

#### SOUTH AFRICAN REVENUE SERVICE

#### **INTERPRETATION NOTE NO. 30 (Issue 2)**

#### DATE : 15 March 2006

#### ACT : VALUE-ADDED TAX ACT, No. 89 OF 1991 (the VAT Act)

#### SECTIONS : Section 1 - Definitions

f Paragraph (a) of the definition of "exported"

#### Section 11 – Zero-rated supplies

- f Section 11(1)(a)(i) movable goods that are exported as contemplated in paragraph (a) of the definition of "exported" in section 1
- *f* Section 11(3) documentary proof, as is acceptable to the Commissioner, substantiating the vendor's entitlement to apply the zero rate

SUBJECT : DOCUMENTARY PROOF REQUIRED ON CONSIGNMENT OR DELIVERY OF MOVABLE GOODS TO A RECIPIENT AT AN ADDRESS IN AN <u>EXPORT</u> <u>COUNTRY</u>

Interpretation Note No. 30 dated 31 March 2005 is hereby withdrawn and replaced by Interpretation Note No. 30 (Issue 2) as from 1 April 2006. However, the following must be noted:

- All rulings issued in terms of Interpretation Note No. 30 dated 31 March 2005 remain in force until specifically withdrawn.
- Rulings issued in regard to the documentary proof requirement contained in paragraphs 5 and 6 of Interpretation Note No. 30 dated 31 March 2005 are withdrawn.
- For the period 1 April 2005 to 31 March 2006, any requirements in terms of Interpretation Note No. 30 dated 31 March 2005 which have been deleted from Interpretation Note No. 30 (Issue 2) will not be enforced.

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Other specific requirements concerning:      f    The time period within which the movable goods must be exported,      f    the required output tax adjustment where documentary proof is not obtained      timorously,    f      f    the required input tax adjustment where the documentary proof is      subsequently obtained,    f      f    the application for an extension of the time period within which to obtain      proof of payment, and    f      f    the designated commercial ports, are elaborated on.      8    Glossary    20      The meaning of certain words and phrases that are <u>underlined</u> in this    1			
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#### 1. Purpose

VAT is levied on the supply of goods and services at the standard rate in terms of section 7(1)(a) of the VAT Act. However, where a supplying vendor exports movable goods, the zero rate must be applied to the supply of the movable goods in terms of section 11(1)(a)(i), read with paragraph (a) of the definition of "exported" in section 1 of the VAT Act, provided that the supplying vendor furnishes documentary proof as envisaged in section 11(3) of the VAT Act, to the satisfaction of the Commissioner, that the movable goods have been exported.

The purpose of this Note is to-

- explain the requirements that need to be adhered to with regard to direct export transactions; and
- prescribe the *documentary proof* that is acceptable to the Commissioner where a supplying vendor *consigns or delivers movable goods* in terms of a sale or instalment credit agreement to a *recipient* at an address in an <u>export country</u> and, accordingly VAT is levied on the supply at the rate of zero percent.

#### 2. Background

In order for a supplying vendor to supply *movable goods* (excluding second-hand *movable goods* where *notional input tax* was claimed) in terms of a sale or instalment credit agreement at the VAT rate of zero percent in terms of section 11(1)(a)(i), read with paragraph (a) of the definition of "exported" in section 1 of the VAT Act, the supplying vendor must—

- consign or deliver the movable goods to the recipient;
- at an address in an *export country*; and
- as substantiated by documentary proof acceptable to the Commissioner.

As the supplying vendor is in control of the export and ensures that the *movable goods* are exported from the Republic, this export is referred to as a "**direct export**".

Other instances where the supply of *movable goods* is considered to be a direct export are as follows—

- the supplying vendor exports movable goods to be installed outside the Republic;
- the supplying vendor exports *movable goods* as consignment stock to be supplied outside the Republic;
- the supplying vendor exports *movable goods* temporarily for exhibition purposes and subsequently supplies all or part of the *movable goods* outside the Republic; or
- the supplying vendor sells *movable goods* situated outside the Republic to a *recipient* before the *movable goods* are imported into the Republic, for example a sale on the high seas.

The supply of vouchers entitling the purchaser to a service in the Republic, for example, a phone recharge voucher, a pre-paid card, etc. constitutes the supply of a service and consequently cannot be regarded as a supply of *movable goods* that can be subject to a direct export. However, where a supplying vendor supplies vouchers as *movable goods*, excluding the entitlement to a service, e.g. a phone recharge voucher excluding the airtime, the supply is that of *movable goods* which may be exported from the Republic as a direct export. In addition, a phone recharge voucher that can be used outside the Republic can also be regarded as goods.

