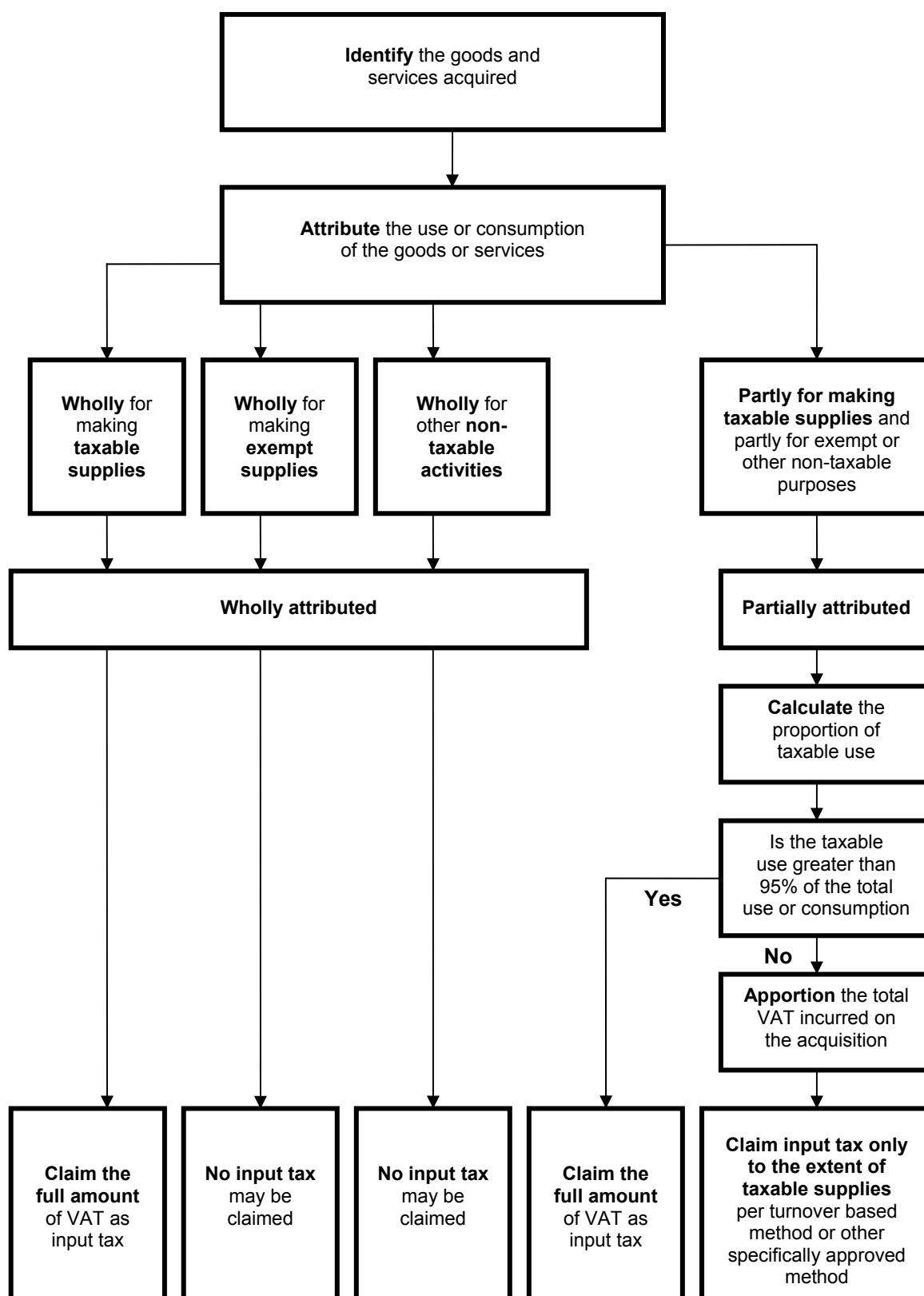
1. The term "value" excludes any VAT charged.
2. The "total value of all supplies" consists of the "value" of all taxable supplies (excluding VAT), exempt supplies and non-supplies. Remember that a taxable supply includes a zero-rated supply as well.
3. Exclude capital goods from the calculation, unless they are supplied under a rental agreement/ operating lease (i.e. not a financial lease or instalment sale agreement).
4. Exclude any goods or services where the input tax was denied from the calculation.

Remember that this calculation is only required where the input tax incurred is for both taxable supplies and other non-taxable purposes such as exempt supplies or private use. In other words, the calculation is required where the expense cannot be directly attributed to either taxable or non-taxable purposes, but is **partially attributable to both types of supplies**. This is sometimes referred to as an expense which is incurred for making "mixed supplies" or for "mixed purposes".

Note that if the expense is incurred wholly for taxable supplies, the full amount of input tax can be claimed, but if it is wholly for exempt supplies, no input tax can be claimed.

The diagram and examples on the following pages illustrate the concepts of attribution and apportionment.

ATTRIBUTION AND APPORTIONMENT FLOW DIAGRAM



Examples :

- 1 Mr Alton is a cartage contractor who is registered for VAT. He buys a truck costing R 228 000 (including VAT) for his business. Mr Alton can claim the full amount of R 28 000 VAT which was charged to him as input tax. This is because the truck was acquired exclusively for making taxable supplies. The expense is therefore **wholly attributed to making taxable supplies**.
- 2 Ms Slim runs a business which transports children to school. She imports a new bus for the purposes of her business and pays a total of R 32 000 in VAT to Customs on the value of the bus for importation purposes. **Since the business of transporting fare-paying passengers is exempt the VAT paid is wholly attributed to making exempt supplies.** Ms Slim can therefore not claim any input tax on the importation of the bus, nor can she register for VAT for the business activity carried on.
- 3 Company C is a registered VAT vendor which buys a building for R 456 000 (including VAT). The building consists of 2 units, namely a shop of 120 m² and a residential flat of 100 m². The shop is rented out to a tenant for R 6 000 and the flat for R 4 000 before considering VAT. Since the letting of a dwelling is exempt from VAT and the letting of the shop is taxable, VAT must be charged on the rental for the shop. The building is therefore used by Company C **partially for making taxable supplies and partially for making exempt supplies**. If Company C decides to paint only the shop, the VAT incurred on the paint may be claimed in full as it is wholly attributable to making taxable supplies. If the paint was bought exclusively for the residential flat, none of the VAT incurred on the paint may be claimed as input tax, as it is exclusively attributable to making exempt supplies. If the entire building was painted, the expense would have been incurred for making both taxable and exempt supplies. In this case, working on the turnover based method (excluding any VAT charged), **60% of the VAT incurred for the paint may be claimed as input tax**.

In practice, it is often difficult to accurately determine the apportionment percentage according to the turnover based method in each and every tax period. It is therefore acceptable practice to calculate the estimated percentage using the turnover figures from the previous year's financial statements, and to apply that percentage for claiming input tax in each individual tax period for that year. An adjustment is made annually to account for any shortfall or overestimation in the percentage used for the calculation when the audited financial statements for the current financial year are available and when the correct percentage can be calculated. **This adjustment should be done within a period of 3 months after the financial year end.**

If the audited financial statements have not been completed within a period of 3 months after the financial year-end, an adjustment should be made using the year-end trial balance figures. This would be followed by a final adjustment when the audited financial statements for that year are eventually finalised.

For new enterprises with no past financial statements, an estimate based on expected taxable turnover according to the enterprise's business plan or sales/marketing forecasts could be utilised. As in the situation above, an adjustment would be required within 3 months of the financial year end to account for any differences between the estimated apportionment percentage used, and the actual extent of taxable supplies as determined from the most recent financial statements.

Where the vendor calculates the apportionment ratio according to the turnover based method or any other special method approved by the Commissioner and the resultant percentage is 95% or more, no apportionment is required as the full amount of input tax can be claimed. This is known as the *de minimis* rule.

On the following page you will find a comprehensive example, illustrating how the turnover based method is used to determine the apportionment percentage for the year, as well as the required annual adjustment.

Example : Apportionment using the turnover based method

Bhengi (Pty) Ltd owns a small double-storey building on the outskirts of a large city. The building is used for mixed purposes in that it has 4 shops on the ground floor (taxable supplies) and 2 large residential apartments on the top floor (exempt supplies).

Shops are rented for R 12 000 each (plus VAT @ 14%) and apartments for R 8 000 each per month (no VAT). There are no separate meters for water and electricity and these expenses are paid by Bhengi (Pty) Ltd in terms of the lease agreements. An extract from the company's annual financial statements for the 2003 financial year (tax year) indicates the following income and expenditure items:-

INCOME STATEMENT OF BHENGI (PTY) LTD
FOR THE YEAR ENDING 28 FEBRUARY 2003

	<i>R</i>
Income	
Rental of apartments (exempt)	192 000
Rental of shops (taxable)	576 000
Total income	768 000
Expenses	
New geysers for apartments	5 000
New glass for shopfronts	16 000
Painting of entire building	120 000
Electricity	48 000
Water	63 000
Telephone	6 000
Rates & taxes	100 000
Wages	35 000
Insurance on building	66 000
Total expenses	459 000
Net Profit	309 000

Note 1: Amounts reflected on any financial statements should not include VAT.

Note 2: Percentage taxable supplies per turnover based method:

$$\frac{576\,000}{768\,000} \times \frac{100}{1} = 75\%$$

VAT expense indicator

wholly for exempt
 wholly for taxable
 mixed
 mixed
 mixed
 mixed
 no VAT included
 no VAT included
 mixed

VAT ACCOUNT OF BHENGI (PTY) LTD
RECONCILIATION FOR THE YEAR ENDING 28 FEBRUARY 2003

	<i>R</i>
Output tax	
Shop rental 576 000 x 14% (Note 1)	80 640
Input tax	(23 555)
Glass – shopfronts 16 000 x 14% (Note 1)	(2240)
Total mixed expenses (Note 3)	
203 000 x 14% = 28 420 x 75% (Note 2)	(21 315)
Net VAT paid 2003 (Notes 4 and 5)	57 085

Note 3: Mixed VAT expenses

120 000 Painting
 + 48 000 Electricity
 + 63 000 Water
 + 6 000 Telephone
 + 66 000 Insurance
203 000

Note 4: Adjustments

See Chapter 12 for details of the VAT implications and adjustments when the calculated apportionment percentage changes.

Note 5: Annual adjustment

Assuming that the vendor used an apportionment percentage of 72% during the year (based on the 2002 financial statements), the vendor would be entitled to claim an input tax adjustment in block 18 of their VAT 201 return for the shortfall of 3% calculated as follows:- R 28 420 x 3% = R 852.60.

Similarly, had the 2002 financial statements indicated the percentage to be 80%, the vendor would be required to make an output tax adjustment in block 12 of their VAT 201 return as follows:- R 28 420 x 5% = R 1421.00

Where the turnover based method does not yield a fair approximation of the extent of taxable supplies (biased either in your favour, or in favour of SARS), you should approach your local SARS branch office to obtain consensus on an alternative method which yields a more accurate result.

Please take note of the following if you choose to use a special/alternative method of apportionment for claiming input tax on VAT incurred for mixed supplies:-

- **Make sure that you obtain written approval before using the proposed method.** This is most important, as assessments could be raised (retrospectively – with penalty and interest) if you received undue benefits by applying an incorrect or unfair method which has not been approved.
- If your circumstances change so that the apportionment formula which you presently use will be materially affected and yield an unfair result, you should inform SARS of this immediately as it may be necessary to adopt another method.
- Ensure that at least every 3 years an exercise is carried out to demonstrate that the method is still valid, appropriate and reliable and that it does not give a biased result.
- A special/alternative method of apportionment which has been approved for one vendor is not transferable to any other vendor, as each person's circumstances are different. A general ruling may however be given to a group of vendors who find themselves in similar circumstances. For example banks all use a certain formula for apportionment.
- The date of application of the method may not backdate unless the Commissioner decides that it is appropriate in the circumstances.

Some examples of special/alternative apportionment methods are shown below.

Examples : Special/alternative apportionment methods

1 The Varied Input Based Method

This method is based on the ratio of VAT wholly attributable to taxable supplies to the total VAT incurred for all supplies (excluding the VAT incurred for mixed taxable and exempt supplies). The ratio obtained is multiplied by the VAT incurred for goods and services acquired/imported for mixed use to determine the VAT which may be claimed. For example, Vendor D incurs R 200 VAT wholly for the purposes of making taxable supplies, R 100 VAT for exempt purposes and R 90 VAT for both purposes. The input tax which may be claimed is calculated as follows:-

$$R200 + (R90 \times 200/300) = \underline{\mathbf{R260}}$$

2 The Floor Space Method

Vendor E owns a building which is used as a shop (taxable) and a crèche (exempt purposes). The floor area of the shop is 200 square metres and the crèche is 300 square metres. The vendor incurs R 500 VAT wholly for purposes of the shop, R400 VAT wholly for purposes of the crèche and R 300 for both parts of the business. The input tax which may be claimed is calculated as follows:-

$$R500 + (R300 \times 200/500) = \underline{\mathbf{R 620.}}$$

3 The Transaction Based Method

If a vendor is involved in a business where both taxable and exempt transactions are conducted where the cost of those transactions is the same in each case, application may be made to use this method. For example, assume that Medical Scheme F has 7 000 transactions a year with its members (exempt) and 3 000 transactions on behalf of another medical scheme (taxable). If it incurs R 2 000 VAT wholly in relation to transactions with its members, no VAT directly in connection with taxable supplies and R 1 000 VAT in connection with both activities, the input tax which may be claimed is calculated as follows:-

$$R 1\ 000 \times 3\ 000/10\ 000 = \underline{\mathbf{R 300}}$$

4 The Employee Time Method

Assume that Vendor M is in the business of loaning money to the public and earns both administration fees (taxable) and interest (exempt). The vendor finds that employee time relating to each activity yields the most reasonable and accurate apportionment result, and, in terms of the survey conducted, determines that 200 working days is spent by employees earning fees and 40 working days is spent earning interest. It incurs R 700 VAT wholly for earning administration fees, R 200 VAT wholly relating to interest income and R 400 relating to both. The input tax which may be claimed is calculated as follows:-

$$R700 + (R400 \times 200/240) = \underline{\mathbf{R1\ 033}}$$

7.6 DENIAL OF INPUT TAX

There are certain circumstances where VAT paid cannot be deducted by the vendor as input tax. These include:-

- goods or services acquired for purposes of entertainment;
- membership fees or subscriptions of clubs, associations or societies of a sporting, social or recreational nature;
- the acquisition of a motor car by a vendor (who is not a motor car dealer or car rental enterprise); and
- goods or services acquired by medical schemes or benefit funds for the purposes of health insurance or benefit cover.

The specific details as well as the exceptions are detailed below under separate headings.

7.6.1 Entertainment

Common examples of entertainment expenses are as follows:-

- staff refreshments such as tea, coffee and other beverages and snacks;
- food and other ingredients purchased in order to provide meals to staff, clients and business associates;
- business lunches and dinners ;
- catering services acquired for staff canteens and dining rooms where the direct and indirect costs of providing the meals are not covered by the price charged;
- equipment and utensils used in kitchens;
- furniture and other equipment and utensils used in canteens and dining rooms;
- Christmas lunches and parties, including the hire of venues;
- golf days for customers and clients;
- beverages, meals and other hospitality and entertainment supplied to customers and clients at product launches and other promotional events;
- entertainment of customers and clients in restaurants, theatres and night clubs ; and
- capital goods such as hospitality boxes, holiday houses, yachts and private aircraft used for entertainment.

(The above list is not exhaustive, it merely indicates some examples and the scope of the term "entertainment").

Exceptions:

In the following circumstances, input tax relating to entertainment expenses incurred may be claimed:-

- Vendors in the business of supplying entertainment – the entertainment must however be supplied at a charge that at least covers all the costs of supplying the entertainment. This would include genuine client promotions, where the entertainment is of the same sort as that normally provided (e.g. two milkshakes for the price of one);
- Personal subsistence for employees – only where the employees incur expenditure on personal subsistence on behalf of their employer, and the actual expenditure is reimbursed. It is a condition for the claim that the employee ***must be away on business from his/her normal place of work and residence for at least one night***. Where an allowance is paid to the employee for this expense, no input tax credit will be allowed.
- Meals or refreshments supplied in the following cases where the cost is included in the price of the ticket or entrance fee:-
 - operators of ***taxable passenger transport services*** to passengers or crew (e.g. travel by air or on a ship); or
 - organizers of ***seminars and similar events***;
- Sport or recreational facilities provided by local authorities; and
- Expenses incurred by a welfare organisation in furthering its aims and objectives.

7.6.2 Club subscriptions of a recreational nature

Input tax may not be claimed on VAT paid in respect of any membership fees to sporting, recreational and private clubs. For example membership of a country club, soccer supporters club, amateur boxing club, holiday club, tea club, stokvel savings club, etc.

The VAT incurred on subscriptions to magazines and trade journals which are related in a direct manner to the nature of the enterprise carried on by the vendor may however be claimed.

The VAT incurred on any fees or subscriptions to professional organisations may be claimed to the extent that membership relates to taxable supplies made by the vendor. Examples of these professional organisations can be found in the financial services industry as well as the accounting, auditing, insurance and medical professions. If the employer bears the cost of the employee's subscription to the professional organisation, the VAT may only be claimed if the employer has an obligation in terms of the employee's employment contract to pay those fees.

7.6.3 Motor Cars

The term "motor car" is defined in the VAT Act and includes vehicles which:-

- have 3 or more wheels;
- are normally used on public roads; and
- are constructed or adapted mainly or wholly for carrying passengers.

An input tax deduction may not be made by a vendor if a vehicle falling within the definition of a "motor car" is acquired, even if it is utilised in the course of an enterprise for making taxable supplies. The mode of acquisition may be by way of purchase, importation, leasing, operating rental agreement or casual hire.

An input tax credit may, of course, be claimed in respect of any vehicle which does not fall within the definition of a "motor car", provided that it is used for taxable supplies. The nature of the vehicle, and not the use to which the vehicle is put, will determine whether or not an input tax credit may be claimed.

The term **"motor car" includes the following vehicles** (i.e. where input tax will generally be denied):-

- double cab bakkies (LDV's);
- normal sedan type passenger vehicles;
- station wagons;
- minibuses;
- sport utility vehicles (SUV's), and
- hearses

The term **"motor car" does not include the following vehicles** (i.e. input tax will generally be allowed if all the other requirements for input tax are met):-

- goods transportation trucks;
- single cab light & heavy delivery vehicles;
- vehicles capable of accommodating more than 16 persons (e.g. a bus);
- vehicles with an unladen mass of 3500 kg or more ; and
- other special purpose vehicles / equipment such as bulldozers, graders, hysters, combine harvesters, tractors, ambulances, etc.

The VAT on repairs and maintenance and general running costs of a motor car acquired for making taxable supplies such as insurance, tyres, engine oil, servicing, etc may however be claimed. This could also include modification and installation costs (e.g. canopy modification for a bakkie or installation of cellphone kits). Remember that petrol and diesel are zero-rated supplies, and no input tax may be claimed on these running expenses.

There is an exception to the general rule regarding the non-deductible nature of input tax incurred on the acquisition of a motor car. This exception is for motor car dealers and car rental enterprises who may claim the input tax on the acquisition of motor cars which would otherwise be denied to other vendors. The reason for this is that the motor cars are acquired for the exclusive purpose of continuously or regularly making taxable supplies of those motor cars in the ordinary course of their business.

7.6.4 Goods or services acquired by medical schemes or benefit funds

Normally medical and other benefit schemes are not registered for VAT insofar as they provide medical benefits to their members. Consequently, input tax may not be claimed by these schemes for any payment or request for reimbursement in respect of medical and dental services supplied to their members who are covered in terms of the scheme.

7.7 PETTY CASH PAYMENTS

Vendors are not obliged to obtain tax invoices for purchases not exceeding R50. Such purchases are usually petty cash expenses for postage stamps, stationery, parking, etc. Even though it is often the case that no tax invoice is required for petty cash purposes, you will need to keep the till slip, cash slip or sales docket with details of the purchase in a petty cash book or similar record in order to claim the input tax.

Make sure that the receipt indicates the amount of VAT charged, or alternatively, a statement that the amount charged includes VAT at the standard rate, otherwise any claim in this regard may be disallowed.

7.8 PRE-INCORPORATION EXPENSES

Pre-incorporation expenses are costs which are incurred by a person in registering and setting up the infrastructure of a legal entity such as a company before the entity can legally be viewed as having come into existence (i.e. a company which is not yet registered with the Registrar of Companies). Where a company reimburses a person for the costs and purchases incurred before it was formed, the company is deemed to be the recipient of the goods or services and to have paid any VAT component. Accordingly the company can deduct that VAT as input tax in the tax period during which the reimbursement is made.

This will only be allowed if the person -

- was reimbursed by the company for the ***whole amount paid; and***
- acquired the goods or services for the purpose of an enterprise to be carried on by the company and has not used the goods or services for any other purpose.

