

DRAFT INTERPRETATION NOTE: NO. 30 (ISSUE 3)

DATE:

ACT : VALUE-ADDED TAX ACT NO. 89 OF 1991 (the VAT Act)
SECTION : SECTION 1(1), PARAGRAPH (a) OF THE DEFINITION OF EXPORTED, SECTION 11(1)(a)(i) AND SECTION 11(3)
SUBJECT : THE SUPPLY OF MOVABLE GOODS AS CONTEMPLATED IN SECTION 11(1)(a)(i) READ WITH PARAGRAPH (a) OF THE DEFINITION OF “EXPORTED” AND THE CORRESPONDING DOCUMENTARY PROOF

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Preamble

In this Note unless the context indicates otherwise –

- **“consigned or delivered”** means –
 - the delivery of movable goods by a cartage contractor contracted by the vendor to deliver the movable goods on the vendor's behalf to the recipient at an address in an export country, where the cartage contractor –
 - is engaged by and contractually liable to the vendor to effect delivery of the movable goods; and
 - invoices the vendor and the vendor is liable for the full cost relating to such delivery; or
 - physically delivered by the vendor to the recipient at an address in the export country including the export of the movable goods in the vendor's baggage or by means of the vendor's own transport;
- **“cartage contractor”** means a registered vendor or a resident of the Republic whose activities include the transportation of goods and includes couriers and freight forwarders;
- **“designated commercial port”** means a place in the Republic which has been designated by the Commissioner as an exit point from the Republic as listed in paragraph 4 of this Note;
- **“documentary proof”** means the documentation, including export or removal documentation, prescribed in paragraphs 6 and 8 of this Note;
- **“exceptional commercial delays or difficulties”** means –
 - a vendor not being able to secure transport for the export of the movable goods. This paragraph does not apply in instances where the vendor is not able to secure transport due to financial difficulties; or
 - an order or contract of which the terms are altered by the recipient; or
 - specific requirements imposed by the export country on the specific type of good (for example, registrable goods);
- **“export depot”** means the premises of a “cartage contractor”;

- **“export documentation”** means the export documentation prescribed under the Customs and Excise Act for countries other than the Republic of Botswana, Lesotho, Namibia or Swaziland;
- **“movable goods”** means goods as defined in section 1(1), excluding immovable goods;
- **“notional input tax”** means input tax deducted on the acquisition of movable goods under a non-taxable supply as contemplated in paragraph (b) of the definition of “input tax” in section 1(1);
- **“recipient”** means the person to whom the supply of movable goods in terms of a sale or an instalment credit agreement is made. The recipient may also be a 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 and Swaziland;
- **“section”** means section of the VAT Act.
- **“TA Act”** means the Tax Administration Act No. 28 of 2011;
- **“VAT Act”** means the Value-Added Tax Act No. 89 of 1991;
- **“zero rate”** means the rate of tax levied in terms of section 11(1) of the VAT Act; and
- any word or expression bears the meaning ascribed to it in the VAT Act.

1. Purpose

The purpose of this Note is to –

- explain the requirements that need to be adhered to with regard to the direct export of movable goods; and
- prescribe the documentary proof, acceptable to the Commissioner, that must be obtained and retained by a vendor;

in order to levy VAT at the zero rate on a supply of movable goods in terms of a sale or instalment credit agreement where those goods are consigned or delivered to a recipient at an address in an export country.

Interpretation Note No. 30 (Issue 2) “Documentary Proof Required on Consignment or Delivery of Movable Goods to a Recipient at an Address in an Export Country” dated 15 March 2006 is hereby withdrawn. The effective date of Issue 3 is to be announced.

However, the following must be noted: All rulings issued taking into account the provisions of Interpretation Note No. 30 (Issue 2) dated 15 March 2006 remain in force until such rulings expire or are specifically withdrawn.

2. Background

The South African VAT system is destination based, which means that only the consumption of goods and services in the Republic is taxed. VAT is therefore levied at the standard rate on the supply of goods or services in the Republic as well as on the importation of goods into the Republic. Subject to certain requirements, VAT may

be levied by a vendor at the zero rate where movable goods are exported from the Republic.