In case of indirect exports, Part 2 of Regulation 2761 of 1998 is applicable.

#### 3. The law

The relevant sections of the VAT Act are quoted below.

#### Section 1

"Customs and Excise Act" means the Customs and Excise Act, 1964 (Act No. 91 of 1964);

"export country" means any country other than the Republic and includes any place which is not situated in the Republic: Provided that the President may by notice in the Gazette determine that a specific country or territory shall from a date and to the extent indicated in the notice, be deemed not to be an export country;

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

(a) consigned or delivered by the vendor to the recipient at an address in an export country as evidenced by documentary proof acceptable to the Commissioner;

"goods" means corporeal movable things, fixed property and any real right in any such thing or fixed property, but excluding—

- (a) money;
- (b) any right under a mortgage bond or pledge of any such thing or fixed property; and
- (c) any stamp, form or card which has a money value and has been sold or issued by the State for the payment of any tax or duty levied under any Act of Parliament, except when subsequent to its original sale or issue it is disposed of or imported as a collector's piece or investment article;

"invoice" means a document notifying an obligation to make payment.

#### Section 11(1)(a)(i)

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

- (*a*) the supplier has supplied the goods (being movable goods) in terms of a sale or instalment credit agreement and—
  - (i) the supplier has exported the goods in the circumstances contemplated in paragraph (a),
    (b) or (c) of the definition of 'exported' in section 1.

#### Section 11(3)

Where a rate of zero per cent has been applied by any vendor under a provision of this section or section 13(1)(ii), the vendor shall obtain and retain such documentary proof substantiating the vendor's entitlement to apply the said rate under those provisions as is acceptable to the Commissioner.

#### 4. Meanings attached to words and phrases used in this Interpretation Note

For the purposes of this Note, SARS will attach the following interpretation to the words and phrases described below-

#### "consigned or delivered" means -

- (i) where the supplying vendor engages a cartage contractor, (i.e. a "supplier's cartage contractor"), to deliver the movable goods on the supplying vendor's behalf to the recipient at an address in an export country, only if the supplier's cartage contractor is engaged by and is contractually liable to the supplying vendor to effect delivery of the movable goods and the supplying vendor is invoiced and liable for the full cost relating to such delivery; or
- (ii) physically delivered by the supplying vendor to the recipient at an address in the export country, for example:
  - the supplying vendor exports the movable goods in the supplying vendor's baggage; or
  - the supplying vendor exports the movable goods by means of the supplying vendor's own transport;

"designated commercial port" means a place of exit from the Republic which has been designated by the Commissioner for the South African Revenue Service as an exit point from the Republic, (see paragraph 7.7 below);

"documentary proof" means the documentation, including export or removal documentation, prescribed in paragraphs 5 and 6;

"export depot" means the premises of a "supplier's cartage contractor";

**"export documentation"** means declaration forms, as prescribed in terms of the Customs and Excise Act, for the exportation of movable goods from the Republic to a country other than Botswana, Lesotho, Namibia or Swaziland;

"movable goods" means goods as defined in section 1 of the VAT Act, excluding immovable goods;

"**notional input tax**" means input tax claimed on second-hand movable goods as referred to in paragraph (*b*) of the definition of "input tax" in section 1 of the VAT Act;

"recipient" means the person to whom the supply of movable goods in terms of a sale or instalment credit agreement is made; including a VAT registered vendor and a South African resident;

"**removal documentation**" means certificates and/or declaration forms, as prescribed in terms of the Customs and Excise Act, for the removal of goods from the Republic to Botswana, Lesotho, Namibia or Swaziland;

"supplier's cartage contractor" means a person who is registered under the VAT Act as a vendor, transport being the main activity, and who has been engaged by the supplying vendor to transport and deliver movable goods to the recipient at an address in an export country. For the purposes of this VAT Interpretation Note, 'supplier's cartage contractor' includes couriers, the Post Office Limited , clearing/forwarding agents, etc. if registered for VAT purposes; and

"VAT Act" means the Value-Added Tax Act, 1991 (Act No. 89 of 1991).

#### [The above-mentioned words and phrases are printed in *italics* in this Note.]

#### 5. Application of the law

In order for the supplying vendor to apply VAT at the zero rate on the supply of *movable* goods in respect of a direct export, the supplying vendor must obtain and retain *documentary* proof as is acceptable to the Commissioner in terms of section 11(3) of the VAT Act.