The company may not, however, claim the deduction where:-

- the supply of the goods or services by the person to the company is a taxable supply, or is a supply of second-hand goods (not being a taxable supply);
- the goods or services were acquired more than six months before the date of incorporation; or
- the company does not hold sufficient records.

7.9 ADJUSTMENTS TO INPUT TAX

In the course of trading, it may be necessary for a vendor to make certain adjustments, e.g. if bad debts are written off, or there is a change in the extent of taxable use of assets. These adjustments may affect the input tax or output tax.

Refer to Chapter 13 for more details of situations which may lead to a claim for input tax.

CHAPTER 8

CALCULATING, COMPLETING AND SUBMITTING YOUR VAT RETURN

8.1 HOW TO CALCULATE YOUR VAT

Your VAT return will be posted to your postal address as listed on your VAT 101 registration form. Your VAT return will reflect your legal name, trade name, postal details, VAT registration number and the tax period. Your VAT return is a declaration by you of the amounts of VAT you have charged as output tax, and the amounts you are entitled to claim as input tax. The difference between these amounts for that specific tax period could either result in you having to pay the difference to SARS or be entitled to a refund of the difference. If you are registered for VAT, you have to submit returns by the due date, even if you do not owe any money to SARS for that tax period.

The basic steps in calculating your VAT liability or refund and completing your return are as follows:

STEP 1: Determine the VAT charged (output tax)

Invoice basis - add all the sales invoices (cash and credit sales, including the VAT) issued by you, irrespective of whether payment has been received or not. (See chapter 4)

Payments basis - add all the actual payments (including the VAT) received by you. (See chapter 4)

Block 1 - Write your total sales and income, including VAT in block 1. Multiply this amount by 14 and divide it by 114 (i.e. 14/114 known as the tax fraction). This will give you the total VAT included in your sales for the period. Write your answer in block 4.

Block 1A - If you sell or trade-in any of your business assets, the amount including VAT must be filled in block 1A. In the event of a trade-in, where the trade-in value is reflected as an amount that is off-set against the purchase price of the new asset, the trade-in amount must be reflected in this block. The same tax fraction as above (i.e. 14/114) must be applied to determine the amount of VAT that must be filled in block 4A.

Block 2 - is for zero-rated items sold, for example, certain foodstuffs and zero-rated exports. Your total sales for these zero-rated supplies must be reflected in this block. No output tax is calculated on zero-rated supplies.

Block 3 - is for exempt supplies and supplies which are not taxable, zero-rated or exempt.

Blocks 5-8 - are in respect of accommodation. VAT NEWS No. 12 deals with these areas in detail. Copies are available from SARS or the SARS website.

Block 13 – is the total of the amounts reflected in block 4, 4A, 9, 11 and 12 and is the total output tax you have charged in a tax period.

STEP 2: Calculate your input tax

Block 14 - is for the VAT paid on any purchases of fixed or movable assets. You only fill an amount in this block if your business has bought any assets. This will include assets which have been financed via a instalment credit agreement. While these assets have not been fully paid for, the VAT can be claimed at the start of the agreement. However, when a notional input tax credit is claimed on the acquisition of second-hand goods from a non-vendor, input tax is limited to payment made only. (See chapters 4 and 7).

Block 15 - Invoice basis - add up only the VAT amounts of all your business purchases and expenses for which you have valid tax invoices – irrespective of whether payment has been made or not.

Payments basis - add up all the valid tax invoices during the period which have been paid in full and invoices that were partly paid only limited to the extent of payment made. Thereafter apply the tax fraction (i.e. 14/114) to this amount to obtain the input tax amount claimable.

Note: No input tax can be claimed on zero-rated purchases, because VAT of R 0.00 was paid.

Compile a list of all purchases claimable that are supported by valid tax invoices and fill in the VAT amount in block 15.

Block 19 – is the total of the amounts in block 14 (if applicable), 15 and any amounts you may have in blocks 16, 17 and 18 (debit or credit notes), which are VAT amounts only.

Any working papers and supporting documentation must be kept, and must not be attached to your VAT return. These documents must be kept for a period of 5 years.

STEP 3: Pay the difference or claim your refund

Block 20 – is the difference between your totals in blocks 13 and 19.

If the amount in block 13 is larger than the amount in block 19, the difference is VAT payable to SARS.

If the amount in block 19 is larger than the amount in block 13, the difference is the VAT refundable to you.

8.2 FILING YOUR RETURN

Once you have completed the return, check it carefully as you can be held liable for penalties and interest if there are errors which lead to any shortfall in VAT paid. Sign the VAT return and send it with your cheque payment to any SARS office. Alternatively, you may make use of SARS e-filing service to file and pay your VAT electronically. This may be done by registering with SARS e-filing service on www.sarsefiling.co.za.

Vendors may also submit VAT returns (VAT 201) to SARS branch offices by fax. The fax number of the branch office will in future appear on VAT returns. This will normally apply in respect of refund returns, or returns where payment is made electronically or at First National Bank. Should any changes be made, the alterations must be signed. Remember to sign the return and to complete all mandatory blocks to prevent the return being considered as invalid.

Your return must be submitted on or before the 25th day of the following month after the end of your tax period. For example, if your tax period ends on 31 March, you have until the 25th April to submit the return and payment. Remember: if the 25th of any month is on a Saturday, Sunday or public holiday, your return and payment must reach the SARS' office on the last working day before the 25th. Assuming that the 25th is on a Sunday, your return must reach SARS by the Friday or the previous working/business day. The date by which the return must be submitted to SARS is shown on the front of the return.

8.3 ERRORS ON VAT RETURNS

When amounts are incorrectly filled in on your VAT return, cross it out, and fill in the correct amount. **Note that any alterations on a return must be signed (including alterations where correction fluid has been used).**

Where your VAT 201 return is submitted to SARS and the calculations are incorrect, SARS will send the VAT 201 return back to you for correction. Until such time as you correct the return, and send it back to a SARS office, it will be treated as not having been received, even if your payment has been processed. If you make zero-rated or exempt supplies, the total of each of these supplies must be shown on your VAT returns. The failure to fill in these supplies (blocks 2 and 3 on the VAT 201 form) will result in unnecessary audits and may delay refunds.

8.4 HOW TO PAY YOUR VAT

There are several ways to make payment:

- Post a cheque with your return in the reply envelope provided. Cheques must be made payable to the South African Revenue Service and be crossed. Do not send cash in the post.
- Pay at any SARS office with cash or by cheque.
- Pay electronically. You can obtain more information from your nearest SARS office or SARS website.
- Pay at any branch of First National Bank. A brochure containing more information about this is available from your SARS office. Please note: your return must still be sent to the SARS if you have paid at First National Bank.

8.4.1 Payments through the post

Should you prefer to pay your VAT by post, you must ensure that your payment will be received by SARS on or before the 25th or last preceding business day.

8.4.2 Payments at SARS cash office

Payment of your VAT can be made at the cash office of any SARS branch by means of cash, cheque or postal order during office hours, Monday to Friday between 8h00 and 15h30. You must ensure that your payment is made on or before the 25th or last preceding business day (where applicable). Drop boxes are available at each SARS branch office where you can submit your cheque or postal order payment together with your VAT return.

8.4.3 Electronic Transfer payments (EFT):

Where you make an electronic transfer of funds to SARS, you must ensure that the payment will reach SARS by the due date shown on the VAT 201 return (usually the 25th of the month). Please enquire from your bank whether "same day" transfers are made to SARS. If not, you must make the transfer earlier to ensure that it is in SARS bank account by the 25th or the last preceding day (where applicable). Electronic transfers received in SARS' banking account after the due date will incur penalties and interest as a result of late payment. Should you have any further enquiries relating to these limits, please contact your bank.

8.4.3.1 Debit Orders

Payment of VAT to SARS by means of electronic transfer, results in the vendor's bank account being debited by SARS on the last business day of the month. The VAT return must be submitted on or before the 25th or last preceding business day. A form VAT201(A), debit order authorisation, is required to be completed and must be stamped by your bank, certifying the correctness of your bank account particulars and must be furnished to SARS, in order to authorise SARS to electronically transfer the VAT amount from your bank account.

8.4.3.2 e-Filing

SARS is now the sole provider of the e-Filing tax service in South Africa. All SARS business customers are able to log on to www.sarsefiling.co.za to submit specific returns and payments electronically via the internet at no charge. By logging on to www.sarsefiling.co.za vendors are able to receive, complete and submit VAT returns and make payments via secure internet based facilities 24-hours a day. For more information about SARS electronic filing service and how to register, log on to www.sarsefiling.co.za, or call 0860 709 709. The electronic filing support centre can be reached at info@sarsefiling.co.za.

8.4.3.3 Internet banking

Where payment is made by using internet banking facilities or any other electronic transfer medium, the payment must be received in SARS' bank account on or before the 25th or last preceding business day (where applicable) and, such payment must accurately reflect your VAT reference number and the tax period for which the payment is being made. The bank payment details set out under "Payments at First National Bank" must be furnished. Failure to provide these details will result in the payment not being credited to your account. Arrangements with your bank to effect "same day" or "online" transfers are your responsibility.

8.4.4 Payments at First National Bank (FNB)

You may choose to pay your VAT at FNB, in which case you must ensure that your payment at the bank is made on or before the due date reflected on the VAT return. In order for your payment to be successfully processed, the following information is required on the FNB deposit slip:

- A **19 digit Bank Payment Reference** which is made up as follows:
 - your 10 digit **VAT Registration Number** and;
 - the **Tax Type indicator** –V for VAT and;
 - an **8 digit tax period number** to follow the format: 00mmccyy.
(For example 00062002 represents payment for the tax period ending June 2002).
- The **Branch Code -253145**
- The **SARS VAT Bank Account number- 51421187737**.

Example :

The following is an example of the VAT payment reference for VAT No. 4880124452 for the tax period ending June 2002:-

Bank Payment Ref: 4880124452V00062002
 Branch Code: 253145
 Bank Account: 51421187737

Note: The above information is also pre-printed on your VAT return.

8.5 PAYMENT LIMITS (EFT / E-FILING / DEBIT ORDERS / BANK PAYMENTS)

The banks and the Payments Association of South Africa (PASA) have set payment limits on cheques, debit orders, ATM transactions and electronic payments.

The limits are as follows:

- A **debit order** - **R500 000**.
- Credit payments through **EFT** (electronic funds transfer) –**R 5 million**.
- A **cheque** – **R 5 million**.

These measures are aimed at moving high-value payments to the South African Multiple Option Settlement (SAMOS) system operated through the SA Reserve Bank.

How these limits will affect you as a vendor:

- **Debit order arrangements** - A payment cannot exceed R 500 000.00. Penalties and interest as a result of a late payment will then be incurred if the debit order cannot be processed for whatever reason.
- **Cheque payments** to SARS may not exceed R 5 million. Should you issue a cheque exceeding this amount, it will be returned to you and penalties and interest as a result of a late payment will be incurred.
- **EFT payments** in excess of R 5 million must be cleared with your banker.
- **E-filing transactions** will not be affected by these rules as no limits are imposed thereon.

Should your existing payment method exceed any of these limits, you must approach your bank timeously in order to effect an electronic transfer of funds to ensure that the full VAT payment can be made by the due date. SARS has emphasised that payments received late as a result of these changes would lead to penalties and interest being imposed. Therefore, to avoid penalties and interest being levied, kindly adhere to the time frames for the submission of VAT returns and payments tabled below;

As pointed out in VAT News No. 18, you must ensure that payment will reach SARS by the due date shown on the VAT return in whichever way you choose to effect payment. The onus is on you to ensure that payments are received in SARS' banking account on the due date. If not, penalty and interest will be incurred.

When must SARS receive your returns and payments?

Payment method	Returns	Payment
Cash	25 th	25 th
Cheque	25 th	25 th
Postal Order	25 th	25 th
Payments at FNB	25 th	25 th
VAT201 (a) debit order	25 th	Last business day
E-filing of return and payment via service provider	Last business day	Last business day
Electronic transfers (including Internet banking)	25 th	25 th

Important Note: The return and/or payment must be received **on or before the abovementioned dates** for the particular payment method selected, or, if that day falls on a Saturday, Sunday or public holiday (i.e. not a business day), it must be received on the last business day before that date.

8.6 PENALTY AND INTEREST FOR LATE PAYMENT

If the VAT due is not paid to SARS by the due date a **penalty of 10%** of the outstanding amount of VAT will be levied. **Interest at the prevailing interest rate**, will also be charged per month or part thereof from the 1st day of the month following the month that the tax was due until the outstanding amount has been paid. (Interest is also charged on any additional tax which is paid late).

Note that electronic payments are processed on the last business day of the month but the return must still be submitted as normal by the 25th day of the month. Where insufficient funds are available on the due date for payment, penalty and interest will be calculated accordingly.

Example:

Mr Prinsloo is required to submit his VAT return and payment of R3 000.00 in respect of the May 1999 tax period by 25th June 1999. He only submits this return and payment on the 3rd July 1999.

Penalty and interest is then calculated as follows:-

10% penalty on R 3 000.00	R 300.00
1.1% interest per month or part of a month	R 33.00

The VAT Act does make provision for penalty and interest in certain circumstances to be remitted or reduced. **A written request must be submitted to the SARS office at which you are registered if you wish to have your case for the remittance of penalties and interest considered.**

To the extent that the Commissioner is satisfied that the late payment was not due to intent not to pay the tax or to postpone the payment of tax, the **penalty** may be remitted or reduced. **Interest** may only be remitted if either:-

- there is no resultant financial loss (including any loss of interest) to the State, taking into account the output tax and input tax relating to the supply in respect of which interest is payable; **or**
- the vendor/ person liable for the payment did not benefit financially (taking interest into account) by not making the payment when required.

Where there are circumstances beyond your control e.g. computer crash, records destroyed in a fire, etc, which may result in you not being able to pay your VAT on time, you may make a deposit ("provisional payment") equal to an estimate of the tax payable. When the tax liability is finally determined, any excess deposit will be refunded and any deficit amount recovered from the vendor. On any outstanding amount penalty and interest will be levied, but you may apply to have these remitted as discussed above.

8.7 REFUNDS

When your return results in an amount to be refunded, SARS will refund you within 21 business days. Should the refund not be made within this time, interest at the prescribed rate per year is payable to you. The 21 interest-free business days can be extended, in the instance where there is differences between your liability declared and your actual liability or where no audit can be carried out. In these cases no interest will be payable. Refunds will only be paid out to you if you do not owe any amounts for Income Tax or PAYE. Any amounts owing to these taxes will be deducted from any VAT refund due to you.

SARS will not pay VAT refunds where it is not in possession of your bank details. A cheque will not be issued in respect of any refund, and SARS will not pay interest on late refunds where you have not submitted your correct banking details. If SARS does not have your correct banking details, please furnish these as soon as possible. The details must be accompanied by a cancelled cheque, latest bank statement or a letter from your bank which bears the bank stamp confirming your account details.

Should you wish to nominate or utilise a banking account which is not that of the vendor, you must furnish the necessary authority from the account holder (e.g. company resolution) and provide indemnity to SARS against possible losses of amounts paid into such accounts on form VAT 119(i). These forms are available from SARS offices or its website www.sars.gov.za.

8.8 HOW TO FILL IN YOUR VAT RETURN – A PRACTICAL EXAMPLE

Example:

Mr A. Nteo is a sole proprietor, trading as Nteo's Furnishers. He is registered for VAT under Category B on the invoice basis.

At the end of October 2004 the sales are summarised (for September and October 2004) as follows and handed over to his accountant Mr. Joe Soap: (Figures include VAT where applicable).

Sales

Sales invoices (excluding cash sales) no 24 - 87 issued	R 37 821.00
Cash sales	R 22 965.00
Redundant computer sold	R 2 500.00
Insurance paid out on stolen delivery truck	R 40 000.00

Expenses

New computer purchased:	R 12 000.00
Stock and overheads:	R 20 000.00
Credit notes issued	R 1 580.00

Mr. Soap does the following calculations for the two month period ending October 2004 so that he can complete the VAT 201 return for Mr Nteo:

OUTPUT TAX:

Sales (excluding cash sales)	R 37 821.00
Add: Cash Sales	R 22 965.00
Total Sales (Block 1)	R 60 786.00
Output tax (Block 4) [Block x 14/114]	R 7 464.95
Computer: (Block 4A)	R 2 500.00
Output tax (Block 4A) [Block 4A x 14/114]	R 307.09
Insurance (Block 12):[R40 000.00 x 14/114]	R 4 912.28

Total output tax [Block 4 + block 4A + block 12] **R 12 684.32**

INPUT TAX:

Computer: (Block 14) [R12 000.00 x 14/114]	R 1 473.68
Purchases: (Block 15) [R 20 000.00 x 14/114]	R 2 456.14
Credit notes: (Block 18) [R1580 x 14/114]	R 194.04

Total input tax [Block 14 + block 15 + block 18] **R 4 123.86**

VAT PAYABLE TO SA REVENUE SERVICE **R 8 560.46**
(R 12 684.32 less R 4 123.86)

Mr Soap completes the figures in the relevant blocks on the VAT 201 return, signs the document and submits it on Mr. Nteo's behalf to SARS as required on 24 November 2004 as shown overleaf.

A. Nteo
P O Box 12345
BOXVILLE
0123

VALUE-ADDED TAX

VAT 201

Return for remittance of VAT

PART 2

Always quote this
registration number in
correspondence and
during interviews

4121101002

Please use this telephone no. for any enquiries

(012) 317 2000

Last day for
rendering return/payment

25/11/2004

Amount of payment

R

Remittance received on

25/11/2004

Method of payment / indicate with an "X" below

Cheque

2

Cash

1

Bank/Internet

Area

64

Tax Period

1004

Account number for First National Bank payments

4121101002V001004 BRANCH 253145 BANK 51421187737

Trading or other name

A Nteo

Tax period ending

OCTOBER 2004

1004

Date received

25/11/2004

VAT 201

VAT registration number

4121101002

Area

64

Y *

PART 1

* See general note 4 on overleaf

A. CALCULATION OF OUTPUT TAX

Supply of goods and/or services by you:

Standard rate (excluding capital goods and/or services and accommodation)	
Standard rate (only capital goods and/or services)	
Zero rate	
Exempt and non-supplies	
Supply of accommodation:	TOTAL AMOUNT (EXCLUDING VAT)
Exceeding 28 days	5 NIL
Not exceeding 28 days	
	x 60%
	TOTAL

Adjustments:

Change in use and export of second-hand goods	
Other	

RANDS ONLY

CONSIDERATION (INCLUDING VAT)

1	60786
1A	2500
2	NIL
3	NIL

TAXABLE VALUE (EXCLUDING VAT)

6	NIL
7	NIL
8	NIL

CONSIDERATION (INCLUDING VAT)

10	NIL
----	-----

R

C

VAT

$X \frac{r}{100+r}$	4	7464	95
$X \frac{r}{100+r}$	4A	307	02

VAT

$X \frac{r}{100}$	9	NIL	
$X \frac{r}{100+r}$	11	NIL	

VAT

	12	4912	28
	13	12684	25

TOTAL A**TOTAL OUTPUT TAX (4 + 4A + 9 + 11 + 12)**

B. CALCULATION OF INPUT TAX Input tax in respect of:

Capital goods or services imported by and/or supplied to you	
Other goods or services imported by and/or supplied to you (not capital goods and/or services)	
Tax on adjustments:	
Change in use	
Bad debts	
Other	

TOTAL B**TOTAL INPUT TAX (14 + 15 + 16 + 17 + 18)****AMOUNT PAYABLE/REFUNDABLE (Total A - Total B)**

Tel No: (012) 378 2000
Fax No: (012) 378 2001
*Contact details for THIS return only

I certify that the particulars in this return are true and correct.

J. Soap
Authorised person's signature

Accountant
Capacity

25/11/2004
Date

CHAPTER 9

FARMING

This chapter focuses on a few of the VAT implications which are unique to farming enterprises.

9.1 TAX PERIODS

It is a common misconception that all farmers may be, or are required to be registered on Category D (six monthly or bi-annual tax period). This is not true as this category is only available to fairly small scale farming enterprises.

Vendors who qualify for the Category D tax period must meet the following criteria:-

- the enterprise must consist **solely of agricultural, pastoral or farming activities** ; and
- the total turnover from all farming activities must **not exceed R1 million p/a**.

A vendor may also qualify for Category D if a separately registered branch or division of the enterprise consists solely of agricultural, pastoral or farming activities. (Provided that the vendor's other enterprises, branches or divisions do not also consist of those same activities).

Generally, vendors will want their 6 monthly tax periods to coincide with their provisional tax period. For this reason, vendors who are sole proprietors will be allocated a tax period which ends at the end of February and August. Other legal entities may choose to end the period on any two other months which are 6 months apart (e.g. March & September). If you qualify for the Category D tax period, but would prefer to pay your VAT monthly, or every second month, you may apply to be registered on that basis.

Should the value of taxable supplies exceed R 1 million p/a, the Commissioner will allocate either Category A or B tax period to you (2 monthly tax period). If the value of taxable supplies exceeds R 30 million p/a, you will be obliged to pay over the VAT and submit returns per Category C tax period (i.e. monthly).