The term "exported" as referred to in section 11(1)(a) is defined in section 1(1) of the VAT Act, amongst others, as follows:

“ **[E]xported**, 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.”

In order for a vendor to supply movable goods (excluding second-hand movable goods where notional input tax was deducted on the acquisition of such goods) in terms of a sale or instalment credit agreement and levy VAT at the zero rate, the vendor must –

- consign or deliver the movable goods to the recipient at an address in an export country; and
- obtain and retain the required documentary proof as is acceptable to the Commissioner.

This export is classified as a “direct export” as the supplying vendor is in control of the export and ensures that the movable goods are exported from the Republic.

In instances where the movable goods are not exported by the vendor by means of a direct export, the provisions of the VAT Export Incentive Scheme (the Scheme) will find application.

This Note is only applicable to the direct export of movable goods. Under no circumstances will a vendor be able to levy VAT at the zero rate as contemplated in this Note on a supply of services.

3. The law

The relevant sections of the VAT Act are quoted in Annexure A.

4. Application of the law

A vendor supplying movable goods which the vendor consigns or delivers to a recipient at an address in an export country may levy VAT at the zero rate on such supplies.

In order for the vendor to apply the zero rate to the supply of movable goods, the vendor must –

- export the movable goods *via* a designated commercial port within the prescribed time period; and
- obtain and retain documentary proof as is acceptable to the Commissioner as contemplated in section 11(1)(a)(i) read with paragraph (a) of the definition of “exported” within the required time period.

The export of movable goods as well as the declaration of such goods at ports other than those ports listed below may be allowed in exceptional circumstances on application to and after approval by the Controllers of RSA Customs and Excise.

Refer to the Customs & Border Management – External Use of Non-Designated Commercial Ports Policy Number SC-CF-13 for more detail with regard to the aforementioned.

Designated commercial ports			
<i>International Airports</i>	<i>Land Border Posts</i>	<i>Harbours</i>	<i>Railway Stations</i>
<ul style="list-style-type: none"> • Bloemfontein; • Cape Town; • King Shaka (Durban); • OR Tambo (Johannesburg); • Gateway (Polokwane); • Lanseria; • Kruger Mpumalanga; • Pilanesberg; • Port Elizabeth; • Upington. 	<ul style="list-style-type: none"> • Beit Bridge; • Lebombo; • Vioolsdrift; • Nakop/Narogas; • Ramatlabama; • Skilpadshek; • Groblers Bridge; • Kopfontein; • Caledonspoort; • Maseru Bridge; • Van Rooyenshek; • Qacha's Nek; • Jeppes Reef; • Mananga; • Mahamba; • Nerston; • Golela; • Oshoek. 	<ul style="list-style-type: none"> • Cape Town; • Durban; • East London; • Mossel Bay; • Port Elizabeth; • Port Ngqura; • Richards Bay; • Saldanha. 	<ul style="list-style-type: none"> • Germiston; • Golela; • Johannesburg; • Maseru Bridge; • Mafikeng; • Upington.

5. Export time periods

5.1 General rule

Subject to the exceptions listed in paragraph **5.2**, the movable goods must be exported from the Republic within 90 days from the earlier of the time an invoice is issued by the vendor or the time any payment of consideration is received by the vendor.

5.2 Exceptions

- (a) The supply of movable goods for which an advance payment is required, must be exported within 90 days from the date(s) for export agreed upon in the contract entered into between the vendor and the recipient;
- (b) The supply of movable goods for which –
 - the time of supply is regulated by sections 9(1) or 9(3)(b)(i) or (ii); and
 - are subject to a process of repair, improvement, erection, manufacture, assembly or alteration;

must be exported from the Republic within a period of 90 days calculated from the date of completion of the said process.

- (c) The supply by a vendor, being a professional hunter, of an animal to a recipient that is subsequently subject to a process of preservation or mounting of that animal as a trophy, must be exported within a period of seven months calculated from the earlier of the time an invoice is issued by the vendor or the time any payment of consideration is received by the vendor.
- (d) The supply by a vendor of tank containers which are to be used for the carriage of bulk liquid, powders or gases on a foreign-going ship must be exported from the Republic within a period of six months calculated from the date of completion of the manufactured tank container.
- (e) The Commissioner may extend the period within which movable goods supplied by a vendor to a recipient must be exported from the Republic where such movable goods have not been exported within the prescribed period in paragraph 5.1 due to circumstances beyond that vendor's control. The vendor must, before the expiry of the 90-day period as set out in paragraph 5.1, submit a written application to the Commissioner either by e-mail to **VATRulings@sars.gov.za** or by fax to 086 540 9390 requesting a VAT ruling or a VAT class ruling confirming the extension of the aforementioned 90-day period.