#### 5.1 Documentary proof

The proof required by the Commissioner for direct exports includes official and commercial documentation.

- Official documentation is the export or removal documentation prescribed under the Customs and Excise Act; by Government departments or other government controlled entities. Examples of such documents are; DA550, CCA1, Single Administrative Document (SAD), F178, permits, etc.
- (ii) **Commercial documentation** is the documentation issued by freight haulers, business and other organisations that provides proof of the transaction and the transportation, for example a tax invoice, air waybill, bill of lading, *recipient*'s order, etc.

The documents required as substantiating proof of export where *movable goods* are *consigned or delivered* by the supplying vendor are set out under the following headings:

- (i) *Movable goods* physically *delivered* by the supplying vendor (paragraph 5.1.1)
- (ii) *Movable goods* conveyed by the supplying vendor's cartage contractor (paragraph 5.1.2)
- (iii) Where *movable goods* (including continuous transmission commodities, for example electricity, water, fuel, gas, etc.), are supplied and exported by any other mode of transport (paragraph 5.1.3)

In addition to the tax invoice, the supplying vendor must obtain the required *documentary proof* within a period of three months of the earlier of the time an invoice is issued by

the supplying vendor or the time any payment of consideration is received by the supplying vendor in respect of the supply of the *movable good*. These documents must be retained as required in section 55 of the VAT Act.

If difficulties are experienced in obtaining the required documentary proof, refer to paragraph 7.6 of this Note.

#### 5.1.1 *Movable goods* physically *delivered* by the supplying vendor

Where the supplying vendor physically delivers *movable goods* to a *recipient* at an address in an <u>export country</u>, either—

- in the supplying vendor's accompanied baggage; or
- by means of the supplying vendor's own transport,

the supplying vendor must obtain and retain all the following documentation -

- (i) the recipient's order or the contract between the recipient and the supplying vendor;
- (ii) either-
  - (a) where *export or removal documentation*, as prescribed in terms of the Customs and Excise Act, is processed manually/by disk—
    - (aa) a copy of the *export* or *removal documentation*, bearing an original SARS Customs date stamp; **and**
    - (bb) where movable goods were previously stopped by SARS Customs, a copy of the application for the release of such goods, i.e. a copy of the DA74 form, bearing a SARS Customs date stamp;

or

- (b) where *export or removal documentation*, as prescribed in terms of the Customs and Excise Act, is processed as an "Electronic Data Interchange" declaration:
  - (aa) a copy of the export or removal documentation; or
  - (bb) a copy of the customs release notification; or
  - (cc) a copy of a computer generated release notification; and
  - (dd) where *movable goods* were previously stopped by SARS Customs, a copy of the application for the release of such goods, i.e. a copy of the DA74 form, bearing a SARS Customs date stamp;
- (iii) proof that the movable goods have been received by the recipient in the export country, and
- (iv) proof of payment.

#### 5.1.2 Movable goods conveyed by the supplying vendor's cartage contractor

Where the supplying vendor delivers *movable goods* to an *export depot*, a railway station, a harbour, an airport, a postal service or a courier service in the Republic or the *supplier's cartage contractor* takes possession of the *movable goods* at the premises of the supplying vendor, from where the *movable goods* are exported by the supplier's cartage contractor to the *recipient* at an address in an *export country*, the supplying vendor must obtain and retain all the following documentation:

#### 5.1.2.1 By road

- (i) The recipient's order or the contract between the recipient and the supplying vendor;
- (ii) proof that the supplying vendor paid the transport costs;
- (iii) either-
  - (a) <u>a copy of the relevant document to prove that the supplier's cartage contractor took</u> <u>possession of the movable goods from the supplying vendor</u>; or
  - (b) a copy of the road manifest issued by the supplier's cartage contractor,
- (iv) <u>a copy of the proof of delivery issued by the *supplier's cartage contractor* that the *movable goods* have been received by the *recipient* in the *export country*,</u>
- (v) either-
  - (a) where *export or removal documentation*, as prescribed in terms of the Customs and Excise Act, 1964 is processed manually/by disk—
    - (aa) a copy of the *export* or *removal documentation*, bearing a SARS Customs date stamp; **and**
    - (bb) where movable goods were previously stopped by SARS Customs, a copy of the application for the release of such goods, i.e. a copy of the DA74 form, bearing a SARS Customs date stamp;
    - or
  - (b) where *export or removal documentation*, as prescribed in terms of the Customs and Excise Act, is processed as an "Electronic Data Interchange" declaration—
    - (aa) a copy of the export or removal documentation; or
    - (bb) a copy of the customs release notification; or
    - (cc) a copy of a computer generated release notification; and
    - (dd) where *movable goods* were previously stopped by SARS Customs, a copy of the application for the release of such goods, i.e. a copy of the DA74 form, bearing a SARS Customs date stamp; and

(vi) proof of payment.