9.2 OUTPUT TAX

9.2.1 Standard Rated Supplies

Besides the normal standard rated supplies, farmers must remember that if you sell anything or receive any money which is considered to be a part of your enterprise (i.e. you would have been allowed to claim input tax in respect thereof), you must charge VAT at the standard rate. Some examples include:-

- trade-in of trucks, machinery or other fixed assets;
- rental income in respect of land let for grazing or crops;
- insurance payouts received for loss or damage experienced in the enterprise (excluding any asset on which input tax was denied. E.g. the family motor car or yacht);
- income from any other business which you operate. E.g. if you sell goods or surplus crop from a farm stall, the sale of scrap and off-cuts, etc ;
- the sale of livestock;
- sales between yourself and another VAT registered farmer (including barter transactions) ; and
- sale of your farm (See chapter 5 paragraph 5.5 if sold as a going concern).

Example:

Mr van Zyl decides to purchase a new tractor for R 114 000 (inc. VAT): He trades in one of his old tractors and receives R22 000 for it, which amount is offset against the purchase price of the new tractor.

VAT 201 return for Mr Van Zyl

Output tax: old tractor sold (block 4A)

R 22 000 x 14/114 = R 2 701.75

Less : Input tax: new tractor purchased (block 14)

R 114 000 x 14/114 = (R 14 000.00)

Net VAT **(R 11 298.25) Refund**

9.2.2 Zero-rated Supplies

To assist farmers with their cashflow, many of the products which are produced or consumed in the course of conducting a farming enterprise are zero-rated. Part A of Schedule 2 to the Act lists the types of supplies and the conditions under which a farming, agricultural or pastoral enterprise may purchase certain goods which they regularly need at the zero rate.

Some examples of these goods are as follows:-

- stock licks ;
- fertiliser;
- seed ;
- pesticide;
- remedies or medicines (but not in respect of other items charged such as syringes or vet fees);
- animal, poultry, fish or game feed (this includes any vitamins, bone products or maize products);
- plants - this includes trees, bulbs, roots, cuttings or similar plant products you will use for cultivation.

In order to be able to purchase the above goods at the zero rate under this dispensation, the following requirements must be met:-

- you must present your notice of VAT registration (VAT 103) to the supplier ;
- the VAT 103 must contain a clause no.7 on it, confirming that your main business is a farming agricultural or pastoral enterprise;
- the VAT number of the purchaser must appear on the tax invoice; and
- the goods supplied must be specified in Part A of Schedule 2 to the Act.

If it is found by SARS that the above conditions have not been met, the supplies in question may be standard rated on assessment. If you are conducting a farming enterprise but do not have clause 7 completed on your certificate, you can request a duplicate certificate from your local SARS office.

Note that the zero rate **will not apply** where:-

- other goods or services not listed above are supplied to the agricultural industry. E.g. it will not apply to the consultation fee charged by a vet to attend to a sick animal, nor would it apply to the goods or services acquired to install a new irrigation system on your farm.
- the sale of the goods concerned are prohibited in terms of section 7 *bis* of the Fertilisers, Farm Feed Agricultural Remedies Act, 1947 (Act 36 of 1947), for example the sale of a banned substance such as DDT.

Part B of Schedule 2 to the Act lists the basic foodstuffs which are subject to the zero rate. Many of these products are sold by farming enterprises. For example, you may be supplying raw fruit and vegetables, maize, milk, eggs, beans, mealies, etc. Please remember to show the total amount received in block 2 on your VAT return - failure to do so will result in unnecessary audits.

You must supply your VAT number to the co-operatives and abattoirs to which you supply goods so that the correct amount (including VAT) will be paid to you. Also remember that where you receive a portion of the income from a harvest (crop sharing), you have to pay VAT on your portion of the proceeds (unless it is in respect of zero-rated items in terms of Schedule 2 of the Act as discussed above). Refer to Chapter 5 for more details regarding zero-rated supplies.

9.3 INPUT TAX DENIED

Generally, input tax may be claimed on all expenses incurred in carrying on a farming enterprise where VAT has been paid, but the costs in respect of the following may not be claimed:-

- The purchase or rental of double-cab vehicles, cars, station wagons or kombi's, regardless of the fact that they may be used entirely for farming operations ;
- The provision of rations for employees (including any other costs in regard to providing the meals);
- Employee housing as well as any costs in respect of your own residence, e.g. telephone accounts, maintenance of your own home or the home of an employee, electricity and water, etc.
- Zero-rated purchases such as fertilizers, petrol, diesel, pesticides, etc.

Refer to Chapter 7 for more details in this regard.

9.4 DIESEL REFUNDS

Farming is a qualifying activity under the Diesel Refund Scheme. Most farming enterprises would therefore qualify to be registered for the available refund. To register for the scheme you need to complete and submit a form VAT 101D together with your application to be a VAT vendor, or once you are already registered for VAT. [See also Chapter 2].

Note that refunds under the Diesel Refund Scheme are merely processed by utilising the VAT administrative system. The concession is actually granted to certain qualifying purchasers in terms of the Customs and Excise Act. The diesel refunds are therefore offset against any VAT which may be payable for the tax period concerned, or alternatively, will increase any VAT refund if the input tax for the period exceeds the output tax liability.

Any diesel refund which is found to be incorrectly claimed will therefore lead to a shortfall of VAT actually paid for the tax period. Penalty and interest will be levied on any such shortfall in VAT. There may also be additional penalties and interest levied in terms of the Customs and Excise Act if you claim any diesel refund to which you were not entitled.

Refer to the SARS website www.sars.gov.za for more details about the scheme or refer to the Diesel Refund Guide which you can obtain from any SARS Branch office.

CHAPTER 10

EXPORTS AND IMPORTS

10.1 EXPORTS

When you supply movable goods that are to be exported, you must first determine whether the export of such goods will be a **'direct'** or an **'indirect'** export. Furthermore, it is very important to establish whether such goods can or may be supplied at the zero rate of VAT. VATNEWS No. 11, 13, 14 and 22 dealt with some important matters relating to EXPORTS. Note that where the zero rate of VAT has been incorrectly applied, the supplier will be liable for the payment of VAT at the standard rate, with penalties and interest on such supplies.

10.1.1 Direct Exports from the RSA

Where you supply movable goods and **consign** or **deliver** them to your client at an address in an export country, you must apply the zero rate of VAT. You must ensure that you have met the requirements stipulated in the VAT Practice Note No. 2 of 1998 which came into effect on 16 November 1998.

"Consign" means you appoint a cartage contractor, who is responsible to you, to deliver the goods on your behalf. You must ensure that the cartage contractor whose main activity is that of the transport of goods is registered for VAT in South Africa, and that you are liable for the payment of the transport costs.

"Delivered" means you physically delivered the goods yourself.

You must ensure that the goods are exported through one of the following **41 designated commercial ports**:-

Border Posts

- ⇒ Zimbabwe - Beit Bridge
- ⇒ Mozambique - Lebombo
- ⇒ Namibia - Vioolsdrift, Nakop/Narogas
- ⇒ Botswana - Ramatlabama, Skilpadshok, Groblers Bridge, Kopfontein
- ⇒ Lesotho - Caledonspoort, Ficksburg Bridge, Maseru Bridge, Van Rooyenshek, Qacha's nek
- ⇒ Swaziland - Jeppes Reef, Mananga/Border gate, Mahamba, Nerston, Golela, Oshoek

Airports

Bloemfontein; Gateway (Pietersburg); Lanseria; Nelspruit; Mmabatho; Port Elizabeth; Upington.

International Airports

Cape Town; Durban ; Johannesburg.

Harbours

Cape Town; Durban; East London; Mossel Bay; Port Elizabeth; Richards Bay; Saldanha.

Railway Stations

Germiston; Golela ; Maseru Bridge; Mafikeng; Upington.

It is very important that any exportation of goods takes place through the above designated commercial ports so that you can obtain the relevant documentation to prove your exports. You will need the following documentation:

Where you physically deliver the goods:

- your copy of the zero-rated tax invoice issued by you;
- either the purchaser's order or the contract between both parties;
- a copy of the export documentation (declaration form, normally a CCA 1 or a DA550) prescribed under the Customs and Excise Act, 1964, bearing an original RSA Customs and Excise stamp;
- proof that the movable goods have been received by the purchaser in the export country; and
- proof of payment for the goods.

Where your cartage contractor (transporter) conveys the goods by road, rail, ship or air:

- the purchaser's order or the contract between both parties;
- proof that you paid the transport costs;
- proof of payment by the purchaser for the goods; and
- except if exported by rail, a copy of the export documentation (declaration form, normally a CCA 1 or a DA550) prescribed under the Customs and Excise Act, 1964, bearing an original RSA Customs and Excise stamp; and for:
 - export by air – a copy of the airway bill as well as the flight number and the date and place of departure
 - export by road – proof that the movable goods have been received by the purchaser in the export country

Note: Where you sell second-hand goods which are going to be exported as a direct export, and you claimed a notional input tax deduction (see chapter 7) when you purchased the goods, the zero rate must not be levied. VAT must then be levied equal to the notional input tax deduction claimed by you. Such VAT is not refundable, neither by you, nor by the VAT Refund Administrator:

Example: (Direct Export)

Elsa's Antiques displays an antique desk for sale at a VAT inclusive price of R1 596 (R1 400 plus R 196 VAT). She sells it to Mr Upper crust, who is on holiday in South Africa from the United Kingdom. Elsa will arrange to have the desk delivered to the United Kingdom. She bought the desk for cash from her neighbour (a non vendor) for R 570 and an amount of R 70 ($R\ 570 \times 14/114$) was claimed as a notional input tax credit. Normally a direct export by the seller is subject to VAT at the zero rate, however, this rule does not apply to the export of second-hand goods, on which notional input tax was claimed. VAT equal to the notional input tax claimed must be charged. Elsa will therefore sell the desk to Mr Upper crust for R1 470 (R 1 400 plus R 70 VAT). In addition, Elsa must also retain the documentation as listed above to substantiate that the goods were exported.

10.1.2 Indirect Exports from the RSA:

Where your client, from an export country, purchases goods and removes or arranges for the removal and transport of the goods to his/her address in the export country, you must levy VAT at the standard rate (14%). This also applies where you will deliver the goods to a place in South Africa from where your client will arrange to have his goods exported.

The VAT can then be refunded to your client by the VAT Refund Administrator (VRA). You can refer enquiries from purchasers in this regard to the VRA. Their telephone number in Johannesburg is (011) 394 1117.

Important requirements to obtain a refund are:

- The purchaser must be a qualifying purchaser; namely a non-resident, a foreign enterprise or departing diplomat;
- the goods must be exported through one of the 41 designated commercial ports;
- the goods must be exported within 90 days from the date of the tax invoice; and
- when exporting through one of the designated land border posts, the goods must first be declared to RSA Customs, where after the claim must be handed in (except if exported by a qualifying purchaser's cartage contractor) to the VRA before departure.

Where the purchaser arranges for his/her goods to be delivered in his country by a cartage contractor; he/she must post his claim and supporting documentation to reach the VRA within 3 months from the date of export. The purchaser must then include the following:

- the original tax invoice;
- a copy of his/her passport;
- a copy of the cartage contractor's invoice; and
- proof that the purchaser declared the goods for customs purposes in the export country

Indirect exports are regulated by the VAT Export Incentive Scheme which came into effect on 16 November 1998.

Example: (Indirect Export)

Mr Strauss, who is on holiday in South Africa from Germany bought a large quantity of clothing from Joanna's Boutique, and paid VAT on the purchase. Mr Strauss departs for his home from the Johannesburg International Airport, and at departure, presents the clothing, the tax invoice, his passport and boarding pass to the VAT Refund Administrator. Mr Strauss, will now qualify to receive a VAT refund.

10.1.3 Exports at own risk

There is one exception relating to indirect exports which is contained in Part Two of the Scheme. You (the seller) have the option, at your own risk, to levy VAT at the zero rate, if the purchaser is a qualifying purchaser and you can ensure that the goods are delivered to a designated harbour or airport (either you or the purchaser arranges for the goods to be delivered) from where the goods are to be exported by the qualifying purchaser.

Note: Where you sell second-hand goods which are going to be exported as an indirect export, and you claimed a notional input tax deduction (see chapter 7) when you purchased the goods:-

- You must not advise the qualifying purchaser that the full amount of VAT will be refunded by the VRA. The Act allows the VRA to refund only the VAT that was levied on your mark-up. The portion of VAT equal to the notional input tax deduction can not be refunded; or
- You must not levy VAT at the zero rate as envisaged in Part Two of the Scheme. VAT must be levied equal to the notional input tax deduction claimed by you. Such VAT is not refundable, neither by you, nor by the VRA.

10.1.4 Export of second-hand goods

Remember that special rules apply where you supply second-hand goods for export. Where the seller has claimed a notional input tax credit, he cannot fully apply the zero rate in the case of direct exports. Similarly, the purchaser can not get a full refund of VAT in the case of indirect exports. The zero rate applies only to the value added (i.e. mark-up portion) by the seller.

For indirect exports of second-hand goods and the seller has claimed a notional input tax credit, VAT is levied at the standard rate. However, the VAT Act allows the VRA to refund only the VAT that was levied on the mark-up by the seller. The portion of VAT equal to the notional input tax credit can not be refunded. Dealers in second-hand goods, in particular motor vehicles, must not advise non-resident purchasers that the full amount of the VAT is refundable where they sell goods on which a notional input tax credit was claimed. A number of cases have arisen where the purchaser has sued the motor dealer on the grounds of misrepresentation.

Example: Direct Export (Second-hand goods)

Smart Gallery buys a second-hand painting for R 11 400 from a non-vendor and claims a notional input tax credit of R 1 400 ($R\ 11\ 400 \times 14/114$). Smart Gallery sells the painting to Mr Moss of Botswana for R 15 786 and delivers it to his address in Botswana. The advertised price is R 16 400 (including R 2 014 VAT).

The calculation for the Tax Invoice of Smart Gallery to Mr Moss is as follows:-

Price excluding VAT:	R 14 386
Add back notional input tax claimed	<u>R 1 400</u>
TOTAL PAYABLE:	<u>R 15 786</u>

The VAT raised on this export is equal to the amount of notional input tax claimed. The invoice must stipulate that an amount of VAT equal to the notional input tax claimed is included in the price.

Mr Moss is not entitled to a refund of the R 1 400 VAT charged.

Example: Indirect Export (Second-hand goods)

Assume the same facts as in the previous example, except that Mr Moss collects the painting in South Africa and exports it himself. (Price advertised: R 16 400 including R2 014 VAT).

To assist Mr Moss to obtain his refund at the time of export, from the VAT Refund Administrator (VRA), the Tax Invoice should show the following:

Price excluding VAT:	R 14 386
VAT @ 14%	R 2 014
TOTAL PAYABLE:	R 16 400

VAT Refund

Total VAT	R 2 014
<u>Less</u> notional input claimed	<u>R 1 400</u>
VAT Refundable	<u>R 614</u>

Signature

A refund will not be authorised if these details are not clearly indicated on the face of the invoice.

- Only the VAT levied on the mark-up by Smart Gallery can be refunded by the VRA.
- The VRA will only refund R 614 less a small fee for their services, whereas the portion of the VAT equal to the notional input tax credit claimed (R 1 400) is not refundable. Thus in both cases the cost to the purchaser is R 15 786.

10.1.5 Sales to foreigners

If you sell goods to a foreign qualifying purchaser who takes delivery of the goods in South Africa, VAT at the standard rate (i.e. 14%) must be charged, subject to the option discussed in paragraph 10.1.3 above. The tourist can apply for a VAT refund only at the time the goods are exported through a designated commercial port. The goods and a valid tax invoice must be available for inspection by South African Customs Officials and/or the VAT Refund Administrator officials at the time of export. The goods must be exported within 90 days from the date of invoice. The refund is subject to a pre-determined commission. The VAT Refund Administrator keeps all original documents. Remember to inform your customers to make copies if they need them for their records.

The non-resident purchaser who paid VAT to you must request a VAT refund from the VAT Refund Administrator (VRA) within 3 months from the date of export.

10.2 VAT REFUNDS: LESOTHO BORDER

Lesotho introduced VAT at the standard rate of 14% on 1 July 2003. Any person importing goods into Lesotho from South Africa will be liable for the VAT on importation. (See Media Release 10 dated 3 July 2003 for more details). Certain changes have been introduced regarding **indirect exports** and VAT refunds at the designated points of entry into Lesotho.

Where Lesotho residents and businesses buy goods in South Africa and export them to Lesotho, they may claim refunds for the South African VAT paid, provided they are “qualifying purchasers.” In terms of the new arrangement, the South African VAT refund is not paid to the qualifying purchaser, but is credited against the VAT levied by Lesotho on importation. Tax invoices for the goods concerned must have been lodged with the Lesotho Customs officers to qualify for this dispensation. SARS pays the VAT refunded to the Lesotho Revenue Authority (LRA).

This credit mechanism will not apply in respect of second-hand goods, but a claim for a refund of the South African VAT may, however, still be lodged with the LRA.

There are separate refund procedures for Lesotho vendors and non-vendors which are set out in information pamphlets which can be obtained from the LRA at the borders. Lesotho will not levy VAT on imports of less than R 150. The South African VAT will also not be refunded on such exports.

Exports exceeding R 5 000 are regarded as “commercial exports” and a CCA1 declaration must be completed and submitted to both SARS and the LRA officials at the border.

The arrangement does not extend to any direct exports from South Africa, or other goods on which a zero rate of South African VAT has been charged (e.g. zero-rated foodstuffs). When these goods are imported into Lesotho, the LRA will levy 14% VAT on importation. This amount is payable by the importer.

10.3 IMPORTATION OF GOODS

If you purchase goods from outside South Africa for your business, VAT is payable when the goods are imported into South Africa. You can only import goods through one of the 41 designated commercial posts (as listed under paragraph 10.1.1 above). The VAT paid by you when you import goods for your business can be claimed as an input tax deduction.

The bill of entry (forms DA550 or CCA1) can be used to claim input tax as there is no tax invoice. Customs officers control the entry of goods into South Africa and goods will not be released into South Africa before they have been declared and customs duties and VAT have been paid.

If you are a regular importer, you or your clearing agent can enquire about getting access to a VAT Deferment Account from the Commercial Services section at SARS Head Office: tel. (012) 422 6916 or fax. (012) 422 6978. To apply for this facility, you will be required to complete forms DA 650 (registration particulars of applicant) and DA 652 (agreement between the applicant and SARS). You will also be required to lodge a bank guarantee or surety, the amount of which will be based on the inherent risks of the business and type of goods to be imported.

10.3.1 Imports from Botswana, Lesotho, Namibia and Swaziland

These countries form part of a common customs area with South Africa. Thus, where goods are imported from these countries, Customs duties will not be levied. VAT is, however, payable (unless specifically exempt) and is calculated at 14% of the commercial value.

Example:

Mrs Louw travels to Botswana and buys pottery for her business for R 7 000. She enters South Africa at the Kopfontein Border Post where she pays 14% VAT on R 7 000, namely R980.

10.3.2 Imports from Other Countries

VAT and customs duty is payable on goods being imported from other countries and is calculated as follows:

$$\begin{array}{l}
 \text{Purchase price of goods/ Customs value (CV)} \\
 + \text{ Customs duty applicable} \\
 + \text{ 10\% of the customs value} \\
 \hline
 = \text{ Added Tax Value (ATV)}
 \end{array}$$

$$\text{ATV} \times 14\% = \text{VAT payable}$$

Example:

Mr Chokoe imports art from Uganda for which he pays R5 000. Upon being cleared for home consumption, VAT will be calculated as follows:

Purchase price (FOB)	R 5 000 (CV)
+ Customs duty e.g. 25%*	R 1 250
+ 10% upliftment (See note)	R 500
VAT Value for importation & VAT purposes	<u>R 6 750 (ATV)</u>
VAT at 14%	<u>R 945</u>

Note:

The upliftment is not an amount payable to SARS, but represents an amount in lieu of transport and insurance costs.

10.3.3 Temporary imports and goods in transit

Where goods are temporarily imported into South Africa (e.g. for repairs), or removed in transit through South Africa, a provisional payment of VAT will become due.

Example:

Mr Hart purchases goods from Malawi. The goods are transported by road through South Africa to Durban, where they will be shipped to Australia. When the goods reach the Beit Bridge Border post, a provisional amount in respect of VAT is payable. Once proof is available that the goods have left Durban Harbour, this VAT will be refunded by Customs at Beit Bridge.

10.3.4 Input tax on imports

If you import goods for your business, you can claim an input tax deduction on the strength of the bill of entry with proof that the VAT on the particular import has already been paid to the RSA Customs and Excise. This proof can be in the form of a receipt issued by the relevant Customs office or a statement from your clearing agent that he/she has paid the VAT on your behalf.

10.4. IMPORTATION OF SERVICES

VAT is levied and paid on the supply of any imported services by any person on or after the commencement date, i.e. 30 September 1991. The VAT is payable by the recipient of the imported services.