For purposes of subparagraph (e), circumstances beyond the vendor's control include the following –

- (i) exceptional commercial delays / difficulties that prevent the vendor from exporting the movable goods within the prescribed time period;
- (ii) a natural or human-made disaster;
- (iii) a civil disturbance or disruption in services; or
- (iv) a serious illness or accident for the person responsible for arranging the exportation of the movable goods.

Where the provisions of paragraph 5.2 are applicable, the vendor must obtain and retain records to substantiate the application of the relevant exception.

6. Documentation

6.1 General

The documentary proof acceptable to the Commissioner in order to substantiate the application of the zero rate to a supply of movable goods where those goods are consigned or delivered by the vendor at an address in an export country includes both 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. For example the Customs Declaration etc.
- **Commercial documentation** is the documentation issued by freight haulers or freight forwarders, business and other organisations that provides proof of the transaction and the transportation of the movable goods, for example a tax invoice, air waybill, bill of lading, recipient's order or contract, etc.

References to Customs and Excise Policies and/or Documents include any future update and/or issue of the relevant Policy or Document.

The prescribed documentation must be retained as contemplated in section 55 of the VAT Act for the period contemplated in section 29 of the TA Act. In the event that difficulties are experienced in complying with the required documentary proof, refer to paragraphs 5 and 7 of this Note.

6.2 Movable goods physically delivered by the vendor at an address in an export country

Where the vendor physically delivers movable goods to a recipient at an address in an export country as contemplated in paragraph (b) of the definition of “**consigned or delivered**”, the vendor must obtain and retain the following documentation –

- a copy of the zero-rated tax invoice;
- the recipient’s order or the contract between the recipient and the vendor;
- the export and acquittal documentation prescribed under the Customs and Excise Act, as set out in the Customs and Border Management – External Policy Number SC-EX-01-03 Exports, the Customs and Border Management – External Policy Number SC-TR-01-02 Acquittal of Customs Declarations read with the Customs and Border Management – Annexure Number SC-TR-01-03-A06 Acquittal Document Requirements;
- proof that the movable goods have been received by the recipient in the export country;
- proof of payment in respect of the movable goods supplied to the recipient.

6.3 Movable goods conveyed by the vendor’s cartage contractor to an address in an export country

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

Mode of Transport	Documentation
Road	(a) a copy of the zero-rated tax invoice; (b) the recipient’s order or the contract between the recipient and the vendor; (c) proof that the vendor paid the transport costs; (d) either – (i) a copy of the relevant document to prove that the cartage contractor took possession of the movable goods from the vendor; or (ii) a copy of the road manifest issued by the cartage contractor; (e) a copy of the proof of delivery issued by the cartage contractor that the movable goods have been received by the recipient in the export country; (f) the export and acquittal documentation prescribed under the Customs and Excise Act as set out in the Customs and Border