#### 5.1.2.2 By rail

- (i) The recipient's order or the contract between the recipient and the supplying vendor;
- (ii) proof that the supplying vendor paid the transport costs;
- (iii) (a) **by wagon**: a copy of the combined consignment note and wagon label issued by the rail operator; **or** 
  - (b) **by container**: a copy of the container terminal order or freight transit order issued by the container operator or the rail operator; **or**
  - (c) a copy of the rail consignment note;
- (iv) either-
  - (a) where *export or removal documentation*, as prescribed in terms of the Customs and Excise Act, is processed manually/by disk—
    - (aa) a copy of the *export or removal documentation*, bearing a SARS Customs date stamp; **or**
    - (bb) where movable goods were previously stopped by SARS Customs, a copy of the application for the release of such goods, i.e. a copy of the DA74 form, bearing a SARS Customs date stamp:
    - or
  - (b) where *export or removal documentation*, as prescribed in terms of the Customs and Excise Act, is processed as an "Electronic Data Interchange" declaration—
    - (aa) a copy of the export or removal documentation; or
    - (bb) a copy of the customs release notification; or
    - (cc) a copy of a computer generated release notification; and
    - (dd) where *movable goods* were previously stopped by SARS Customs, a copy of the application for the release of such goods, i.e. a copy of the DA74 form, bearing a SARS Customs date stamp; and
- (v) proof of payment.

#### 5.1.2.3 By sea

- (i) <u>The recipient's order or the contract between the recipient and the supplying vendor;</u>
- (ii) proof that the supplying vendor paid the transport costs;
- (iii) a copy of the sea freight transport document;
- (iv) either-
  - (a) where *export or removal documentation*, as prescribed in terms of the Customs and Excise Act, is processed manually/by disk—

- (aa) a copy of the *export or removal documentation*, bearing a SARS Customs date stamp; **and**
- (bb) where movable goods were previously stopped by SARS Customs, a copy of the application for the release of such goods, i.e. a copy of the DA74 form, bearing a SARS Customs date stamp;
- or
- (b) where *export or removal documentation*, as prescribed in terms of the Customs and Excise Act, is processed as an "Electronic Data Interchange" declaration—
  - (aa) a copy of the export or removal documentation; or
  - (bb) a copy of the customs release notification; or
  - (cc) a copy of a computer generated release notification; and
  - (dd) where *movable goods* were previously stopped by SARS Customs, a copy of the application for the release of such goods, i.e. a copy of the DA74 form, bearing a SARS Customs date stamp; and
- (v) proof of payment.

#### 5.1.2.4 By air

- (i) The recipient's order or the contract between the recipient and the supplying vendor;
- (ii) proof that the supplying vendor paid the transport costs;
- (iii) a copy of the airfreight transport document;
- (iv) either-
  - (a) where export or removal documentation, as prescribed in terms of the Customs and Excise Act, is processed manually/by disk—-
    - (aa) a copy of the *export or removal documentation*, bearing a SARS Customs date stamp; **and**
    - (bb) where movable goods were previously stopped by SARS Customs, a copy of the application for the release of such goods, i.e. a copy of the DA74 form, bearing a SARS Customs date stamp;
    - or
  - (b) where *export or removal documentation*, as prescribed in terms of the Customs and Excise Act, is processed as an "Electronic Data Interchange" declaration—
    - (aa) a copy of the export or removal documentation; or
    - (bb) a copy of the customs release notification; or
    - (cc) a copy of a computer generated release notification; and

- (dd) where *movable goods* were previously stopped by SARS Customs, a copy of the application for the release of such goods, i.e. a copy of the DA74 form, bearing a SARS Customs date stamp; and
- (v) proof of payment.