10.4.1 What are imported services?

Imported services are:-

- a supply of services;
- made by a supplier who is not a resident of the Republic or who carries on a business outside the Republic;
- to a recipient who is a resident of the Republic;
- to the extent that the services are utilized or consumed in the Republic **otherwise than for making taxable supplies.**

This implies that VAT must only be paid on services which are imported by a person who:-

- is not registered as a vendor; or
- is a vendor but utilising the services wholly or partially for exempt supplies; or
- is a vendor utilising the services for private purposes (i.e. not for taxable supplies).

Example :

Mr Makgoba (a VAT vendor), manufactures ball valves and pays a technical license fee to a UK based company to exercise this right in the Republic and for know-how. In this case, the service is supplied by a supplier who is not a resident of the Republic to the recipient (Mr Makgoba) who is resident in the Republic.

However, as the services are consumed in the course of Mr Makgoba's taxable enterprise activity (i.e. manufacturing and selling ball valves), the services do not fall within the definition of "imported services."

Consequently, VAT would not be payable on the services supplied by the non-resident.

Example

Mrs Bookworm orders an electronic version of the latest “Harry Potter” novel from Virtual Books which is an internet based business located in Belgium and downloads the document on her personal computer. She pays € 20 (R 200) for this service on her visa credit card. Digital products such as electronic books are regarded internationally as “services” and not “goods”. Therefore, as these “services” are supplied by a non-resident (Virtual Books - Belgium) to a recipient who is a resident (Mrs Bookworm) for non-taxable (private) purposes, VAT will be payable in this situation.

VAT payable = R 200 x 14% = R 28.00

10.4.2 When must VAT on imported services be paid?

The recipient of the services must declare the importation on form **VAT 215** and pay the VAT to SARS **within 30 days** of the time of supply.

10.4.3 Time of supply

The time of supply of imported services is the earlier of:

- the time any invoice is issued in respect of the supply; or
- the time any payment is made by the recipient in respect of the supply.

10.4.4 Value of supply

The taxable value of the supply is the **greater of:-**

- the consideration for the supply; or
- the open market value of the supply.

Example:

Mrs Sibaya lives in a small house with her family in Soweto. She strikes it lucky one day by winning R 1 000 000 on the Lotto. She decides to start her own spaza shop and registers for VAT in this regard. She also decides to spend some of her winnings on extending her private home by building on two extra rooms and a “granny cottage” on her property. She obtains several quotes from vendors in South Africa and discovers that it will cost her R 100 000 plus R 14 000 VAT (R 57 000 labour and R 57 000 for materials) to carry out the alterations. She decides that the cost is excessive and instead asks her brother Andries who has a construction business in Botswana (in which country he is resident) to carry out the job when he comes to visit over the weekends. Over a period of 6 months, Mrs Sibaya spends R 43 000 (including VAT) on building materials which Andries uses to carry out the required work. Mrs Sibaya pays Andries R 25 000 for his time and effort in doing the job.

In this case, building services are supplied by Andries (a non-resident) to Mrs Sibaya (a resident of the Republic). Even though Mrs Sibaya is a vendor, the services are imported by her for non-taxable (private) purposes and are not in respect of taxable supplies in the course or furtherance of her enterprise (the spaza shop). The services will therefore fall within the definition of “imported services” and VAT will be payable in this case.

VAT is payable on the greater of:-

- the amount of consideration payable to Andries, namely R 25 000 ; or
- the open market value of R 50 000 (i.e. R 57 000 less R 7 000 VAT).

Therefore, the VAT payable = R 50 000 x 14% = **R 7 000.**

Notes:

1. If Andries was paid an additional amount to construct a building where the spaza shop enterprise would be carried on, no VAT would be payable in this regard as Mrs Sibaya would have acquired those services for making taxable supplies.
2. Mrs Sibaya cannot claim input tax on the VAT paid for the building materials as these goods are not acquired for making taxable supplies.

10.4.5 Exemptions

VAT is not payable on imported services if:-

- the supply would be exempt from VAT or zero rated if supplied in the Republic; or
- the supply of the service is subject to VAT at the standard rate (presently 14%); or
- the nature of the supply is educational services which are of the type which would have been exempt from VAT if supplied by a similar institution in the Republic in terms of section 12(h) of the VAT Act.

Example:

Assume that Mrs Sibaya in the previous example were to enrol her eldest son Solly in an MBA distance learning programme offered by the University of Wales at a cost of € 10 000 (R 100 000).

In this situation, educational services are supplied by the University of Wales (a non-resident) to the recipient Solly Sibaya (a resident of the Republic). The services are imported for non-taxable (private) purposes and therefore fall within the definition of “imported services”. However, the VAT Act makes provision for an exemption in this situation as the same educational services if provided by any university in South Africa would have been exempt from VAT in terms of section 12(h) of the VAT Act.

VAT is therefore not payable in this case.

CHAPTER 11

TAX INVOICES

South Africa operates a VAT system where you subtract the VAT charged to you by your suppliers from the VAT you charge to your customers in order to calculate the VAT payable/refundable to/by SARS. The most important document in such a system is the tax invoice. Without a proper tax invoice, you cannot deduct input tax on purchases and any of your clients who are vendors or foreign purchasers cannot claim back the VAT that you charged them taking the goods out of the country.

11.1 WHAT IS THE DIFFERENCE BETWEEN AN INVOICE AND A TAX INVOICE?

An **invoice** is a document notifying the purchaser of an obligation to make payment in respect of a transaction (not necessarily a taxable supply). The issuing of an invoice is one of the events which may trigger the time of supply for a transaction, which, if it is a taxable supply, will normally mean that there would be an obligation to declare output tax. Conversely, the fact that you may have an invoice from the supplier does not mean that you will be entitled to claim input tax thereon.

On the other hand, a **tax invoice** is a document which is provided for in the VAT Act to enable the vendor to claim input tax. It will therefore always relate to a taxable supply (whether wholly or partially). The Act prescribes that a tax invoice must contain certain details about the taxable supply as well as the parties to the transaction. (See paragraph 11.2 below for details).

In practice, some vendors combine the function of the two documents to avoid administrative duplications. However, vendors who prefer this method should ensure that their invoices comply with the requirements of a tax invoice, otherwise their customers will not be allowed to claim the VAT charged as input tax.

11.2 WHAT ARE THE REQUIREMENTS FOR TAX INVOICES?

The following important points should be noted regarding tax invoices:-

- A vendor is required to issue a tax invoice to the recipient within 21 days from receiving the request;
- If the consideration in money for the supply is R50 or less, a tax invoice is not required (however, a document such as a till slip or sales docket will still be required to verify the input tax claimed);
- Where the consideration for a taxable supply exceeds R50 but does not exceed R1 000, an abridged tax invoice may be issued (See example on the following page);
- A full tax invoice must be issued on transactions where the consideration for the supply exceeds R 1 000 whether the recipient has requested this or not ;
- A tax invoice must be in South African currency, except for a zero-rated supply (e.g. goods exported).
- A full tax invoice must be issued for a zero-rated supply, even if the consideration is less than R 1 000;
- A tax invoice is not issued by a debtor (vendor) under an instalment credit agreement if the goods are repossessed. This will be done by the person exercising their right of repossession (the bank or other financier);
- A document will not constitute a valid tax invoice for a standard rated supply if it does not state the actual amount of VAT charged or contain a statement that VAT at the standard rate of 14% is included. (See 3 approved methods below).

Approved methods for reflecting the consideration and VAT for taxable supplies.

Method 1 All individual amounts reflected.		Method 2 Total consideration only and the VAT rate charged.	Method 3 Total consideration and the VAT charged.
Price (excl.VAT)	R 500	The total consideration	R 570
VAT charged	<u>R 70</u>	VAT included @ 14%	VAT included
Total including VAT	<u>R 570</u>		R 70

Note : With effect from 1 March 2005 it will also be a requirement to reflect the VAT registration number of the recipient of the supply on the tax invoice (if that person is a vendor).

The following information must be reflected on a tax invoice for it to be considered valid:-

Full Tax invoice (Consideration of R 1000 or more) Section 20(4) of the VAT Act.	Abridged Tax invoice (Consideration less than R 1000) Section 20(5) of the VAT Act.
○ The words “TAX INVOICE” in a prominent place ○ Name, address and VAT registration number of the supplier ○ Name and address of recipient ○ Serial number and date of issue ○ Accurate description of goods and/or services ○ Quantity or volume of goods or services supplied ○ Price & VAT (according to any of the 3 approved methods discussed above). Note: With effect from 1 March 2005, the VAT number of the recipient will also be required on a full tax invoice (if that person is a vendor).	○ The words “TAX INVOICE” in a prominent place ○ Name, address and VAT registration number of the supplier ○ Serial number and date of issue ○ Accurate description of goods and/or services ○ Price & VAT (according to any of the 3 approved methods discussed above).

EXAMPLE : FULL TAX INVOICE

TAX INVOICE

Dristock & Associates (Pty) Limited
Highfield Building
80 Club Avenue
Norwood
2192

To: Perplex (Pty)Ltd
8 Horror Street
Johannesburg
2001

VAT registration no:
4251163591

Tax Invoice No: 2005/1234
VAT Registration No:
4321123450

Our Ref.: TD/mb/06715/T
Date: 30 November 2005

DATE	DESCRIPTION OF GOODS /SERVICES	QUANTITY / VOLUME	R
30/11/2005	Widgets 300 x 200	4 000	2 000
	Getwids 39 x 60 x 48	870	1 300
	Witslegs 4 x 9	200	3400
			6 700
VAT @ 14%			938
Total			R7 638

EXAMPLE : ABRIDGED TAX INVOICE

<u>TAX INVOICE</u>		
Dristock & Associates (Pty) Ltd Highfield Building 80 Club Avenue Norwood 2192		
Tax Invoice No: 2005/1235 VAT Registration No: 4321123450		
Our Ref.: TD/mb/06715/T Date: 30 November 2005		
DATE	DESCRIPTION OF GOODS / SERVICES	R
30/11/2005	Widgets 300 x 200	300
	VAT @ 14%	42
	Total	R342

11.3 TAX INVOICES PREPARED BY THE RECIPIENT (“RECIPIENT- CREATED INVOICING”)

In some instances the consideration for a supply is determined by the recipient of the goods/services rather than by the supplier. An example of this is where a farmer (the supplier) takes produce to a co-operative which will only be sold at a later stage, once the quality and quantity of the produce has been determined. Since the price that will eventually be obtained for the goods depends on factors outside the farmer's control (and often the co-operative merely acts as agent for the supplier), the farmer is not in a position to issue an invoice or tax invoice for the produce when it is delivered for sale. In such cases, SARS may permit the co-operative (recipient) to issue the tax invoice for the supply. This is referred to as recipient-created invoicing (or self-invoicing).

You must however first obtain written authorisation from the SARS office where you are registered before you will be allowed to apply this method of invoicing. Note that approval for recipient-created invoicing procedures will not be granted where the purpose is merely to facilitate the obtaining of a tax invoice by the recipient. Approval will only be granted in the case of those industries and transactions where an effective recipient-created invoicing system has traditionally been followed in the past.

Examples of industries and transactions where approval is likely to be granted in terms of the above criteria are farmers, sub-contractors, commission agents, licensees under royalty agreements and transport contractors. (For more details, refer to VAT Practice Note No. 2, dated 25th September 1991).

Your written application to apply self-invoicing must provide the following details:-

- A description of the nature of the businesses respectively carried on by the supplier and the recipient;
- A full description of the transactions in respect of which self-invoicing is required;
- The existing invoicing procedures being followed for such transactions;
- An undertaking by the recipient that they will comply with the administrative requirements with regard to tax invoices, debit notes or credit notes. The applicant must also obtain and retain the written agreement of each affected supplier in this regard (vendors) as well as their written confirmation that they will comply with the said administrative requirements.

11.4 TAX INVOICES FOR MIXED SUPPLIES

As mentioned in paragraph 11.2 above, where the supply is a zero-rated supply, a full tax invoice must be issued. Where the supply is exempt from VAT, no tax invoice may be issued and since no tax is charged, no input tax may be claimed in respect thereof. There may however be a situation where various supplies are made by the same supplier and where each supply is treated differently for VAT purposes (for example in the tourism industry). Where this occurs, the tax invoice must clearly distinguish between the various supplies and indicate separately the applicable values, and the tax charged (if any) on each supply.

EXAMPLE : TAX INVOICE FOR MIXED SUPPLIES

TAX INVOICE				
TAX INVOICE NO. 2005/195		From: Sipho's Tour Operators VAT No.: 4111252081 57 Bush Heights Bushlands 1234		
To: Dirk Touriste 101 Platteland Weg Amsterdam Netherlands VAT number : [nil – non-resident]		Date : 30 November 2005		
DATE	QTY	DESCRIPTION OF SERVICE/GOODS	VAT STATUS	R
30/11/2005	2	Airport shuttle @ R 150 per trip	E	300
	1	Night game viewing drive	E	250
	2	Tour guide fee @ R 500	14%	1 000
	4 nights	Accommodation B & B @ R 2 500	14%	10 000
	5	Paintings	14%**	5 000
	50 litres	Diesel – guest's private 4x4 vehicle	0%	200
VAT @ 14% on R 16 000				2240*
Total				18 990

***Note** : VAT = R 10 000 + R1 000+ R5 000 = R 16 000 x 14% = R 2240.

****Note**: VAT charged @ 14% as the tourist will remove the goods himself.

11.5 SPECIAL CASES

Although the general rule is that a vendor must have a tax invoice before being allowed to claim any input tax in relation to the supply, there are a few exceptions to the rule.

11.5.1 Second-hand goods

Where a vendor purchases second-hand goods from a non vendor, the purchaser (vendor) has to record the following details to substantiate the input tax claim (this can be completed on form VAT 264 which has been designed specifically for this purpose):-

- Name, address and I.D. no. of the supplier (I.D. no. of the representative person if it is a company or close corporation);
- Date of acquisition;
- Quantity or volume of goods;
- Description of the goods;
- Consideration for the supply;
- Declaration by the supplier stating that the supply is not a taxable supply;
- The vendor must verify the person's I.D. no. with the I.D. book or passport;
- Where the value of the supply is R 1000 or more, the vendor must obtain and retain a copy of the person's I.D., and, in the case of a company or cc , a business letterhead or similar document is also required which shows the name and registration number allocated by the Registrar of Companies.

11.5.2 Repossession of Goods

Where goods supplied under an instalment credit agreement are repossessed, it is impractical to require the person from whom the goods were repossessed, (i.e. the debtor), to issue an invoice or tax invoice to the financier, therefore:-

- If the **goods are repossessed from a vendor**, the person exercising the right of repossession (normally a bank or other financier who is also a vendor), is required to create and furnish a tax invoice to the debtor.
- If the **goods are repossessed from a non-vendor**, the person exercising the right of repossession (vendor) is required to keep details as mentioned in paragraph 11.5.1 above relating to second-hand goods.

11.5.3 Other cases

- Where the purchase price is less than R50 and the total consideration is in money, no tax invoice is required (discussed in paragraph 11.2 above);
- Where the Commissioner is satisfied that there will be sufficient records, and that it will be impractical for a tax invoice to be issued, permission may be granted for tax invoices not to be issued, or for the information on the tax invoice to vary from the standard requirements;
- A bill of entry together with the proof of payment to Customs serves as the supporting documentation to claim the VAT paid on any goods imported; and
- Where the tax invoices are held by an agent, the necessary details in the required schedules from the agent must be held.

11.6 ELECTRONIC TAX INVOICES

VATNEWS 20 sets out the requirements for vendors who wish to issue tax invoices, debit notes and credit notes in electronic format instead of the traditional paper version (hard copy). It is however not practical to verify beforehand that each vendor meets all the requirements, as this can only be ascertained when conducting an audit. Since the requirements have already been published in the VATNEWS, it is not necessary for vendors to make individual applications for approval in this regard.

Vendors wishing to implement an electronic system must however ensure that they do not replace their existing paper based documentary systems before ensuring that they meet all the requirements.

The requirements for these electronic documents are as follows:-

- The arrangement applies to tax invoices, debit or credit notes. The mandatory information as set out in sections 20(4), 21(3)(a) and 21(3)(b) respectively must appear on these documents;
- The intended recipients must confirm in writing that they are prepared to accept electronic documents under the conditions set out. (This authorisation must be retained by the supplier for a period of five years after the last electronic document issued to the recipient);
- Documents must be transmitted in encrypted form of at least 128 bit encryption format;
- Both the supplier and the recipient of the supply must retain the documents in readable and encrypted form for a period of five years from the date of the supply. They must also have access to the necessary codes or other means available to enable SARS auditors to compare the documents in readable form with those in encrypted form;
- If a service provider is used, that person must also retain the documents for a period of five years; and
- The transmitted electronic document will constitute the original tax invoice, credit or debit notes. Hard copies extracted from the system must bear the words “computer generated copy tax invoice”, “computer generated copy credit note” or “computer generated copy debit note” thereon. All further copies must also bear such words.
- No other tax invoice, credit or debit note may be issued in respect of the specific supply, unless such document is marked as a copy of the original document.

11.7 LOST OR MISPLACED TAX INVOICES

If a tax invoice in respect of a particular supply is lost, you may not request the supplier to issue another tax invoice as it is an offence to issue more than one tax invoice per taxable supply.

In order to meet the documentary requirements for claiming input tax, you can request the supplier to issue you with a copy tax invoice as long as the document is clearly marked “copy”. A photostat copy which has been clearly marked “COPY” after it has been photostated can also be used in such instances.

A facsimile of a tax invoice is not acceptable unless printed by a plain paper facsimile machine. Also, a tax invoice sent by e-mail is not acceptable unless the parties to the transaction have implemented electronic invoicing as per the requirements set out in paragraph 11.6 above

CHAPTER 12

DEBIT & CREDIT NOTES

12.1 WHAT IS THE DIFFERENCE BETWEEN A DEBIT NOTE AND A CREDIT NOTE?

A **debit note** will normally be issued by the supplier when the tax invoice for the supply has already been issued and the previously agreed consideration is subsequently *increased*. Conversely, a **credit note** will normally be issued by the supplier when the tax invoice for the supply has already been issued and the previously agreed consideration is subsequently *reduced*. It is also issued by the original supplier when faulty goods are returned by the customer.

Debit and credit notes therefore provide a mechanism to allow the vendor to make the necessary VAT adjustments in respect of a taxable supply where some event takes place which either increases or decreases the original consideration agreed upon, after the tax invoice has already been issued or the vendor has accounted for the supply on a return.

12.2 WHEN WILL IT BE NECESSARY TO ISSUE DEBIT AND CREDIT NOTES?

The following are the circumstances under which it will be necessary to issue a debit note or credit note:-

- Where a supply of goods or services is cancelled; or
- Where the nature of the supply of goods or services has been fundamentally varied or altered; or
- Where the previously agreed consideration for the supply of the goods or services being altered by agreement with the recipient (including a discount); or
- Where part of, or all the goods or services supplied are returned to the supplier (including any returnable container returned to the supplier).

This will however only be necessary if in respect of any of the above circumstances the supplier has either:-

- issued a tax invoice and the tax charged is incorrect, or
- furnished a VAT return in which the incorrect amount of output tax was accounted for.

The debit or credit note must be issued whether or not the supplier accounts for tax on an invoice or payments basis. The issue of a credit note is not required when a prompt payment (settlement) discount is the reason for the reduction in the consideration, providing the terms of that discount are clearly shown on the tax invoice.

12.3 WHAT DETAILS SHOULD DEBIT/CREDIT NOTES SHOW?

The following details should appear on debit and credit notes:-

- The words "debit note" or "credit note" (as the case may be) in a prominent place;
- The name, address and registration number of the vendor;
- The name and address of the recipient (unless the supplier originally issued an abridged tax invoice);
- The date on which the debit note or credit note is issued;
- The amount by which the value of the supply and the VAT charged has been altered (or where the tax invoice reflected only the total consideration and a statement regarding the rate of tax applied, the amount by which the consideration has been reduced must be reflected and either the difference in VAT or a statement that adjustment includes an amount of tax and the rate of the tax included);
- A brief explanation of the circumstances giving rise to the debit or credit note; and
- Sufficient information to identify the transaction to which the debit or credit note refers e.g. a reference to the original tax invoice number and the date on which it was issued.

Note : With effect from 1 March 2005 it will also be a requirement to reflect the VAT registration number of the recipient of the supply on any debit or credit note (if that person is a vendor).

The following page contains an example of a debit note and a credit note.