#### 5.1.2.5 By post

- (i) The recipient's order or the contract between the recipient and the supplying vendor;
- (ii) proof that the supplying vendor paid the postage costs;
- (iii) proof of receipt of the movable goods by the postal service;
- (iv) either-
  - (a) where *export or removal documentation*, as prescribed in terms of the Customs and Excise Act, is processed manually/by disk—
    - (aa) a copy of the *export or removal documentation*, bearing a SARS Customs date stamp; **and**
    - (bb) where movable goods were previously stopped by SARS Customs, a copy of the application for the release of such goods, i.e. a copy of the DA74 form, bearing a SARS Customs date stamp;
    - or
  - (b) a copy of any form or label affixed to or completed in respect of a postal item, reflecting a description of the contents and the value;
  - or
  - (c) (b) where *export or removal documentation*, as prescribed in terms of the Customs and Excise Act, is processed as an "Electronic Data Interchange" declaration—
    - (aa) a copy of the export or removal documentation; or
    - (bb) a copy of the customs release notification; or
    - (cc) a copy of a computer generated release notification; and
    - (dd) where *movable goods* were previously stopped by SARS Customs, a copy of the application for the release of such goods, i.e. a copy of the DA74 form, bearing a SARS Customs date stamp; and
- (v) proof of payment.

## 5.1.3 Where *movable goods* (including continuous transmission commodities, being for example electricity, water, fuel, gas, etc.) are supplied and exported by any other mode of transport

Where such *movable goods* are exported by means of any other mode of transport, for example a pipeline or electrical transmission line, and the supplying vendor of such goods is the owner of such mode of transport or is contractually liable for the full cost relating to the use of such mode of transport, the vendor must apply the zero rate.

In addition, the supplying vendor must submit a written application to his/her local SARS Branch Office in order to obtain a written directive regarding the *documentary proof* that must be obtained and retained by the supplying vendor to support the supplying vendor's entitlement to apply the zero rate.

#### 6. Special types of supplies of *movable goods*

Certain specific scenarios are described below. The general *documentary proof* requirements as set out in paragraph 5 apply, except where specifically indicated to the contrary.

#### 6.1 Second-hand *movable goods*

The zero rate is not applicable in respect of supplies of second-hand *movable goods* if *notional input tax*, (as provided for in paragraph (*b*) of the definition of "input tax" in section 1 of the *VAT Act*), was claimed by the supplying vendor or any other person who is a connected person in relation to the supplying vendor, when the second-hand *movable goods* were acquired. In terms of the proviso to section 11(1), read with section 10(12) of the *VAT Act*, tax is levied to the extent of the *notional input tax* claimed by the supplying vendor. Such VAT may not be refunded by the supplying vendor to the *recipient*.

#### Example

A motor dealer purchases second-hand *movable goods* from a non-vendor for R11 400 and subsequently exports the second-hand *movable goods* to a *recipient* at an address in an <u>export country</u>.

#### Calculation of notional input tax on acquisition of second-hand movable goods:

Purchase price paid by the supplying vendor	R11 400
Notional input tax (R11 400 x 14/114)	<u>R 1 400</u>

Net purchase price paid by the supplying vendor <u>R10 000</u>

#### Calculation of selling price for export of second-hand movable goods:

Selling price exclusive of VAT	R15 000
Add notional input tax claimed	<u>R 1 400</u>
Gross selling price including VAT	<u>R16 400</u>

Effectively, the zero rate applies ONLY to the R5 000 mark-up.

#### Tax invoice issued by the supplying vendor:

The consideration for the supply must be reflected on the tax invoice as follows, either:

i)	Selling price exclusive of VAT	R15 000
	VAT	<u>R 1 400</u>
	Selling price inclusive of VAT	<u>R16 400</u>
OF	R	

ii) Selling price (inclusive of VAT of R1 400) R16 400

### 6.2. *Movable goods* exported from the Republic to be installed or supplied outside the Republic

- **6.2.1** Where an invoice is issued or payment is received by the supplying vendor prior to the *movable goods* being exported, the time of supply is triggered. The supplying vendor must export the *movable goods* within two months of the earlier of the time an invoice is issued by the supplying vendor or the time any payment of consideration is received by the supplying vendor in respect of the supply of the *movable goods* (as set out in paragraph 7.1) and must comply with the *documentary proof* set out in paragraph 5.
- **6.2.2** Where the supplying vendor exports the *movable goods* prior to an invoice being issued or payment being received, the time of supply is triggered only when an invoice is issued or any payment in respect of the supply is received by the supplying vendor. The supplying vendor must comply with the *documentary proof* set out in paragraph 5.

## 6.3 *Movable goods* temporarily exported from the Republic for exhibition purposes which are subsequently supplied outside the Republic

Where a supplying vendor temporarily exports *movable goods*, for example for exhibition, demonstration or display purposes, the ownership of the *movable goods* does not change at the time of the export. In the event that the *movable goods* are sold by the supplying vendor before the re-importation into the Republic, the zero rate must be applied on the supply of the *movable goods*. The documentation required to prove exportation or removal is listed in paragraph 5. It is accepted that in these circumstances, the <u>recipient's order or the contract between the recipient and the supplying vendor</u> is not required and that the *documentary proof* may pre-date the tax invoice and <u>proof of payment</u>.

#### 6.4 Sale of *movable goods* situated outside the Republic

Where a supplying vendor sells *movable goods* situated outside the Republic, for example, a sale on the high seas, and delivers the *movable goods* to the *recipient* at an address in an *export country*, the supply of the *movable goods* is subject to the VAT rate of zero percent in terms of section 11(1)(a)(i), read with paragraph (*a*) of the definition of "exported" in section 1 of the *VAT Act.* In this case, "exported" means supplied to the *recipient* at an address outside the Republic.

In addition to the tax invoice, the supplying vendor must obtain the required *documentary proof* within a period of three months of the earlier of the time an invoice is issued by the supplying vendor or the time any payment of consideration is received by the

supplying vendor in respect of the supply of the *movable goods* and retain these documents as required in section 55 of the *VAT Act*. The requisite documents are:

- (i) the recipient's order or the contract between the recipient and the supplying vendor;
- (ii) proof that the movable goods are situated outside the Republic at the time of supply; and
- (iii) proof of payment.

However, if the *movable goods* are subsequently imported into the Republic, VAT will be levied on importation in terms of section 7(1)(b) of the VAT Act.

#### 6.5 Sale of consignment stock in an *export country*

Where *movable goods* are transferred to a *recipient* at an address in an <u>export country</u> on a consignment basis, the supply of the *movable goods* in the <u>export country</u> by the supplying vendor is subject to VAT at the zero rate as the *movable goods* are located outside the Republic at the time that they are supplied. The documentation required to prove exportation or removal is listed in paragraph 5. It is accepted that in these circumstances, <u>the recipient's order or a contract between the recipient and the supplying vendor</u> is not required and that the *documentary proof* of export may pre-date the tax invoice and <u>proof of payment</u>.

# 6.6 Supplies of *movable* goods by a supplying vendor to a *recipient*, being a VAT registered vendor, where the *movable* goods are exported to the *recipient* or the *recipient*'s client

Where a supplying vendor supplies *movable goods* to a *recipient*, being a VAT registered vendor, and the supplying vendor exports the *movable goods* to either the *recipient* or to the *recipient*'s client (including the *recipient*'s representative), the supply must be zero-rated.

Two supplies of *movable goods* take place:

1. The supplying vendor's supply to the VAT registered recipient

The supplying vendor must zero rate the supply and must ensure that the *documentary proof* as set out in paragraph 5 above is obtained within a period of three months of the earlier of the time an invoice is issued by the supplying vendor or the time any payment of consideration is received by the supplying vendor in respect of the supply of the *movable goods* and retain these documents as required in section 55 of the *VAT Act*. The *documentary proof* must reflect the delivery address in the <u>export</u> <u>country</u> and may reflect the supplying vendor's name, the VAT registered recipient's name or the VAT registered recipient's name.

2. The VAT registered recipient's supply to its client

The VAT registered *recipient*'s supply of the *movable goods* that are either to be exported or are already situated outside the Republic at the time of the supply to the VAT registered *recipient*'s client is at the zero rate. Paragraph (a) of the definition of "exported" in section 1 of the *VAT Act* does not require that the *movable goods* be exported from the Republic, but stipulates that the supplying vendor must consign or deliver the *movable goods* to the *recipient* at an address in an <u>export country</u>.

The following documentary proof is required -

- (i) the order or the contract between the supplying vendor and the recipient;
- (ii) a copy of the zero-rated tax invoice;
- (iii) proof that the *movable goods* are to be exported or are already situated outside the Republic). Copies of the documents mentioned in paragraph 1 above (i.e. The supplying vendor's supply to the VAT registered *recipient*) will constitute proof;
- (iv) proof that the movable goods have been received by the VAT registered recipient's client in the export country; and
- (v) proof of payment for the movable goods.



Diagram representing the transactions as discussed above:

- 1) "A" places an order with "B".
- 2) "B" invoices "A" at the zero rate.
- "B" places an order with "C" with the instruction that the goods are to be exported by "C" to "A".
- 4) "C" invoices "B" at the zero rate.
- 5) "C" exports the movable goods to "A".