EXAMPLE : CREDIT NOTE

CREDIT NOTE

Dristock & Associates (Pty) Limited
Suite 4, 1st Floor
Highfield
80 Grant Avenue
Norwood
2192

VAT Registration no: 4321123450
Date : 6 November 2005

To: Confused (Pty) Limited
VAT registration no: 4291163592
89 Horror Street
Johannesburg
2001

Tax invoice Reference	Description of goods	Reason for credit note	Incorrect amount	Correct amount	Net amount	VAT
No: 8962/4 —dd 8/10/05	Widgets300 x 200	Charged for 4000, should be 3000	2 000	1 500	500	60

EXAMPLE : DEBIT NOTE

<u>DEBIT NOTE</u>						
Dristock & Associates (Pty) Limited Suite 4, 1st Floor Highfield 80 Grant Avenue Norwood 2192			VAT Registration no: 4321123450 Date : 6 November 2005			
To: Confused (Pty) Limited VAT registration no: 4291163592 89 Horror Street Johannesburg 2001						
Tax invoice Reference	Description of goods	Reason for debit note	Incorrect amount	Correct amount	Net amount	VAT
No: 8962/4 - dd 8/10/05	Widgets 300 x 200	Charged for 4000, should be 5000	2 000	2 500	500	60

12.4 ADJUSTMENTS IN RESPECT OF DEBIT/CREDIT NOTES

The VAT Act makes provision for debit and credit notes to be issued in respect of a single supply. Remember that the consideration for a supply can only be altered by means of a debit or credit note - it is not correct to merely issue another tax invoice. (Note that it is illegal to issue more than one tax invoice per taxable supply).

The rules for reflecting the VAT in respect of debit and credit notes are as follows:-

- credit notes issued and debit notes received are to be reflected in field 18 of the VAT 201 return (input tax), and
- debit notes issued and credit notes received are to be reflected in field 12 of the VAT 201 return (output tax).

Credit notes issued may not be set off against the sales made to the same vendor, and similarly, debit notes may not be set off against purchases unless the debit or credit note concerned is issued in the same tax period in which the supply has taken place.

Note: Where it is discovered that the cash relating to a transaction has been stolen or misappropriated, this does not entitle the vendor to issue a credit note and claim input tax thereon. The VAT Act does not provide for a deduction or adjustment in such cases.

See Chapter 13 for more details on adjustments.

CHAPTER 13

ADJUSTMENTS

13.1 INTRODUCTION

This chapter identifies those situations in which a vendor will be permitted to make adjustments to his/her input tax or output tax. It explains when the adjustments should be made by the vendor and what the amounts of the adjustments should be.

Adjustments to **input tax and/or output tax** will arise where:

- Irrecoverable debts are written off by a vendor;
- Credit notes are issued by a vendor;
- Debit notes are received by a vendor;
- Prompt settlements are given by a vendor; and
- Change in use or application of goods or services

13.2 IRRECOVERABLE DEBTS

A vendor who accounts for VAT on the invoice basis may claim input tax in respect of debts which have become irrecoverable. In the exceptional case where a vendor is registered on the payments basis and has already accounted for a taxable supply which was paid with a cheque and the cheque is dishonoured, such vendor may also claim input tax.

The circumstances, under which such a deduction may be claimed, require firstly that there must have been a taxable supply for a consideration in money. Secondly, the vendor must already have accounted for the supply in a VAT return and is only then entitled to claim a refund. The refund will be made by calculating and claiming the tax fraction (14/114) on the amount actually written off as input tax.

A debt will be considered as irrecoverable if **both** the following requirements have been complied with, namely:

- the vendor must have done all the necessary entries in the accounting system to record that the amount has been written off, and
- the vendor must have **ceased** any recovery action taken by **himself/herself** by either :-
 - ☞ decided not to take any further recovery action; **or**
 - ☞ handed the debt over to an attorney or debt collector.

The vendor may then claim an input tax deduction in the tax period in which both of the abovementioned requirements have been met.

In the instance where the vendor receives payment in respect of a debt written off as irrecoverable, the vendor must account for output tax on the payment received in the tax period the payment is received.

13.3 CREDIT NOTES

The circumstances in which credit notes are required to be issued are dealt with in Chapter 12.

Credit notes are issued by a supplier for various reasons, after a tax invoice was issued (e.g. when faulty goods are returned to a supplier) and the consideration for the supply is therefore reduced.

Where a vendor issues a credit note, that vendor is required to make an adjustment to input tax. The vendor receiving a credit note must make an adjustment to output tax. These adjustments must be accounted for in the VAT return for the tax period in which the increase in consideration occurs, i.e. in the tax period in which the debit note is issued by the vendor. (This applies to vendors who are registered on the invoice basis. Vendors on the payments basis only make the necessary adjustments when payment in respect of the credit note is made or received).

13.4 DEBIT NOTES

The circumstances in which debit notes are required to be issued are dealt with in Chapter 12.

Where a vendor issues a debit note, that vendor is required to make an adjustment to output tax. The vendor receiving a debit note must make an adjustment to input tax. These adjustments must be accounted for in the VAT return for the tax period in which the increase in consideration occurs, i.e. in the tax period in which the debit note is issued by the vendor. (This applies to vendors who are registered on the invoice basis. Vendors on the payments basis only make the necessary adjustments when payment in respect of the debit note is made or received).

13.5 PROMPT SETTLEMENT DISCOUNTS

Where the terms of a prompt settlement discount are stated on a tax invoice, a credit note need not be issued if the consideration for the supply is reduced by reason of the discount offer on the invoice/tax invoice being accepted.

Where the prompt settlement discount is taken up, the vendor giving the discount is entitled to make an adjustment to the output tax in the VAT return for the tax period that covers the date on which the discount is taken. Where the discount is taken up in the same tax period in which the supply was made, the vendor may offset this amount against his output tax or reflect this amount in block 18 of the VAT return for that period.

Likewise, the vendor receiving the settlement discount must account for output tax in block 12 or offset the amount against input tax claimed in the VAT return for the tax period in which the settlement discount is taken up.

13.6 ADJUSTMENTS ARISING FROM THE CHANGE IN USE OF GOODS OR SERVICES

This section explains when a vendor is required to make adjustments to either his/her output or input tax as a result of the change in the use of goods or services in his/her enterprise. In other words, the adjustment will be made when a vendor either increases or decreases the use of the goods or services to make taxable or exempt supplies. These adjustments can result in an adjustment to either input or output tax.

Adjustments to **output tax** are required in those situations where:

- goods or services are acquired for making taxable supplies are subsequently applied wholly for private, exempt or other non-taxable purposes;
- there is a decrease in the extent of taxable use or application of capital goods and services by a vendor.

Adjustments to **input tax** is permitted in those situations where:

- goods or services acquired for exempt or private purposes are subsequently applied for making taxable supplies;
- there is an increase in the extent of taxable use or application of capital goods or services by a vendor;
- goods or services acquired partly for making taxable supplies are subsequently supplied by a vendor or are applied by him/her wholly for making taxable supplies.

A new definition “**adjusted cost**” is introduced to replace the undefined word “cost” which is used in sections 16(3)(h), 18(2), (4) and (5) of the VAT Act for the purposes of calculating certain input and output tax adjustments required by or allowed to a vendor on any change of use of assets.

The effect is that any costs incurred in acquiring the assets which are not VAT inclusive (or deemed to include VAT) are excluded in the formulae used to calculate the adjustments. Examples include finance charges (exempt) or labour charges by a non-vendor (no VAT chargeable), and salary and wages incurred in the manufacture, assembly, construction or production of those goods or services.

13.6.1 Goods or services acquired for making taxable supplies subsequently applied wholly for private or exempt purposes

If you bought or imported any goods or services for your business and claimed input tax, and later decide to use these goods or services for your own use, you will have to pay output tax.

Example:

Ms Herbst is a chartered accountant and has her own practice, which is registered for VAT under the category B tax period. Ms Herbst bought a computer in January 1998 for R 5 700 (excluding any finance charges) and accordingly, claimed R 700 input tax in respect of the computer acquired in the February 1998 VAT return. In December 1999, she decides to upgrade the office computer and takes the computer home for her children to use. The market value of the computer as at December 1999 is R 2 280. Ms Herbst must now account for output tax of R 280 ($R\ 2\ 280 \times 14/114$) in block 12 of the December 1999 VAT return.

13.6.2 Decrease in extent of taxable use or application of capital goods or services

An adjustment is required to a vendor's output tax in those circumstances where there is a decrease in the extent to which capital goods or services are used or applied by him/her in the course of making taxable supplies. This adjustment is made on an annual basis and is only required in respect of capital goods or services where the cost of the capital good exceeds R 40 000 (excluding VAT).

Example :

Ms O'Connell (a registered VAT vendor) owns a double-storey building situated in Cape Town. The building is used for mixed purposes, in that it has 4 shops on the ground floor (taxable supplies) and 2 large residential apartments on the first floor (exempt supplies). Shops are rented for R 12 000 each (excluding VAT) and apartments for R 6 000 each per month. In March 2001, Ms O'Connell purchases a computer for R 114 000 (inclusive of VAT), which is intended for use in her business. At the time of purchasing the computer, Ms O'Connell derives 80% of her income from taxable supplies (shop rentals) and 20% from exempt supplies (residential rentals). Ms O'Connell has elected to use the standard turnover based method of apportionment and in the April 2001 tax period, she claims input tax of R 11 200 ($14/114 \times R\ 114\ 000 \times 80\%$) in respect of the computer acquired.

At the end of February 2003, Ms O'Connell determines that the nature of her business has changed significantly and that her taxable income now comprises 60% and her exempt income comprise 40%. At the end of that month the computer has an open market value of R 92 340. The adjustment required to be made by Ms O'Connell to take account of the decrease in the extent of taxable use of the computer is determined by the formula: **$A \times (B - C)$**

where

- A represents the lesser of:
 - (i) the adjusted cost of the computer, namely R 114 000
 - (ii) the open market value of the computer, namely R 92 340
- B represents the extent of taxable use of the computer at the time of the acquisition or in the prior 12 month period, namely 80%
- C represents the extent of the taxable use of the computer during the current 12 month period, namely 60%

Ms O'Connell's calculation will be $R\ 92\ 340 \times (80\% - 60\%)$ or $R\ 92\ 340 \times 20\% = \underline{\underline{R\ 18\ 468.}}$

In order to calculate the output tax which must be accounted for, Ms O'Connell would apply the tax fraction to the amount determined by the formula, i.e. $14/114 \times R\ 18\ 468 = \underline{\underline{R\ 2\ 268.}}$

Ms O'Connell must therefore declare an amount of R 2 268 in VAT for the tax period ending February 2003 in her VAT 201 return in block 12.

13.6.3 Goods or services acquired for exempt or private purposes, thereafter applied for making taxable supplies

A vendor is entitled to claim as an input tax deduction where goods or services are held on after 30 September 1991 for exempt or private purposes and subsequently applied by the vendor for consumption, use or supply in the course of making taxable supplies. In order to qualify for this deduction, the subsequent taxable use or application of the goods or services must occur on or after 30 September 1991. The deduction will not apply in respect of any goods or services for which a claim of input tax is denied or would have been denied if the goods or services were acquired after 30 September 1991. The amount of the deduction will depend on the extent of the intended use of the goods or services in relation to the total intended use.

The vendor may claim input tax in the tax period in which the goods or services are applied by the vendor for consumption, use or supply in the course of making taxable supplies. This adjustment must be made in this tax period whether the vendor accounts for VAT on the invoice or payment basis.

The amount of the adjustment is calculated by applying the tax fraction (14/114) to the lower of the adjusted cost of the relevant goods or services (including VAT) or the open market value of the supply of the goods or services.

Example:

A vendor purchases a single cab bakkie for private purposes on 1 March 2002. The bakkie cost R 228 000 including VAT (excludes finance charges and any other charges incurred). The vendor then decides to use the bakkie exclusively in his/her business for delivery of goods to his/her customers with effect from 1 March 2003. At the time of introducing the bakkie into the business, it had an open market value of R 205 200. The vendor will in the April 2003 tax period, now be entitled to deduct, in addition to other input tax deductions, the following amount:

$$14 / 114 \times R 205\,200 = \underline{\underline{R\,25\,200.}}$$

13.6.4 Increase in extent of taxable use or application of capital goods or services

A vendor will be entitled to claim input tax deduction where there is an increase in the extent to which capital goods or services are used or applied by him/her in the course of making taxable supplies. The adjustment is made on an annual basis and is only permitted in respect of capital goods or services where the cost excluding VAT of each capital asset exceeds R 40 000. The adjustment may be made either where the extent of the taxable use or application is increased after the initial acquisition, or when there is a subsequent increase in the extent of taxable use from the previous financial year.

Example:

Ms O'Connell (registered VAT vendor) owns a double-storey building situated in Cape Town. The building is used for mixed purposes, in that it has 3 shops on the ground floor (taxable) and 4 residential apartments on the first floor (exempt). Shops are rented for R 12 000 each (excluding VAT) and apartments for R 6 000 each per month (no VAT). In March 2001, Ms O'Connell purchases a computer for R 114 000 (inclusive of VAT), which is intended for use in her business. At the time of purchasing the computer, Ms O'Connell derives 60% of her income from taxable supplies (shop rentals) and 40% from exempt supplies (residential rentals). Ms O'Connell has elected to use the standard turnover based method of apportionment and in the April 2001 tax period, she claims input tax of R 8 400 (14/114 X R 114 000 X 60%) in respect of the computer acquired.

At the end of February 2003, Ms O'Connell determines that the nature of her business has changed significantly and that her taxable income now comprises 80% and her exempt income comprise 20%. At the end of that month the computer has an open market value of R 92 340.

Continued overleaf

Example: (continued from previous page)

The adjustment which may be made by Ms O'Connell to take account of the increase in the extent of taxable use of the computer is determined by the formula:

$$A \times B \times (C - D)$$

where

A represents the tax fraction i.e. 14/114

B represents the lesser of:

(i) the adjusted cost of the computer, namely R 114 000

(ii) the open market value of the computer, namely R 92 340

C represents the extent of taxable use of the computer during the current 12 month period (80%)

D represents the extent of the taxable use of the computer at the time of acquisition or in the prior 12 month period (60%)

Ms O'Connell's calculation will be: $14 / 114 \times R\ 92\ 340 \times (80\% - 60\%)$
 $14 / 114 \times R\ 92\ 340 \times 20\% = \underline{\underline{R\ 2\ 268.}}$

Ms O'Connell may now claim an additional R 2 268 in the February 2003 VAT return under block 18.

13.6.5 Goods or services acquired partly for making taxable supplies, subsequently supplied by a vendor

When a vendor acquires goods and services which are used partly for making taxable supplies thereafter supplies those same goods or services in the course of the enterprise, the vendor is required to account for output tax on the full consideration for the supply. In order to eliminate double taxation, a vendor is entitled in these circumstances to claim the VAT paid on the acquisition of the goods or services that was previously disallowed. The adjustment must be made in the tax period in which the goods or services are supplied, irrespective of whether the vendor is on the invoice or payment basis.

Example:

A vendor purchases a computer costing R 114 000 (including VAT) which is used 60% for exempt supplies and 40% for taxable supplies. The apportionment percentage was determined using the turnover based method at the time of acquisition. The vendor therefore correctly claimed input tax of R 5 600 (calculated as follows - $14/114 \times R\ 114\ 000 \times 40\%$). Two years later, the vendor sells the computer for R 57 000 (including VAT). The vendor is therefore required to account for output tax of R 7 000 on this transaction, but will however, be entitled to claim in the same VAT return an amount of input tax, which is determined by the formula:

$$A \times B \times C$$

where

A represents the tax fraction i.e. 14/114

B represents the lesser of:

(i) the adjusted cost of the computer, namely R 114 000

(ii) the open market value of the computer, namely R 57 000

C represents the extent of the exempt use of the computer prior to its sale by the vendor (i.e. 60%)

The vendor's calculation of the deduction from his output tax will be:

$$14 / 114 \times R\ 57\ 000.00 \times 60\% = \underline{\underline{R\ 4\ 200}}$$

The vendor will therefore account for VAT in block 4A of their VAT return as follows:

Output tax on sale	R 7 000
Less: Input tax	<u>(R 4 200)</u>
Output tax payable	<u>R 2 800</u>

CHAPTER 14

OBJECTIONS AND APPEALS

14.1 DISPUTE RESOLUTION

What to do if you dispute your tax assessment

With effect from 1 April 2003, changes have been introduced to the current tax legislation with regard to the tax resolution of tax disputes. The changes impact on the following:-

- Reasons for assessment
- Objection to an assessment
- Appeal against disallowance of an objection
- Post-appeal stage
- Pre-hearing formalities

Reasons for assessment

Once an assessment has been raised, you may request reasons therefore (if not supplied) in writing within 30 business days from the date of the assessment.

Objection to an assessment

If you have received an assessment and are not in agreement therewith, you may object thereto. The objection must comply with the following:-

- It must be on a form prescribed by SARS ([ADR 1](#))
- It must specify detailed grounds of objection.
- It must be signed by you.
- It must be delivered to SARS at the address specified on the assessment, within 30 business days after the date thereof.

An objection that does not comply with the requirements may be invalid. In terms of the new rules, you may submit a revised objection within a specified period.

Appeal against disallowance of an assessment

If you are dissatisfied with the decision of SARS following the objection, you may appeal against that decision.

- The Notice of Appeal must be delivered to SARS within 30 business days from the date of receiving notice of SARS' decision in respect of the objection. The appeal must be on the form prescribed by SARS ([ADR 2](#)).
- In the appeal, you must indicate in respect of which of the grounds specified in the objection you wish to appeal.
- You may also indicate whether you wish to make use of the Alternative Dispute Resolution (ADR) procedures.

Post-appeal stage

You may channel your tax dispute with SARS through one of the following :-

- Alternative Dispute Resolution (ADR), which is intended to be used where both the vendor and SARS agree to resolve a particular dispute outside of court.
- The Tax Board, which has jurisdiction in respect of those matters where the tax in dispute does not exceed R 100 000.00.
- The Tax Court, which has jurisdiction over matters where the tax in dispute is in excess of R 100 000.00

14.2 ALTERNATIVE DISPUTE RESOLUTION (ADR)

What is ADR ?

ADR is a form of dispute resolution other than litigation, or adjudication through the courts. ADR can be initiated by either the vendor or SARS. The ADR process can be initiated by –

- Indicating in your Notice of Appeal that you wish to make use of the ADR process.
- SARS will then inform you within 20 business days of receipt of the Notice of Appeal whether the matter is suitable for an ADR process.

Who facilitates ADR ?

SARS will appoint a trained and experienced SARS' officer (the facilitator) to facilitate the appeal.

What ensures that ADR happens in a fair manner?

The facilitator is bound by a code of conduct and must seek a fair, equitable, and legal resolution of the matter. The process is governed by a set of terms and conditions to which you agree.

The ADR process

- SARS determines the ADR process.
- The facilitator will arrange an ADR meeting and notify all the parties.
- The meeting is conducted in an informal manner.
- During the meeting, both parties will state their case and provide evidence.
- During the process, the facilitator will endeavour to resolve the dispute between the parties.

Who represents you during the ADR process?

You can represent yourself during the ADR. Alternatively, if the facilitator agrees in exceptional circumstances, you may be excused from the facilitation and be represented by a representative of your choice.

Outcome of ADR

If the dispute is resolved between SARS and you, it must be recorded and signed by you and SARS representative. SARS will issue, where necessary, a revised assessment to give effect to the agreement reached. Where the dispute is not resolved, you may continue on appeal to the Tax Board or the Tax Court.

Rights and obligations of parties

- You should at all times disclose all relevant facts during the ADR process.
- The ADR proceedings may not be electronically recorded.
- Representations made during the course of the ADR meetings are made without prejudice, i.e. may not be used against you in any subsequent proceedings.

How long does the ADR take?

The ADR process must be concluded within 90 days.

What are the benefits of ADR?

It is a less formal and more cost-effective and speedier method of dispute resolution.

For further information about the Dispute Resolution, you may visit the SARS Website www.sars.gov.za.

CHAPTER 15

RECORD KEEPING

15.1 WHAT ARE RECORDS?

Records will include your books of account or relevant computer print-outs if a computer is used, as well as supporting documentation. A manual to the software must also be available.

Records therefore include:-

- physical books of account and paper based source documents including computer printouts;
- electronic records; and
- all details of the accounting system, including charts, codes of accounts, instruction manuals, system and program documentation and specifications, etc.

15.2 WHAT SPECIFIC RECORDS MUST I KEEP?

The VAT Act does not contain a comprehensive list relating to all vendors as this would be impractical.

You should however maintain all reasonable accounting documents and records to enable SARS auditors to establish the nature, time and value of all taxable supplies and importation of goods and services, including information which assists in reconciling your accounting records with the VAT returns submitted. Details of any exempt supplies and any method of apportionment used should also be available.

The term “records” therefore includes the following:-

○ a record of all goods and services supplied, received and imported ○ the applicable rate of tax on all supplies made and received ○ tax invoices ○ invoices, receipts and cash register tapes (z-readings) ○ ledgers, cash books and journals and all other books of account ○ debit and credit notes ○ paid cheques and cheque books ○ documentary proof to apply the zero rate (including export documentation) ○ records of all importations and the Customs documents relating thereto	○ details of any agents acting on your behalf and transactions concluded through agents ○ the accounting instruction manuals and the system and programme documentation ○ bank deposit slips and bank statements ○ data in any electronic form, including computer printouts ○ accounting charts, access codes, program documentation & system instruction manuals ○ contracts/sale agreements ○ stock sheets and control lists ○ debtors and creditors lists (in respect of a change in accounting basis) ○ any other documents which would be considered necessary to verify transactions
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The above records must be available for inspection by SARS at all reasonable times during the period for which they are required to be maintained as discussed in paragraph 15.3 below.