#### 7. General

7.1 The movable goods must be exported from the Republic within two months of the earlier of the time an invoice is issued by the supplying vendor or the time any payment of consideration is received by the supplying vendor in respect of the supply of the movable goods.

In cases where the *movable goods* are not exported within the two month period, the supplying vendor must make written representation requesting an extension of the two month period to the local SARS Branch Office where the supplying vendor is on register presenting the particulars of the transaction and indicating when the *movable goods* will be exported. The application for the extension must be submitted to and received by SARS prior the expiry of the two month period. See paragraph 7.6.

It must be noted that the time periods referred in paragraphs 5, 6, 7.1, 7.2 and 7.3 all hinge on the earlier of the time an invoice is issued by the supplying vendor or the time any payment of consideration is received by the supplying vendor in respect of the supply of the *movable goods*. The implication is that any invoice issued in respect of the supply of the *movable goods* by the supplying vendor which notifies an obligation to make payment as per the definition of 'invoice' in section 1 of the *VAT Act* or any payment of consideration received by the supplying vendor, triggers the various time periods to export the *movable goods*, to obtain *documentary proof*, to account for output tax and to claim input tax.

Consequently, it is critical that a supplying vendor correctly determines the time at which the various time periods are triggered for VAT purposes.

- **7.2** In the event that any of the documentation referred to in paragraphs 5 and 6 is not obtained by the supplying vendor within a period of three months of the earlier of the time an invoice is issued by the supplying vendor or the time any payment of consideration is received by the supplying vendor in respect of the supply of the *movable goods*, the supply will be deemed to be at the standard rate in the tax period within which the period of three months ends. The supplying vendor must consequently calculate output tax by applying the tax fraction to the consideration (in terms of section 64(1) of the *VAT Act*, the selling price is deemed to include tax), and declare an output tax adjustment in the VAT return rendered for the tax period in which the period of three months ends. However, where the documents are received after the expiry of three months but before the earlier of the VAT return's submission date or the due date, an output tax adjustment is not required.
- **7.3** Should the supplying vendor receive the documentation in respect of which output tax was calculated in terms of paragraph 7.2 within **one year** from the date of the earlier of the time an invoice is issued by the supplying vendor or the time any payment of consideration is received by the supplying vendor in respect of the supply of the *movable goods*, the output tax adjustment previously declared in the VAT return may be claimed as an input tax adjustment in the tax period in which this documentation is received.

Where output tax has been accounted for at the end of the three month period, and the supplying vendor has written off the consideration or part of the consideration as irrecoverable, the supplying vendor may claim input tax provided the provisions of section 22(1) of the VAT Act are met.

- **7.4** The rate of tax applicable for purposes of paragraphs 7.2 and 7.3 is the rate of tax in force at the date of issue of the tax invoice.
- **7.5** The documentary requirement of <u>proof of payment</u> does not require that payment be effected in foreign currency. Payment should, however, be in compliance with Reserve Bank foreign exchange regulations.
- **7.6** Should the supplying vendor experience difficulties in obtaining the required **proof of payment**, for example, as a result of extended credit terms granted to foreign purchasers or an instalment credit agreement entered into with a foreign purchaser, the supplying vendor may apply in writing to the **local SARS office** where the supplying vendor is on register for both the periods referred to above in paragraphs 7.2 and 7.3 to be extended. The application will be considered for each foreign purchaser of the supplying vendor.

SARS will not issue blanket rulings to vendors, accordingly, the supplying vendor's application must provide details of the following:

For an extension beyond the stipulated three month period up to an additional maximum period of **four months**, the written application must provide details of –

- a. the name and address of the foreign purchaser;
- b. the country to which the goods are exported;
- c. the reasons for the extension, (for example, extended credit terms granted to foreign purchasers);
- d. the type and average monthly value of the *movable goods* supplied to each affected foreign purchaser;
- e. the specified time period of the extension;
- f. an undertaking to obtain all of the *documentary proof* referred to in paragraphs 5 and 6 (within the time periods set out in paragraphs 7.2 and 7.3); and
- g. in the case of an instalment credit agreement, a copy of the agreement.

For an extension **exceeding the additional four months** conveyed above, the SARS office must refer the application to the SARS Head Office for approval and the following additional information must be provided:

h. The written approval from either a commercial bank, authorised as a dealer in foreign exchange by the South African Reserve Bank or by Exchange Control, authorising the extended payment terms.