15.3 HOW LONG MUST I KEEP MY RECORDS?

Vendors who are required to register for Income Tax must keep their records for the period referred to in section 75(1)(f) of the Income Tax Act, i.e. **5 years** after the submission of an income tax return relating to the transactions for that period. E.g. if you have an income tax return outstanding for the 2003 tax year (1/3/2002 to 28/2/2003) which you hand in to SARS on 1 July 2005, you must maintain the records pertaining to that period and have them available for inspection by SARS until 30 June 2010.

Vendors who are not required to register for Income Tax should keep their records for a period of **5 years** from the date of last entry in any book. Where the records are not kept in book form, they must be kept for a period of 5 years after the completion of the transactions, acts or operations to which they relate.

15.4 IN WHAT FORM MUST RECORDS BE KEPT?

The vendor must keep the original documentation and normally they will be kept in paper (hard copy) format. However, under certain circumstances SARS may allow the retention of microfilm copies or computer tape records in lieu of the originals. In the latter case, the originals must be retained for one year from the beginning of the period for which they would normally be kept. A vendor may therefore retain records in any form, provided authorisation by the Commissioner has been granted. This rule does not apply to ledgers, cash books, journals and paid cheques.

Vendors are no longer required to obtain special permission from SARS if it is intended to send and receive documents which could include tax invoices by means of EDI (electronic data interchange). There are, however other requirements and conditions which need to be met (See VATNEWS 22).

Refer to paragraph 11.6 of this Guide as well as VATNEWS 20 for the relevant requirements as well as the following provision in section 16 of the Electronic Communications and Transactions Act, 2002 which indicates the legal requirements for retention of data messages.

“16. Retention

- 1) *Where a law requires information to be retained, that requirement is met by retaining such information in the form of a data message, if-*
 - a) *the information contained in the data message is accessible so as to be usable for subsequent reference;*
 - b) *the data message is in the format in which it was generated, sent or received, or in a format which can be demonstrated to represent accurately the information generated, sent or received; and*
 - c) *the origin and destination of that data message and the date and time it was sent or received can be determined.*
- 2) *The obligation to retain information as contemplated in subsection (1) does not extend to any information the sole purpose of which is to enable the message to be sent or received.”*

Note that it is an offence not to keep proper records as specified in section 55 of the VAT Act, whether these are in paper or electronic format.

CHAPTER 16

DUTIES OF A VENDOR

16.1 RESPONSIBILITIES

As a registered vendor, there are certain duties and responsibilities imposed upon you and with which you will be expected to comply, such as the following:-

- provide correct and accurate information to SARS;
- submit returns and payments on time;
- include VAT in your prices, advertisements and quotes;
- keep accurate accounting records for 5 years;
- produce relevant documents when required by the SARS;
- notify SARS about any changes in your business, namely its address, trading name, partners, bank details and tax periods;
- issue tax invoices, debit and credit notes; and
- notify SARS of any changes of the details of the representative person.

Remember: Failure to carry out these duties and responsibilities could result in penalties being payable and possibly prosecution, additional fines and/or imprisonment.

16.2 EVASION

Any person participating in, or helping any other person to evade VAT or claim a refund to which they are not entitled is a serious offence. In such cases, additional tax of up to twice the amount of VAT evaded or refunds fraudulently claimed could be levied. Over and above any additional tax charged, a fine or term of imprisonment could also be imposed.

Businesses or individuals evading VAT gain a competitive advantage over honest businesses, therefore it is in your interest to report evaders. This can be done by calling anonymously to **SARS' toll-free number 0800 00 2870**.

CHAPTER 17

INFORMATION VISITS, AUDITS AND ASSISTANCE

17.1 INFORMATION VISITS

Once you have registered as a vendor for VAT, you may request a visit from a member of the audit staff of SARS. This visit will preferably take place at your business premises where the auditor will assist you and answer any queries you may have.

17.2 AUDITS

What is an audit?

An audit is generally a detailed check on the correctness of VAT returns submitted by you.

When can I expect an audit?

Every VAT registered vendor will be audited from time to time. The VAT auditor will arrange a meeting at your principal place of business to check your VAT records to make sure that the returns are correctly completed.

Who will conduct the audit?

Officers employed by SARS, who have undergone specialised training in all aspects of VAT administration, legal interpretation and accounting will conduct the audit.

What is the scope of the audit?

The number of tax periods to be audited will be selected on a sample basis and will not necessarily include the latest return submitted. If material deficiencies and discrepancies arise from the selected sample, the scope of the audit may be extended to include other tax periods.

Refunds and suspension of 21 days interest-free period

When you submit a VAT return that results in a refund due to you, the VAT Act states that SARS has to pay that refund within 21 business days. If the refund is paid after 21 business days, interest is payable to you for the period exceeding the 21 business days. If during this period, SARS requests an audit to be conducted and you are unable to meet with the auditors, or some of your records relating to the audit are not available or incomplete, SARS can postpone the 21 business days until such time that the audit can be carried out and completed. The correct address and contact details of your business should be available at all times to SARS.

17.3 ASSISTANCE

For more information, contact the SARS' office in your area. SARS also issues a newsletter known as the VATNEWS, to vendors twice a year. The VATNEWS is posted together with your VAT returns and contains interesting VAT information and changes that could be of great importance to you and your business. A rulings register is available on the SARS website (www.sars.gov.za) which addresses VAT issues that are of general interest to vendors.

CHAPTER 18

FREQUENTLY ASKED QUESTIONS (FAQ'S)

1. What is VAT?	VAT is an indirect tax levied on the consumption of goods or services in RSA. Indirect taxes such as VAT are also sometimes called sales or consumption taxes. VAT works on a self-assessment basis. i.e. the vendor determines the VAT liability (or refund) and submits the information to SARS on a return, together with any payment which may be due.
2. On what is VAT levied?	- Supplies in RSA - Any supply of goods or services in RSA by a vendor for a consideration in the course of carrying on an enterprise in RSA. - Imports into RSA - Goods imported into RSA (unless exempt), and in certain instances services imported into RSA.
3. What is an "enterprise"?	Any business activity in the broadest sense. It includes any activity carried on:- - continuously or regularly - by any person - in or partly in the Republic - in the course of which goods or services are supplied for a consideration, i.e. some form of payment - whether or not for profit Special inclusions :- Public authorities – certain Government departments and Provincial authorities. Local authorities – Municipalities and Regional Services Council. Welfare organizations. Share block companies. Examples:- Ordinary businesses - manufacturers, traders, auctioneers, landlords, contractors, etc. Trades and professions - builders, electricians, plumbers, doctors, lawyers, accountants. Non-profit organizations- sporting/social clubs, charitable organizations, etc.
4. What activities are <u>not</u> "enterprise" activities and which will not attract VAT?	Services rendered by an employee to his employer e.g. salary/wage/remuneration earners. This must however be distinguished from a private independent contractor who is not excluded. - Supplies by a branch or main business permanently located outside RSA (must be separately identifiable and maintain its own system of accounting). - Private or recreational pursuits or hobbies (unless carried on like a business). Private occasional transactions, e.g. occasional sale of domestic/household goods, personal effects or private motor vehicle. - Any exempt supplies (listed in s 12). - Supplies by persons who are not vendors.
5. What is a vendor?	Any person who is registered or is required to be registered for VAT.
6. What is a "person" for VAT purposes?	Sole proprietor, i.e. a natural person; Company/ close corporation; Partnership/ joint venture; Deceased/ insolvent estate; Trusts; Incorporated body of persons e.g. an entity established under its own enabling act of parliament; Unincorporated body of persons, e.g. club, society or association with its own constitution; and Local /public authorities.

7. What are “goods”?	Includes the following:- - o corporeal (tangible) movable things, goods in the ordinary sense (including any real right in those things); - o fixed property, land & buildings (including any real right in the property e.g. servitudes, mineral rights, notarial leases, etc); - o sectional title units (inc. timeshare); - o shares in a share block company; - o postage stamps; and - o second-hand goods; Excludes the following:- - o money i.e. notes ,coins, cheques , bills of exchange, etc (except when sold as a collectors item); - o value cards ,revenue stamps, etc. which are used to pay taxes (except when sold as a collectors item); and - o any right under a mortgage bond.
8. What are “services”?	The term includes:- - o granting, assignment, cession, surrender of any right; - o making available of any facility or advantage; and - o certain acts which are deemed to be services in terms of section 8. The term excludes:- - o a supply of “goods” ; - o money; and - o any stamp, form or card which falls into the definition of goods. Examples :- - o Commercial services - electricians, plumbers, builders. - o Professional services - doctors, accountants, lawyers. - o Advertising agencies. - o Intellectual property rights - patents, trade marks, copy rights, know-how. - o Restraint of trade. - o Cover under an insurance contract.
9. Who is required to register for VAT?	Any person making taxable supplies in the course of an enterprise where the turnover from such supplies is > R300 000 in any 12 month consecutive period. NOTE: - o The registration threshold was R 150 000 prior to 24/11/1999. - o It is the <u>person</u>, and not the business which is registered for VAT. A person is also only registered once for all the enterprises/divisions/branches carried on, unless permission is granted to register them separately.
10. What are taxable supplies?	Supplies on which VAT is required to be levied and which are not exempt i.t.o. s 12. There are 2 types of taxable supplies, namely:- - o those which attract VAT at the zero rate (listed in s 11); and - o those which attract VAT at the standard rate of 14%.
11. What is the difference between a zero-rated supply and an exempt supply?	- o On a zero-rated supply, VAT is charged, but at a special rate of 0%, whereas no VAT is charged on an exempt supply. (In each case, no VAT is actually paid to the supplier). - o Vendors may recover input tax on purchases while vendors or persons making exempt supplies may not. - o Persons making only exempt supplies cannot be registered for VAT, whereas persons making only zero-rated supplies <u>must register</u> for VAT (if the value of taxable supplies is greater than R 300 000 p/a). - o A zero-rated supply is a taxable supply whereas an exempt supply is not.

12. Can a person register voluntarily?	Yes, provided that :- ○ taxable supplies are made; and ○ the enterprise has already made taxable supplies above the minimum threshold of R 20 000.
13. What if I make both taxable and exempt supplies?	The normal registration requirements will still be applied, but you will only be registered in respect of the taxable supplies made . This means that VAT is still only charged on any taxable supplies and <u>does not</u> make the exempt supplies taxable .
14. Can a registration application be refused?	○ Compulsory registration – No. ○ Voluntary registration – Yes, if any of the following are not met :- ☞ No bank account; ☞ No fixed residential or business address; ☞ Previously failed to perform duties under VAT or GST legislation ; ☞ No proper records kept for the business; or ☞ Less than R20 000 turnover p/a (taxable supplies)
15. How do I know if my VAT registration application has been processed?	○ You will receive a VAT registration certificate (VAT 103) as proof of registration. ○ You can phone the call centre or call at any service centre to check the system if the certificate has not yet been received. ○ You can enquire on the SARS website www.sars.gov.za and enter your details under “VAT vendor search”.
16. What are my duties as a registered VAT vendor?	○ Submit returns (VAT201) and pay VAT due timeously; ○ Properly account for VAT on an invoice basis of accounting <i>unless</i> a payments basis has been approved ; ○ Furnish “tax invoices” or issue debit and credit notes as and when required to customers within 21 days of request; ○ Advise of any change in status within 21 days. E.g. trading name, address, nature of the principal enterprise, etc; and ○ Maintain proper records for at least 5 years.
17. How do I declare my VAT?	On form VAT 201 which will be sent to you before the end of the tax period.
18. When is the VAT return and payment due?	○ Both are due on the 25th of the month after the end of the tax period. ○ If the 25th falls on a public holiday or weekend, then they are due on the last working day before the 25th. ○ If you pay by debit order, the amount will be deducted from your bank account on the last working day before the end of the month. The return must however still be submitted by the 25th.
19. Can I get an extension on rendering my VAT return?	Yes, but :- ○ you must apply in writing for this ; and ○ if there is any payment due, the extension does not affect the penalties and interest to be levied. If you wish SARS to consider remitting or reducing any penalties or interest levied, you will need to make a separate application for this.
20. How do I know if the person who charged me VAT is really a VAT vendor?	○ You can ask the person to show you their VAT registration certificate (VAT 103) as proof of registration. ○ You can phone the call centre /call at any service centre and ask SARS staff for confirmation of the person’s status. ○ You can enquire on the SARS website www.sars.gov.za . Go to “VAT” and enter the VAT number or trading /legal name details under the choice “VAT vendor search” on the left hand side to confirm.

21. Is there a penalty for submitting my return a few days late?	No, the penalty relates only to any <u>late payment</u> of VAT. However, if you do not submit a return, you could be summonsed for this and there may be a fine imposed by the Court.
22. What documents do I need to submit with my application for registration as a vendor?	<u>Compulsory registrations</u> The appropriate VAT registration form :- ○ VAT 101 - first time applications/main branch ○ VAT 102 - for any separate branches ○ VAT 101 D can also be completed if you qualify for the diesel refund scheme <u>Plus</u> the following documents as applicable to the enterprise:- ○ Certified copy of the vendor's I.D. <u>and</u> spouse's I.D. if married in community of property (or representative in the case of companies, cc's, trusts, etc). ○ Latest bank statement, cancelled cheque/ letter from the bank, etc. as confirmation of bank accountholder status in RSA. If the bank account is not in the vendor's name, form VAT 119i must be completed. ○ Letter of appointment as <u>external</u> bookkeeper/ accountant/auditor if Part 7 has been completed. ○ In the case of a foreign enterprise, the details of the appointed representative in RSA. ○ Recent copy of a municipal account or lease as proof of address. ○ Copy of the relevant registration certificate from the Registrar of Companies/ Close Corporations (e.g. CK 1 , CK 2, CM 1, etc). ○ Certified copy of founding document - if applicable (e.g. trust deed, partnership agreement, etc), or letterhead in the case of a local or public authority. In the case of a verbal partnership, complete form VAT 128. (Note Articles of Association for a company are no longer required). ○ Business plan / feasibility study / franchise agreement or projections/signed contracts indicating probable value of taxable supplies greater than R 300 000 in a 12 month period. ○ Form VAT 125 - declaration by representative vendor (in the case of companies, cc's, body corporates and other legal entities). Only required if using the old registration form as this has now been integrated into Part 10 of the new VAT 101. ○ Trading license (if applicable for that business e.g. liquor, fishing, etc) <u>Voluntary registration</u> <i>The forms as above, plus actual proof of turnover greater than R 20 000 p/a (invoices, sales records, bank deposits, etc). If turnover can only be met after a period of time, e.g. plantation farming, proof and reasons are to be submitted in terms of paragraph 11.3 of the VAT 101. Certain types of vendors do not have to meet this requirement (viz. share block companies, welfare organizations and local authorities).</i> Depending on the type of enterprise, the following will be required:- ○ Commercial accommodation- proof of turnover > R 60 000 or likely to exceed that amount. ○ Welfare organization – certified copy of Income Tax Exemption certificate (you will need proof of registration under the <i>Non-Profit Organisations Act, 1997</i> to get the Income Tax Exemption). ○ Going concern purchased - contract and VAT no. of seller. Note that the business plan for a voluntary registration would indicate probable taxable supplies of between R 20 000 and R 300 000. If the probable value of taxable supplies exceeds R 300 000, the application is treated as a compulsory registration.

23. What supplies are exempt?	These are all listed in section 12 of the VAT Act. Examples :- ○ Certain financial services (excluding international financial services charged at the zero rate). ○ Supplies by any "association not for gain" of certain donated goods or services. ○ Rental of accommodation in any "dwelling", as defined, predominantly used as a residence or abode of a natural person (including employee housing). ○ Certain educational services (e.g. pre-primary, primary, secondary and tertiary education , certain adult education and vocational training courses). Other goods and services supplied by schools and tertiary educational institutions which are included in the tuition fees and are subordinate and incidental to the education may also be exempt (e.g. board and lodging, meals, books, etc). ○ Services of employee organizations e.g. trade unions ○ Certain services to members of a sectional title, share block or old age scheme funded out of levies. (Not applicable to timeshare schemes). ○ Public road and railway transport to fare paying passengers and their luggage. (Excluding zero-rated international transport which will override the exemption). ○ Childcare services in a creché or after school care centre (with effect from 1 March 2002).
24. What supplies are zero-rated?	These are all listed in section 11 of the VAT Act. Examples of zero-rated goods ○ Goods exported to an address in an export country. ○ Supply of an enterprise as a going concern. ○ Gold supplied to banks. ○ Certain supplies to farmers e.g.:herbicides, animal feed , etc. (See Schedule 2 Part A of VAT Act). ○ Fuel levy goods such as petrol, diesel and crude oil. ○ Basic foodstuffs e.g. hen eggs, brown bread, fresh fruit/veggies, tinned sardines, etc. (See Schedule 2 Part B of the VAT Act). ○ Supply of gold coins i.e. Krugerrands. ○ Illuminating kerosene used for heating or lighting (may not be a mixed substance). Examples of zero-rated services ○ International transportation of passengers or goods either to the RSA from an export country, or from the RSA to any export country, or between 2 countries outside RSA. ○ Services physically rendered outside RSA. ○ Certain services supplied to a non-resident who is outside the Republic at the time the services are rendered. ○ Patents and other intellectual property for use outside the Republic. ○ "Transfer payments" received from Government Departments (legislation on this aspect may change the treatment in the near future). Note: The above supplies are only zero-rated if the supplier retains the proper documentation to justify the application of the zero rate.
25. What is input tax and output tax?	○ Input tax = VAT charged <u>to</u> a vendor on taxable purchases made which can be claimed back from SARS. ○ Output tax = VAT charged <u>by</u> a vendor to clients on any sale of goods or fees earned on services which amount is due to SARS.

26. What is a tax period for VAT?	There are 5 different tax periods as follows:- ○ Category A – 2 monthly (ending at the end of every odd month) e.g. Jan, Mar, May, July, etc. ○ Category B – 2 monthly (ending at the end of every even month).e.g. February, April, June, etc. ○ Category C- monthly (taxable supplies > R 30 000 000 p/a). ○ Category D – 6 monthly (certain farmers only). ○ Category E – annually (only in exceptional circumstances for connected persons with only one transaction per year). Most vendors will be allocated Category A or B. (You may no longer choose between Category A or B – you will be allocated a tax category).												
27. How do I calculate the VAT due by or refundable to me?	It is calculated on the VAT 201 form as follows:- <table border="0" style="width: 100%;"> <tr> <td style="width: 40%;"><u>Less</u></td><td style="width: 60%;">Output tax (on supplies made)</td></tr> <tr> <td>{Less</td><td>Input tax (on supplies received)</td></tr> <tr> <td></td><td>Diesel refund (if applicable)}</td></tr> <tr> <td colspan="2"> </td></tr> <tr> <td><u>Equals</u></td><td>VAT payable/refundable</td></tr> <tr> <td colspan="2"> </td></tr> </table> Note ▪ A positive result means that VAT is payable. ▪ A negative result means that VAT is refundable.	<u>Less</u>	Output tax (on supplies made)	{Less	Input tax (on supplies received)		Diesel refund (if applicable)}			<u>Equals</u>	VAT payable/refundable		
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28. What is the difference between the terms “consideration” and “value”?	○ “Consideration” = price including VAT ☞ This is basically the amount of money (inc. VAT) received for a supply, or ☞ the open market value of goods or services (inc. VAT) received for a supply (if the consideration is not in money). ○ “Value” = selling price excl. VAT (= sales or fees earned). Since VAT is the difference between the selling price including the VAT and the value of the taxable supply, the following formulae can be derived:- VAT = consideration – value or Consideration = value + VAT												
29. How do I calculate the VAT included in the total selling price?	○ Use the tax fraction which is presently 14/114. ○ Consideration x 14/114 = VAT included in selling price. Example : R 228 x 14/114 = R 28.00 VAT. To calculate the value of the taxable supply, use the fraction 100/114. Example : R 228 x 100/114 = R 200.00 (price excl. VAT). Proof : Use formula : Consideration = value + VAT R 228 = R 200 + R28 ✓ Correct												
30. Do the amounts on my financial statements include VAT or not?	No, generally amounts reflected in the financial statements of an enterprise do not include VAT (i.e. they are values). However, on the expense side, an element of VAT may be included if the vendor was not able to claim input tax on a particular purchase, e.g. a motor car, entertainment expenses, etc.												
31. What is a tax invoice and what is its purpose?	It is a special document which is required to be held by a vendor to claim input tax. The term is dealt with in Section 20 of the VAT Act which sets out what is required to be reflected on the document. It is also required by tourists wishing to claim a refund on goods which they are removing from RSA.												