# This application is only applicable with regard to the <u>proof of payment</u> requirement in respect of the *movable goods* supplied. It must be borne in mind that an additional extension request must be made where the movable goods are not exported within the two month period.

Any ruling issued in this regard will be valid for a period of one year. However, it must be noted that should the relevant provisions of the *VAT Act* be amended or, for example, circumstances relating to any part of the application for extension should alter, SARS must be advised in writing and the ruling will be withdrawn or amended.

**7.7** *Movable goods* must be exported via a *designated commercial port* in order to qualify for the zero rate. Should none of the *designated commercial ports*, as listed below be used, the supply will not qualify to be charged with VAT at the rate of zero percent.

The export of *movable goods*, as well as, the declaration of such *movable goods* at ports other than those ports listed below, may be allowed in exceptional circumstances on application to the Controller of Customs for permission to export *movable goods* through a non-*designated commercial port* from the Republic, to Botswana, Lesotho, Namibia or Swaziland.

#### Designated commercial ports:

#### - International Airports:

Bloemfontein; Cape Town; Durban; Johannesburg; Polokwane; Lanseria; Kruger Mpumalanga; Pilanesberg; Port Elizabeth and Upington.

#### - Land Border Posts:

Beit Bridge; Caledonspoort; Ficksburg Bridge; Golela; Groblers Bridge; Jeppes Reef; Kopfontein; Lebombo; Mahamba; Mananga; Maseru Bridge; Nakop; Nerston; Oshoek; Qacha's Nek; Ramatlabama; Skilpadshek; Van Rooyenshek; and Vioolsdrift.

#### - Harbours:

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

#### - Railway Stations:

Germiston; Golela; Johannesburg; Maseru Bridge; Mafikeng and Upington.

#### 8. Glossary

Refer to Annexure A.

#### 9. Conclusion

While this Note may not describe all situations that a supplying vendor exporting *movable goods* may experience, it is necessary for the supplying vendor to be in a position to substantiate the application of the zero rate. A supplying vendor is allowed the periods as described in paragraphs 7.2 and 7.3 to obtain adequate *documentary proof*. However, where the Commissioner is not satisfied that there is adequate proof of export, the supply is deemed to include VAT at the standard rate.



#### ANNEXURE A

#### **GLOSSARY**

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

<u>a copy of the airfreight transport document,</u> which must, *inter alia*, reflect the flight number, the date and the place of departure, includes:

• an air waybill;

a computer generated release notification reflecting the minimum of the following:

the supplying vendor's name; the *recipient's* name; the supplying vendor's invoice number, date and the value of the goods supplied; the customs code number and the final release number, final release date and time, where:

- the customs code number is the eight digit number issued by SARS to registered agents, importers and exporters; and
- the final release number and final release date and time are as received via an electronically submitted cusres 1 (release notification);

a copy of the proof of delivery issued by the supplier's cartage contractor that the movable goods have been received by the recipient in the export country, includes:

- a proof of delivery, stamped and signed by the *recipient* or his appointed representative;
- a delivery note signed by the recipient;

a copy of the relevant document to prove that the supplier's cartage contractor took possession of the movable goods from the supplying vendor, includes:

- a goods received note issued by the supplier's cartage contractor,
- a delivery note;
- the supplying vendor's tax invoice in respect of the goods, being signed and stamped by the supplier's cartage contractor,

<u>a copy of the sea freight transport document</u> duly stamped or endorsed that the goods have been shipped on board, which must, *inter alia*, reflect the vessel's name, the date and the place of departure, includes:

• a bill of lading;

• a waybill;

"export country" also known as the "receiving country";

"<u>invoice</u>" includes a hard copy or an electronic copy of a document notifying of an obligation to make payment;

proof of payment can also be in the form of:

- goods, i.e. a barter transaction;
- in respect of a loan account, the debiting thereof;

proof that the movable goods are situated outside the Republic at the time of supply, includes:

• a transport document, e.g. a document indicating, *inter alia*, the country of despatch and the country of receipt;

proof that the movable goods have been received by the recipient in the export country, includes:

- a delivery note signed by the recipient;
- a goods received voucher issued by the recipient;

proof that the supplying vendor paid the transport cost, includes:

- a receipt;
- charges payable to third parties necessary to achieve delivery from the point in the Republic where the supplying vendor releases the movable goods for transportation, to the point where the supplying vendor delivers the movable goods to the recipient, in the export country, as contractually agreed;

the recipient's order or the contract between the recipient and the supplying vendor includes:

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