32. What information is required on a tax invoice?	Full tax invoice (section 20(4)) Required where the consideration is R 1000 or more, or is a zero-rated supply. The following details are required:- - the words "TAX INVOICE" in a prominent place; name, address and VAT registration number of the supplier; name and address of recipient *; serial number and date of issue; accurate description of goods and/or services; quantity or volume** of goods or services supplied ; price & VAT. (Proposed amendment to also require the VAT no. of the recipient w.e.f. 1/3/2005. Refer to VATNEWS 23). Abridged tax invoice (section 20(5)) Where the amount (inc. VAT) is < R1000. The same requirements as above, except that the name and address of the recipient * and the quantity or volume ** does not need to be specified.
33. Are there instances where I will not need a tax invoice to claim input tax?	Yes, there are some exceptions such as :- second hand goods (non taxable) bought from a resident; consideration < R50 ; - a bill of entry serves as a tax invoice to claim the VAT on importation; if the Commissioner is satisfied that there will be sufficient records and that it will be impractical for a tax invoice to be issued, he may grant permission for tax invoices not to be issued; and goods repossessed from a vendor by the financier.
34. What are second-hand goods?	- Goods that are previously owned and used. - The term excludes animals, gold coins and certain "old order" mining rights.
35. What records do I need to claim input tax on 2nd hand goods?	The information required is similar to what would be required on a tax invoice, namely :- <u>Supplies for less than R 1000</u> Name, address and I.D. no. of the supplier (or representative person if it is a company or cc) who must be a resident. The I.D. no. must be checked against the I.D. book or passport of the supplier ; date of acquisition; quantity or volume of goods; accurate description of the goods; declaration by the supplier stating that the supply is not a taxable supply; and consideration for the supply. (A form VAT 264 has been designed for the purpose of recording these details and incorporates the required declaration by the owner of the goods). <u>Supplies for R 1000 or more</u> The following are required in addition to the above:- copy of the supplier's I.D. (or the representative person – as the case may be) ; and - in the case of a company/ cc, a business letterhead or similar document is also required which shows the name and registration number allocated by the Registrar of Companies.

36. What are the requirements for claiming input on 2nd hand goods and how is it calculated?	○ The goods must be “second-hand goods” as defined; ○ the supply may not be a taxable supply (i.e. it will normally be purchased from a non-vendor); ○ the supplier must be a resident ; ○ the purchaser must have paid for the supply (as input is only allowed insofar as payment has been made); ○ the prescribed records must be kept (as set out in Q 35) ; ○ the input is calculated by multiplying the tax fraction (14/114) by the consideration paid ;and ○ where the second-hand goods constitute “fixed property”, the input tax is limited to the amount of stamp duty or transfer duty paid (as the case may be) and may only be deducted after such transfer duty or stamp duty has been paid. Example 1: 2nd hand dealer buys a used fridge from a non-vendor for R 600. He pays the person R 400 immediately and the balance of R 200 in the next tax period. Input tax is calculated as follows:- Claim in Tax period 1 – R 400 x 14/114 = R 49.12 Claim in Tax period 2 – R 200 x 14/114 = <u>R 24.56</u> Total = <u>R 73.68</u> Example 2: A developer, trading under a cc, buys a piece of vacant land to be developed for R50 000 from a non-vendor which is paid for in full on registration into the cc's name. Since the land is acquired under a non-taxable supply for VAT purposes, the cc must pay Transfer Duty @ 10% = R 5000. Therefore input tax = R 50 000 x 14/114 = R 6140.35. However, since only R 5 000 in transfer duty was paid, <u>the claim is limited to R 5 000.</u>
37. Can I claim input tax on the purchase or rental of a motor car?	No, input tax is denied for motor cars (passenger vehicles) unless the vendor makes taxable supplies of motor cars. E.g a motor car dealer or car rental enterprise. (Dealers can also claim for demonstration vehicles). “Motor car” is a defined term which includes vehicles which have 3 or more wheels, are normally used on public roads and which are constructed or adapted mainly or wholly for carrying passengers. Examples of passenger vehicles on which input tax <u>cannot be claimed</u>:- Sedan type cars, SUV's, double-cab bakkies, minibuses, landrovers, Combi's, hearses, etc. which are capable of carrying passengers. The following examples are not “motor cars” as defined. Input tax can therefore be claimed to the extent used for taxable supplies:- ○ Vehicles capable of accommodating more than 16 persons (e.g. a bus); ○ Specialised vehicles such as hysters, graders, tractors, mobile cranes, earthmoving vehicles, etc. (seats only 1 person); ○ Ambulances and caravans ; ○ Vehicles with an unladen mass of 3500 kg or more; and ○ Single cab bakkies (LDV's) /Trucks/ lorries/delivery vehicles.
38. Can I claim VAT on running expenses for my motor car?	Yes, the VAT paid on maintenance, insurance, repairs and other incidental running expenses may be claimed if the vehicle is used exclusively for taxable supplies. If there is any private usage, the claim must be apportioned.

39. Can I advertise or quote prices excluding VAT?	○ No, all prices advertised, quoted, marked for sale or otherwise displayed by a vendor must include VAT. Contravention of this rule constitutes an offence. ○ There is one exception and that is for auctioneers in certain circumstances.																																							
40. What is the penalty if I pay my VAT after the due date?	○ A once-off penalty equal to 10% of the unpaid tax is levied on the day after the due date (i.e. 26th). ○ If payment has still not been made by the 1st day of the next month, a full month's interest @ the prescribed rate will be levied and every 1st of the month thereafter until the outstanding amount has been settled. (Whether the vendor pays late for a full month or part of a month a full month's interest is levied on the first of every month). Example: Joe's Tavern is registered on Category A. He submits his return on time indicating that R 5 000 VAT is to be paid for the tax period ending March 2003, but makes no payment by the due date. He pays the R 5 000 only on 6 June 2003. ○ Penalty will be raised on 26th April 2003 as follows:- R 5 000 x 10% = <u>R 500 penalty</u> ○ A full month's interest @ the prescribed rate will be incurred on 1 May 2003 and on 1 June 2003. R 5000 x 2 months x 1.375% = <u>R 137.50 interest</u>																																							
41. What is the prescribed interest rate and is it the same for Income Tax?	It is the interest rate at which SARS will either:- ○ Charge on late payments ; or ○ Pay a vendor on refunds which take longer than 21 business days to be paid out. The rates are determined in terms of the PFMA (Public Finance and Management Act) and are now the same for VAT and Income Tax, (but not the same for provisional tax). The prescribed rates for VAT over the years are as follows:- <table><tr><th>Date</th><th>Late payments (per month or part)</th><th>Refunds (per annum)</th></tr><tr><td>30/9/91 – 31/5/93</td><td>1.5%</td><td>18%</td></tr><tr><td>1/6/93 – 30/11/98</td><td>1.2%</td><td>16%</td></tr><tr><td>1/12/98 – 30/4/99</td><td>1.6%</td><td>18%</td></tr><tr><td>1/5/99 – 31/8/99</td><td>1.3%</td><td>16%</td></tr><tr><td>1/9/99 – 29/2/00</td><td>1.2%</td><td>14.5%</td></tr><tr><td>1/3/00 – 30/9/02</td><td>1.1%</td><td>13%</td></tr><tr><td>1/10/02 – 31/3/03</td><td>1.3%</td><td>15.5%</td></tr><tr><td>1/4/03– 30/6/03</td><td>1.375%</td><td>16.5%</td></tr><tr><td>1/7/2003 – 31/8/2003</td><td>1.25%</td><td>15%</td></tr><tr><td>1/9/2003 – 30/9/2003</td><td>1.167%</td><td>14%</td></tr><tr><td>1/10/2003 – 30/11/2003</td><td>1.1%</td><td>13%</td></tr><tr><td>1/12/2003 – date of issue</td><td>0.9583%</td><td>11.5%</td></tr></table>	Date	Late payments (per month or part)	Refunds (per annum)	30/9/91 – 31/5/93	1.5%	18%	1/6/93 – 30/11/98	1.2%	16%	1/12/98 – 30/4/99	1.6%	18%	1/5/99 – 31/8/99	1.3%	16%	1/9/99 – 29/2/00	1.2%	14.5%	1/3/00 – 30/9/02	1.1%	13%	1/10/02 – 31/3/03	1.3%	15.5%	1/4/03– 30/6/03	1.375%	16.5%	1/7/2003 – 31/8/2003	1.25%	15%	1/9/2003 – 30/9/2003	1.167%	14%	1/10/2003 – 30/11/2003	1.1%	13%	1/12/2003 – date of issue	0.9583%	11.5%
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42. How long will my refund take to process?	This depends on :- ○ the volume of work in the office ; ○ if the information on the return is complete and accurate; and ○ if the refund must be audited. Generally a refund will be processed within 21 business days, otherwise interest must be paid to the vendor. SARS tries to process it before interest will be incurred. Business days exclude Saturdays, Sundays and public holidays. ○ 21 business days = about a full month. ○ A business day = a working day.																																							

43. Are there any supplies on which input tax will be denied?	Yes, there are a few instances when input tax will be denied, even if you have a tax invoice and the goods/services are used for taxable supplies. These are as follows:- ○ Motor cars (unless the person is a dealer in such goods); ○ Club subscriptions of a recreational nature (e.g. country club and sports club membership fees). This however does not include subscriptions to trade journals & professional organisations; ○ Most entertainment expenses (unless supplying entertainment in the course of an enterprise). There are however a few exceptions where a claim will be allowed. (See Q 44); and ○ Medical schemes cannot claim for doctor's bills, hospital, medicines, etc sent to them by members covered by the scheme. Reason: - the services supplied by a medical scheme are exempt.
44. Under what circumstances can I claim entertainment expenses?	○ Vendors in the business of supplying entertainment at a charge that covers the cost; E.g. movies, theatres, restaurants, night clubs, bars, T-rooms, etc. ○ Personal subsistence of employees on business of the employer (but not where an allowance is paid for this). The employee must be away on business from the normal place of work <u>and</u> residence for at least 1 night. ○ Meals or refreshments supplied by operators of taxable passenger transport services; e.g. meal on a flight to Jhb. ○ Meals or refreshments supplied as part of a seminar or similar event where it is included in the cost. ○ Sport or recreational facilities provided by local authorities. ○ If the person is a welfare organization (i.e. it carries on welfare activities).
45. How do I claim input tax if I have lost my tax invoice?	○ You can request the supplier to issue you with a copy tax invoice as long as the document is clearly marked "copy". ○ A photostat copy clearly marked COPY <u>after</u> it has been photostated can also be used in such instances. ○ A facsimile of a tax invoice not acceptable unless printed by a plain paper fax. ○ An e-mail copy is also not acceptable unless the vendors involved meet the requirements for EDI (See VATNEWS 20 and 22). Note : the supplier can not merely issue another tax invoice as it is an offence to issue more than one (1) tax invoice per supply.
46. What happens if I only register 2 years after I became liable?	○ The fact that you have registered late does not change the date of liability. ○ You will be expected to submit returns for the past two years and will be held liable to pay any VAT which should have been paid during that period. (Irrespective of whether the VAT has been charged to customers or not). ○ Penalty and interest on any late payments will be raised automatically.
47. If I hire out buses am I making taxable or exempt supplies?	The hiring out of a bus is the supply of goods and is therefore taxable at the standard rate. This should not be confused with the provision of a passenger transport service to fare-paying passengers on the bus (which is an exempt supply).
48. As a foreign tourist, can I claim back all the VAT that I have paid in RSA?	No, you can only claim the VAT back on <u>goods</u> which you are physically removing from RSA. VAT is not refundable on any bills for services such as doctors, restaurants, hotel accommodation, etc as these goods and services are consumed in RSA. Booklets explaining how this works are obtainable at the major airports.

49. If I provide both a local as well as an international bus transport service, how does this affect my VAT?	All local transport services for fare paying passengers by road or rail are exempt from VAT in terms of section 12, but international transport, which overrides the exemption, is zero-rated. You are therefore making both taxable and exempt supplies. VAT can only be charged on the taxable supplies (although in this case it will be 0%) and input tax can also only be claimed insofar as it is for taxable supplies. The input tax on purchases will therefore be determined as follows:- ○ If it is wholly for taxable supplies, then the whole input can be claimed ; ○ If it is wholly for exempt supplies, then no input can be claimed; ○ If it is for both taxable and exempt supplies, a reasonable apportionment based on the turnover will have to be made.
50. What are the typical entertainment expenses on which input tax will be disallowed?	<u>Some examples:</u> ○ Staff refreshments such as tea, coffee and other beverages and snacks and other ingredients purchased in order to provide meals to staff, clients and business associates; ○ Catering services acquired for staff canteens and dining rooms including own equipment furniture and utensils used in kitchens, canteens and staff dining rooms; ○ Christmas lunches and parties, including the hire of venues; ○ Golf days for customers and clients; ○ Beverages, meals and other hospitality and entertainment supplied to customers and clients at product launches and other promotional events; ○ Entertainment of customers and clients in restaurants, theatres and night clubs; and ○ Capital goods such as hospitality boxes, holiday houses, yachts and private aircraft used for entertainment. (The above list is not exhaustive – just a few examples)
51. Does the rent that I pay for my flat attract VAT?	No, the supply of a “dwelling” for residential purposes is an exempt supply and consequently the owner cannot charge you VAT.
52. If I sell the house that I am living in or that I rent out to tenants, must I charge VAT?	No, if you are living in the house, you are not using it for taxable supplies and therefore cannot charge VAT even if you are registered. The activity of renting out the dwelling to tenants is an exempt supply and even if you are registered for VAT for other activities, it does not affect the outcome of this transaction being exempt.
53. If I dispose of my residential property (which is in a cc) by selling the member’s interest in the cc, is VAT payable?	No, it is exempt from VAT. The transaction is the sale of a member’s interest in the cc (similar to shares in a company). It is therefore not the property as such which is being sold. This is known as an “equity security” and is regarded as a financial service (s 2(1)(d) and 12(a)). Since financial services are exempt, no VAT can be charged, but it should be noted that with effect from 13 December 2002, the transaction is subject to Transfer Duty. <u>Note:</u> this rule applies only to “residential property”, which term is defined in the Transfer Duty Act.
54. How is accommodation taxed?	It is important to draw a distinction between the different types of “accommodation” provided, as each have different VAT implications:- ○ Renting a “dwelling” or providing employee housing is exempt; ○ Renting of business premises is fully taxable @ 14% ;and ○ Rent for a holiday apartment or residential (commercial) accommodation is taxed as per Q 55 below.

55. How does the VAT on commercial accommodation work?	There are 3 types of commercial accommodation, namely:- ○ Holiday or residential hotel type – e.g. in a house, flat, hotel, motel, inn, guesthouse, tent, caravan, campsite, houseboat, etc. This accommodation must be regularly and systematically let and the income from the activity must be greater than R 60 000 p/a (or likely to exceed this amount). ○ Residential /frail care homes for aged, children, physically or mentally handicapped persons. ○ Hospice. If the accommodation is provided for more than 28 days, only 60% of the charge is subject to tax (including domestic goods & services included in the all-inclusive tariff (excl. VAT)). Any domestic services and goods that are charged separately will attract VAT of 14%. Example : Sipho books into the Beach Hotel for 30 days on a bed and breakfast basis @ R 200 per day (excl. VAT). His bill could look something like this :- <table border="0"> <tr> <td>B & B accommodation @ 30 days x R 200 =</td> <td>R 6 000.00</td> </tr> <tr> <td>Restaurant (dinners) 6 x R80 (excl.VAT) =</td> <td>R 480.00</td> </tr> <tr> <td>Plus VAT on accommodation : R 6 000 x 14% x 60% =</td> <td>R 504.00</td> </tr> <tr> <td>Plus VAT on restaurant meals R 480 x 14% =</td> <td>R 67.20</td> </tr> <tr> <td>Total</td> <td><u>R 7 051.20</u></td> </tr> </table>	B & B accommodation @ 30 days x R 200 =	R 6 000.00	Restaurant (dinners) 6 x R80 (excl.VAT) =	R 480.00	Plus VAT on accommodation : R 6 000 x 14% x 60% =	R 504.00	Plus VAT on restaurant meals R 480 x 14% =	R 67.20	Total	<u>R 7 051.20</u>
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Plus VAT on accommodation : R 6 000 x 14% x 60% =	R 504.00										
Plus VAT on restaurant meals R 480 x 14% =	R 67.20										
Total	<u>R 7 051.20</u>										
56. What are “domestic goods and services”?	These are basically the things that come included with the supply of commercial accommodation. It includes for example use of a telephone, laundry, TV, swimming pool, cleaning services, furniture and any meals that are included in the all-inclusive fee charged. It should however be noted that any separate charges which are not included in the all-inclusive charge are taxed fully @ 14% and do not qualify for the special rate. (As set out in Q 55 above). E.g. phone calls, laundry items, meals not included in the rate, etc.										
57. If I return faulty goods to the supplier, how does this affect the VAT that I have already claimed on them?	The supplier must issue you with a credit note. The implication is that you as the recipient must now make an output tax adjustment in block 12 of the VAT 201 in your next return and the supplier will be entitled to make an input tax adjustment in block 18 of their next VAT 201 return.										
58. On what basis do I account for VAT?	This depends on the accounting basis on which you are registered. ○ Most vendors will be on the invoice basis. This means that the full output tax must be declared when making a supply and similarly, the full input can be claimed when making a purchase. (This is sometimes called the accrual basis). ○ Some vendors qualify to be on the payments basis which means that supplies must be accounted for only insofar as payment is made or received. (This is sometimes called the cash basis).										
59. Who can account for VAT on the payments basis?	The payments basis of accounting is only available to :- ○ public & local authorities as well as associations not for gain (irrespective of their turnover) ○ vendors who are natural persons (or partnerships consisting only of natural persons) where total taxable supplies are less than R2,5 million in the last 12 months and is not likely to exceed the amount in the next 12 months Note : Juristic persons such as companies and trusts do not qualify for the payments basis.										

60. How do I determine the amounts to be included in the VAT 201 return?	This will depend on the accounting basis on which you are registered, the tax period, the time of supply and the value of supply rules. ○ Tax periods and the time of supply rules indicate when a supply must be accounted for. ○ The accounting basis and the value of supply rules determine how much of the consideration must be accounted for.
61. If I donate an asset or sell it for less than the market value, what is the VAT implication?	○ If such a sale or donation is made to a connected person, you will probably be required to declare output tax on the open market value. (This will apply if the recipient cannot claim the full input tax credit). ○ If the sale or donation is to a person who is not a connected person, VAT is charged on the consideration received (if any). ○ In either case there may be donations tax implications.
62. How do I know <u>when</u> to account for VAT on a supply or when to claim input tax?	Section 9 of the VAT Act contains “time of supply” rules which will determine when a supply takes place (and hence in which tax period it must be accounted for). The general rule in terms of section 9(1) is that a supply takes place at the earlier of the following events:- ○ When an invoice is issued ; or ○ When any payment is made. (Including any partial payment). Other important examples/special rules: ○ Credit agreement subject to “cooling off” period. On the day after the 5th day of the “cooling off” period. ○ Lay bye agreement. The time the goods are delivered. ○ Rental agreement. The earlier of payment received or when payment becomes due. ○ Instalment credit agreement. The earlier of delivery or payment received. ○ Fixed property. The earlier of registration of transfer or date of payment. ○ Ceasing to be a vendor. The day before ceasing to be a vendor. ○ Adjustments i.r.o. change in use of assets in the enterprise – the time the goods are so applied.
63. Can additional tax be levied in terms of VAT legislation?	Yes, if there is fraud or deliberate non-disclosure of VAT, a maximum of 200% of the undeclared tax or fraudulently claimed refund amount can be levied as additional tax. Additional tax is levied over and above any penalties or interest which may be due.
64. When can SARS raise an assessment against me?	Vendors are required to calculate and pay VAT on a self-assessment basis. However, in certain circumstances it will be necessary for SARS to raise an assessment. This will be for instance when:- ○ a person fails to submit any return for a tax period; ○ SARS is not satisfied with the return or declaration furnished; ○ a person has become liable for the payment of tax and has not paid such amount; ○ a non registered person charges VAT on supplies and has not paid the tax over to the SARS; or ○ a vendor charges VAT on a supply , where the supply is zero-rated or exempt and the vendor has not paid the tax to SARS.

65. How do I determine the consideration or the value to be taxed?	Section 10 determines the value of supply or consideration for VAT purposes for different types of supplies. The general rule :- ○ If the consideration is in money. Consideration = the amount of money. ○ Where the consideration is not in money. Consideration = the “open market value” (OMV) of the goods or services <u>received</u> as consideration. Other important examples: ○ Connected persons where there is no consideration, or where it is less than the OMV. The general rule is that the OMV applies. This will be where the recipient is not able to claim the full input tax. ○ Ceasing to be a vendor or transfer of goods/services to a branch outside the Republic – use the lesser of cost or OMV. ○ Adjustments i.r.o. change in use of assets in the enterprise – use the OMV (S 18(1)). ○ Commercial accommodation and domestic goods & services supplied at an all inclusive charge for more than 28 days - <u>Value</u> of supply = 60% of the all-inclusive charge (excluding VAT). ○ Repossession of goods - the balance of the cash value. ○ Where a taxable supply is not the only matter to which a consideration relates - the supply shall be deemed to be for such part of the consideration as is properly attributable. ○ Management of a superannuation scheme - greater of the cost of making the supply, or any consideration for the supply. ○ Where any supply is made for no consideration the value = 0. This rule will in many cases not apply to connected persons.
66. Why did I not get interest paid on my refund when it took longer than 21 business days to be processed?	Interest will not be payable if any of the following are evident:- ○ the return is incomplete/defective in a material respect; or ○ if any returns are outstanding; or ○ if SARS was unable to gain access to your records for audit purposes (in this case the calculation of the 21 business days is suspended for that period); or ○ if the vendor is a non-resident and has not provided the details of the appointed agent (natural person) and bank account details in the Republic.
67. How do I object to rulings, decisions and assessments that I do not agree with?	For an objection to be valid, it has to:- ○ be in writing; ○ specify in detail the grounds upon which it is made; ○ be made within 30 days after the date of the decision or assessment. (The date that the registered mail was posted will be used in the event of a dispute). You will receive written notice from SARS informing you of the outcome of the decision.
68. What happens if my objection is disallowed?	You can lodge an appeal, which must be: ○ made in writing; and ○ lodged with SARS within 30 days after the date of the notice of disallowance of the objection. If there is a delay in the lodging of a written appeal, SARS may condone the delay, depending on the reasons. There are now also alternative dispute resolution mechanisms which you can utilise to solve your problem. Refer to the Dispute Resolution and Alternative Dispute Resolution booklets which are now available from your local SARS office, or visit the website www.sars.gov.za/dr for more information.

69. How is interest on a refund calculated?	○ No interest is paid on the first 21 business days. ○ Thereafter interest is payable daily at the prescribed rate. I.e. it is calculated for the period commencing on the 22nd business day following the date of receipt of the vendor's correctly completed VAT return and ending on the date of payment of the refund to the vendor. Formula: Interest payable = Refund amount X interest% X calendar days / 365 (A calendar day includes Saturdays, Sundays and public holidays) Example: Bob submits his refund return for R2 000 for the tax period ending March 2003 on 31 March 2003. The refund gets paid out on 7 May 2003. Since the 21 business days ends on 5 May 2003, only 2 day's interest will be paid as follows:- R 2000 x 16.5% x 2/365 = <u>R 1.81 interest.</u>
70. Does my tax period have to end on the last day of the calendar month or can I extend it?	Whilst the tax period normally ends on the last day of the month, vendors can adopt a date ending on a day other than the end of the month to close off their books of account. This is provided that :- ○ it falls within 10 days before or after the end of the month in which the tax period ends; ○ a fixed day or date must be selected which is approved by the Commissioner; ○ the selected close-off date must be applied consistently from one tax period to the next ;and ○ the date or day cannot be changed without prior approval. Irrespective of any choice exercised by the vendor in this regard, it does not affect the normal due date for submitting the return and making payment. Example : The vendor may select say the 27th day of a month (fixed date) or the last Friday in the month (fixed day but not a fixed date).
71. Can I change my tax period once this has been allocated to me on registration?	Yes, SARS may on written application, approve a change of tax period , but :- ○ The change can only take place from a future tax period; ○ It cannot be backdated; and ○ The request will be processed only if :- ▪ the wrong tax category has been captured in the registration process; or ▪ if the circumstances of the vendor have changed so that the conditions of the tax period no longer apply to the vendor. Example : A farming enterprise registered on a 2 monthly tax period submits a return on 18 May for the period 1 March to 30 April and applies to change to a 6 monthly tax period ending November and May. Approval is granted with effect from the 1 July. He should submit a return for the period: 1 May to 30 June; 1 July to 30 November (5 months) and thereafter for the new 6 monthly tax periods.
72. Can a registration be backdated?	○ Compulsory registrations – yes, up to 5 years. ○ Voluntary registrations- generally no, but it depends on the reasons given. For example it can be backdated if a mistake was made in the capturing of the liability date on the registration form, or if SARS delayed your application unnecessarily.

73. What is a deeming provision or a deemed supply?	This is when the legislation indicates that :- ○ a certain event may be taxed even if it would not ordinarily be considered to be a supply ; or ○ that an event which would ordinarily be regarded as a supply, should not be taxed. Section 8 of the VAT Act contains a list of these deeming provisions. Some examples are given below:- ○ Goods sold in satisfaction of a debt. E.g. attached goods sold on auction. ○ Cessation as a vendor. Any goods or rights forming part of the assets are deemed to be supplied by the vendor. ○ Lay-bye agreement. Applies to goods sold for < R10000. If the agreement is cancelled, and a deposit is retained by the seller, this is deemed to be a supply at that date. ○ Payments made to vendors (or on behalf of the vendors) by public and local authorities in respect of making taxable supplies. E.g. farming subsidies. ○ Where a vendor receives an indemnity payment under a contract of insurance for a loss incurred in the course of carrying on an enterprise, it is deemed to be a supply of a service. (Does not apply to items on which input tax was specifically disallowed i.t.o. s 17. e.g. a “motor car”). ○ A person receiving money for accepting a bet is deemed to supply a service to the punter. ○ Where goods were acquired and input tax was denied in terms of s 17, the subsequent supply of the goods is deemed not to be in the furtherance of an enterprise. ○ The supply by a vendor of goods/services where the goods/services were used partly for taxable supplies, is deemed to be supplied wholly in the furtherance of an enterprise. ○ The conversion of a share block to sectional title is deemed not to be in the course or furtherance of any enterprise. (Transfer duty is payable).
74. How do I apportion my input tax if I make taxable and exempt supplies?	Refer also to question 49. ○ All inputs which are required to be apportioned must be calculated on the turnover based method. (Any special methods must be approved in writing by the Commissioner). TURNOVER-BASED METHOD FORMULA $\frac{\text{Value of taxable supplies}}{\text{Total value of all supplies}} \times \text{Total VAT incurred} = \text{Input tax}$ ○ This calculation is only required where the input is for both taxable and exempt supplies. ○ Remember that if the supply is wholly for taxable supplies, then the whole input can be claimed, and if it is wholly for exempt supplies, then no input can be claimed
75. If an insurance broker for life insurance receives commission, is it subject to VAT?	Yes, an independent broker who receives commission from an insurance company for broking services provided to them must also include VAT (if the person is registered). Such commissions earned from 1/4/95 onwards are no longer treated as exempt “financial services” and are therefore now an “enterprise” activity. (See ruling 271).

CHAPTER 19

GLOSSARY

Association not for gain An “association not for gain” is essentially a religious institution or other society, association or organisation (including an educational institution of a public character) which is not carried on for profit and is required to use any property or income solely in the furtherance of its aims and objects. An association not for gain could also qualify as a “welfare organisation” if it conducts certain activities. The VAT 414 guide deals specifically with associations not for gain and welfare organisations.

Commercial accommodation There are 3 types of commercial accommodation, namely;

- Lodging or board and lodging together with domestic goods and services in any house, flat, apartment, room, hotel, motel, inn, guesthouse residential establishment, holiday accommodation unit, chalet, tent, caravan, campsite, houseboat or similar establishment. This must be supplied regularly and systematically so that the income from the activity exceeds or is likely to exceed R 60 000. This does not include the supply of a “dwelling” for letting/hiring (as this is an exempt supply in terms of section 12(c).
- Lodging or board and lodging in a home for the aged, children, physically or mentally handicapped persons.
- Lodging or board and lodging in a hospice.

If the accommodation is provided for more than 28 days, only 60% of the charge is subject to tax (including domestic goods & services included in the all inclusive tariff).

Connected person This term describes and identifies the relationships between different persons. The term is important because if persons are connected in terms of the definition, it may be necessary to apply special value of supply rules where the supplier may be required to charge VAT on the open market value of the supply, rather than on the amount of consideration received.

Examples include the following (amongst others):-

- natural persons who are related by blood or marriage,
- a company and any subsidiaries of that company,
- any close corporation and its members, and
- a natural person and a company where that natural person owns more than 10% of the shares or voting rights in that company.

Consideration This is basically the total amount of money (inc. VAT) received for a supply. For barter transactions where the consideration is not in money, the consideration will be the open market value of goods or services (inc. VAT) received for making the taxable supply. Section 10 of the VAT Act determines the value of supply or consideration for VAT purposes for different types of supplies.

Any act of forbearance whether voluntary or not for the inducement of a supply of goods or services will constitute consideration, but it does not include any donation made as an unconditional gift to an association not for gain. Also excluded is a “deposit” which is lodged to secure a future supply of goods and held in trust until the time of the supply.

Since VAT is the difference between the selling price including the VAT and the value of the taxable supply, the following formulae can be derived:-

$$\begin{array}{c} \text{VAT} = \text{consideration} - \text{value} \\ \text{or} \\ \text{Consideration} = \text{value} + \text{VAT} \end{array}$$

Domestic goods and services	These are basically the things that come included with the supply of commercial accommodation. It includes for example use of a telephone, laundry, TV, swimming pool, cleaning services, furniture <i>and any meals that are included in the all-inclusive fee charged</i>. It should however be noted that any separate charges not included in the all-inclusive charge are taxed fully @ 14% and do not qualify for the special rate. E.g. phone calls, laundry items, meals not included in the all inclusive rate, etc.
Dwelling	This is any building, premises, structure, or any other place or part thereof used predominantly as a place of residence or abode of any natural person (or which is intended for this purpose), including any fixtures and fittings belonging thereto and enjoyed therewith.
Enterprise	Any business activity in the broadest sense. It includes any activity carried on:- ○ continuously or regularly ○ by any person ○ in or partly in the Republic ○ in the course of which goods or services are supplied for a consideration, i.e. some form of payment ○ whether or not for profit <u>Special inclusions</u> ○ Public authorities – certain government departments and provincial authorities. ○ Local authorities – municipalities, Joint Services Board (JSB) and Regional Services Council (RSC). ○ Welfare organizations. ○ Share block companies. <u>Examples</u> ○ Ordinary businesses - manufacturers, traders, auctioneers, landlords, contractors, etc. ○ Trades and professions - builders, electricians, plumbers, doctors, lawyers, accountants. ○ Non profit organizations- sporting/social clubs, charitable organizations, etc. The following activities are <u>not</u> “enterprise” activities and will therefore not attract VAT ○ Services rendered by an employee to his employer e.g. salary/wage/remuneration earners. This must however be distinguished from a private independent contractor who is not excluded. ○ Supplies by a branch or main business permanently located outside RSA (must be separately identifiable and maintain its own system of accounting). ○ Private or recreational pursuits or hobbies (unless carried on like a business). ○ Private occasional transactions, e.g. occasional sale of domestic/household goods, personal effects or private motor vehicle. ○ Any exempt supplies (listed in s 12). ○ Supplies by persons who are not vendors.

Entertainment The term “entertainment” means the provision of any food, beverages, accommodation, entertainment, amusement, recreation or hospitality of any kind by a vendor whether directly or indirectly to anyone in connection with an enterprise carried on by him. Examples of entertainment include the following:-

- Staff refreshments such as tea, coffee and other beverages and snacks and other ingredients purchased in order to provide meals to staff, clients and business associates;
- Catering services acquired for staff canteens and dining rooms including own equipment furniture and utensils used in kitchens, canteens and staff dining rooms;
- Christmas lunches and parties, including the hire of venues;
- Golf days for customers and clients;
- Beverages, meals and other hospitality and entertainment supplied to customers and clients at product launches and other promotional events;
- Entertainment of customers and clients in restaurants, theatres and night clubs; and
- Capital goods such as hospitality boxes, holiday houses, yachts and private aircraft used for entertainment.

(The above list is not exhaustive – just a few examples)

Expenses relating to expenses incurred for entertainment as a general rule may not be claimed as input tax. There are however a few exceptions to the rule.

Exempt supply An exempt supply is a supply on which no VAT may be charged (even if the supplier is registered for VAT). Persons making only exempt supplies may not register for VAT and may not recover input tax on purchases to make exempt supplies.

Section 12 of the VAT Act contains a list of exempt supplies.

Examples:

- Certain Financial Services
- Supplies by any "association not for gain" of certain donated goods or services.
- Rental of accommodation in any "dwelling" including employee housing.
- Certain educational services
- Services of employee organizations e.g. Trade unions
- Certain services to members of a sectional title, share block or old age scheme funded out of levies. (Not applicable to timeshare schemes).
- Public road and railway transport to fare paying passengers and their luggage.
- Childcare services in a creché or after school care centre

Goods The term “goods” includes the following:-

- corporeal (tangible) movable things, goods in the ordinary sense (including any real right in those things);
- fixed property, land & buildings (including any real right in the property e.g. servitudes, mineral rights, notarial leases, etc);
- sectional title units (including timeshare);
- shares in a share block company;
- postage stamps; and
- second-hand goods.

The term “goods” excludes the following:-

- money i.e. notes ,coins, cheques , bills of exchange, etc (except when sold as a collectors item);
- value cards ,revenue stamps, etc. which are used to pay taxes (except when sold as a collectors item); and
- any right under a mortgage bond.

Instalment credit agreement

An instalment credit agreement was previously known as a “hire purchase” or “HP” agreement. There are two types of instalment credit agreements, namely an instalment sale agreement and a financial lease. These agreements are characterised by a suspensive condition as to the passing of ownership of the goods or services supplied. The agreement will normally provide for the payment of the purchase price including finance charges at a fixed or determinable charge and the recipient accepts the risks attached to those goods insofar as loss or damage is concerned. In the case of a financial lease, the term of the agreement must be at least 12 months.

A rental agreement (or operating lease) where the recipient does not become the owner of the goods at any stage is not an instalment credit agreement.

Input tax

This is the tax paid by the recipient to the supplier of goods or services. Input tax may only be deducted by the recipient vendor if the goods or services are acquired for making taxable supplies and if the vendor is in possession of a valid tax invoice for the supply. Where goods or services are acquired only partly for taxable supplies, an apportionment of input tax must be made. In the case of an importation, the vendor must be in possession of a valid bill of entry and proof that the VAT has been paid to Customs.

In certain instances, input tax may also be claimed on non-taxable supplies of second-hand goods acquired by the vendor, but the vendor must retain a proper record of the details of the transaction. Where the second-hand goods acquired constitute fixed property, the input tax is limited to the stamp duty or transfer duty payable and may only be deducted after the transfer duty or stamp duty has actually been paid.

As a general rule, input tax may not be claimed on supplies of “entertainment”, motor cars and club subscriptions. Input tax may also not be claimed where goods or services are acquired for making exempt supplies or other non-taxable activities or for private use.

Motor car

“Motor car” is a defined term which includes vehicles which have 3 or more wheels, are normally used on public roads and which are constructed or adapted mainly or wholly for carrying passengers.

Examples of passenger vehicles on which input tax cannot be claimed include ordinary motor cars, SUV’s, double-cab bakkies (LDV’s), minibuses, landrovers, Combi’s, hearses, etc. which are capable of carrying passengers.

The following vehicles do not qualify as a “motor car” as defined:-

- Vehicles capable of accommodating more than 16 persons (e.g. a bus);
- Specialised vehicles such as hysters, graders, tractors, mobile cranes, earthmoving vehicles, etc. (seats only 1 person);
- Ambulances and caravans ;
- Vehicles with an unladen mass of 3500 kg or more; and
- Single cab bakkies (LDV’s) /Trucks/ lorries/delivery vehicles.

As a general rule input tax may not be claimed on the acquisition of a motor car, irrespective of the mode of acquisition or whether or not it is used for taxable supplies.

Output tax

The tax charged by a vendor on a supply of goods or services.

Person	This term refers to the entity which is liable for VAT registration and includes the following:- ○ Sole proprietor, i.e. a natural person; ○ Company/ close corporation; ○ Partnership/ joint venture; ○ Deceased/ insolvent estate; ○ Trusts; ○ Incorporated body of persons e.g. an entity established under its own enabling Act of Parliament; ○ Unincorporated body of persons, e.g. club, society or association with its own constitution; and ○ Local /public authorities.
Second-hand goods	Second-hand goods are goods (including fixed property) that have been previously owned and used. The term excludes animals, gold coins and certain “old order” mining rights.
Services	The term “services” is very broad. It includes the following:- ○ The granting, assignment, cession, surrender of any right; ○ the making available of any facility or advantage; and ○ certain acts which are deemed to be services in terms of section 8. The term <u>excludes</u>:- ○ a supply of “goods” ; ○ money; and ○ any stamp, form or card which falls into the definition of “goods”. <u>Examples</u>:- ○ Commercial services - electricians, plumbers, builders. ○ Professional services - doctors, accountants, lawyers. ○ Advertising agencies. ○ Intellectual property rights - patents, trade marks, copy rights, know-how. ○ Restraint of trade. ○ Cover under an insurance contract.
Supply	This definition is very wide and includes all forms of supply (including the expropriation of fixed property), irrespective of where the supply is effected, and any derivative of supply is construed accordingly.
Tax invoice	This is a special document which is required to be held by a vendor to claim input tax. The term is dealt with in Section 20 of the VAT Act which sets out what is required to be reflected on the document as follows:- <u>Full tax invoice</u> (section 20(4)) The following details are required where the consideration is R 1000 or more, or is a zero-rated supply:- ○ The words “TAX INVOICE” in a prominent place; ○ Name, address and VAT registration number of the supplier; ○ Name and address of recipient *; ○ Serial number and date of issue; ○ Accurate description of goods and/or services; ○ Quantity or volume** of goods or services supplied ; ○ Price & VAT. (With effect from 1/3/2005 the VAT registration number of the recipient must also be reflected on the tax invoice). <u>Abridged tax invoice</u> (section 20(5)) Where the amount (inc. VAT) is less than R1000. The same requirements as above, except that the name and address of the recipient * and the quantity or volume **does not need to be specified.

Tax period	There are 5 different tax periods as follows:- ○ Category A – 2 monthly (ending at the end of every odd month) e.g. Jan, Mar, May, July, etc. ○ Category B – 2 monthly (ending at the end of every even month).e.g. February, April, June, etc. ○ Category C- monthly (taxable supplies greater than R 30 000 000 p/a). ○ Category D – 6 monthly (certain farmers only). ○ Category E – annually (only in exceptional circumstances for connected persons with only one transaction per year).
Taxable supply	This is a supply (including a zero-rated supply) which is chargeable with tax under the VAT Act. There are two types of taxable supplies, namely:- ○ those which attract the zero rate (listed in section 11); and ○ those on which the standard rate of 14% must be charged. A taxable supply does not include any exempt supply listed in section 12 of the Act, even if supplied by a registered vendor.
Vendor	This includes any person who is registered or is required to be registered for VAT. Therefore any person making taxable supplies in excess of the threshold amount (presently R 300 000) prescribed in section 23 of the VAT Act is a vendor, whether they have actually registered with SARS or not.
Unconditional gift	This is where a payment (donation) is voluntarily made to any association not for gain for the carrying on or the carrying out of the purposes of that association and in respect of which no identifiable direct valuable benefit arises or may arise in the form of a supply of goods or services to the person making that payment. Goods or services donated also qualify as unconditional gifts.
Welfare organisation	This is any association not for gain which is registered under the Nonprofit Organisations Act, 1997 (Act No. 71 of 1997) and is exempt from income tax in terms of section 10 (1) (cN) of the Income Tax Act, if it carries on or intends to carry on any welfare activity determined by the Minister for purposes of this Act to be of a philanthropic or benevolent nature, having regard to the needs, interests and well-being of the general public, relating to those activities that fall under the headings— (a) welfare and humanitarian; (b) health care; (c) land and housing; (d) education and development; or (e) conservation, environment and animal welfare. The VAT 414 guide deals specifically with associations not for gain and welfare organisations.
Zero-rated supply	A zero-rated supply is a taxable supply. These are all listed in section 11 of the VAT Act. The application of the zero rate is subject to the supplier retaining proper documentation justifying the application of this preferential rate of tax. Examples of zero-rated <i>goods</i> :- ○ Goods exported to an address in an export country. ○ Supply of an enterprise as a going concern. ○ Gold supplied to banks. ○ Certain supplies to farmers e.g.:herbicides, animal feed , etc. (See Schedule 2 Part A of VAT Act). ○ Fuel levy goods such as petrol, diesel and crude oil. ○ Basic foodstuffs. E.g. hen eggs, brown bread, fresh fruit/vegetables, tinned sardines, etc. (See Schedule 2 Part B of VAT Act). ○ Supply of gold coins i.e. Krugerrands. ○ Illuminating kerosene used for heating or lighting (may not be a mixed substance).

**Zero-rated
supply
(continued)**

Examples of zero-rated *services*:-

- International transportation of passengers or goods either to the RSA from any other country, or from the RSA to any other country, or between 2 countries outside RSA.
- Services physically rendered outside RSA.
- Certain services supplied to a non-resident who is outside the Republic at the time the services are rendered.
- Patents and other intellectual property rights for use outside the Republic.
- “Transfer payments” received from Government Departments (legislation on this aspect may change the treatment in the near future).