	<p>Management – External Policy Number SC-EX-01-03 Exports, the Customs and Border Management – External Policy Number SC-TR-01-02 Acquittal of Customs Declarations read with the Customs and Border Management – Annexure Number SC-TR-01-03-A06 Acquittal Document Requirements;</p> <p>(g) proof of payment in respect of the movable goods supplied to the recipient;</p>
Rail	<p>(a) a copy of the zero-rated tax invoice;</p> <p>(b) the recipient's order or the contract between the recipient and the vendor;</p> <p>(c) proof that the vendor paid the transport costs;</p> <p>(d) a copy of the rail consignment note; or if by –</p> <ul style="list-style-type: none"> (i) wagon, a copy of the combined consignment note and wagon label issued by the rail operator; or (ii) container, a copy of the container terminal order or freight transit order issued by the container operator or the rail operator; <p>(e) the export and acquittal documentation prescribed under the Customs and Excise Act as set out in the Customs and Border Management – External Policy Number SC-EX-01-03 Exports, the Customs and Border Management – External Policy Number SC-TR-01-02 Acquittal of Customs Declarations read with the Customs and Border Management – Annexure Number SC-TR-01-03-A06 Acquittal Document Requirements;</p> <p>(f) proof of payment in respect of the movable goods supplied to the recipient;</p>
Sea	<p>(a) a copy of the zero-rated tax invoice;</p> <p>(b) the recipient's order or the contract between the recipient and the vendor;</p> <p>(c) proof that the vendor paid the transport costs;</p> <p>(d) a copy of the sea freight transport document;</p> <p>(e) the export and acquittal documentation prescribed under the Customs and Excise Act as set out in the Customs and Border Management – External Policy Number SC-EX-01-03 Exports, the Customs and Border Management – External Policy Number SC-TR-01-02 Acquittal of Customs Declarations read with the Customs and Border Management – Annexure Number SC-TR-01-03-A06 Acquittal Document Requirements;</p> <p>(f) proof of payment in respect of the movable goods supplied to the recipient;</p>
Air	<p>(a) a copy of the zero-rated tax invoice;</p> <p>(b) the recipient's order or the contract between the recipient and the vendor;</p> <p>(c) proof that the vendor paid the transport costs;</p> <p>(d) a copy of the airfreight transport document;</p> <p>(e) the export and acquittal documentation prescribed under the Customs and Excise Act as set out in the Customs and Border</p>

	<p>Management – External Policy Number SC-EX-01-03 Exports, the Customs and Border Management – External Policy Number SC-TR-01-02 Acquittal of Customs Declarations read with the Customs and Border Management – Annexure Number SC-TR-01-03-A06 Acquittal Document Requirements;</p> <p>(f) proof of payment in respect of the movable goods supplied to the recipient;</p>
Post	<p>(a) a copy of the zero-rated tax invoice;</p> <p>(b) the recipient's order or the contract between the recipient and the vendor;</p> <p>(c) proof that the vendor paid the postage costs;</p> <p>(d) proof of receipt of the movable goods by the postal service;</p> <p>(e) the export and acquittal documentation prescribed under the Customs and Excise Act, as set out in the Customs and Border Management – External Policy Number SC-EX-01-03 Exports, the Customs and Border Management – External Policy Number SC-TR-01-02 Acquittal of Customs Declarations read with the Customs and Border Management – Annexure Number SC-TR-01-03-A06 Acquittal Document Requirements;</p> <p>(f) proof of payment in respect of the movable goods supplied to the recipient;</p>

6.4 Movable goods supplied and exported by any other mode of transport (including continuous transmission commodities, for example electricity, water, fuel, gas etc.)

Where movable goods are exported by means of any other mode of transport, for example a pipeline or electrical transmission line, and the vendor supplying 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 may apply the zero rate to the supply of such movable goods.

The Commissioner will, on application by the vendor, determine the documentary proof to be obtained and retained by the vendor including but not limited to –

- a copy of the zero-rated tax invoice; and
- the export and acquittal documentation prescribed under the Customs and Excise Act as set out in the relevant Customs policy for Continuous Transmission Commodities, the Customs and Border Management – External Policy Number SC-TR-01-02 Acquittal of Customs Declarations read with the Customs and Border Management – Annexure Number SC-TR-01-03-A06 Acquittal Document Requirements;

7. Time period to obtain documentary proof

Paragraph 7 makes provision for –

- the general rule with regard to the time period within which the requisite documentary proof must be obtained by the vendor;
- certain exceptions to the general rule;
- the circumstances in which the vendor is required to make an output tax adjustment; and

- the circumstances in which the vendor would be entitled to make a subsequent adjustment in Block 18 of the VAT return.
- (a) In order to apply the zero rate to the supply of movable goods that are to be exported, the vendor must obtain the required documentary proof within a period of 90 days calculated from the date the movable goods are required to be exported from the Republic as contemplated in paragraphs 5.1 and 5.2. The vendor must furthermore retain the stipulated documentation as contemplated in section 55 of the VAT Act and Part A of Chapter 4 of the TA Act.
- (b) In the event that the documentary proof is not obtained by the vendor within the period set out in paragraph (a), the vendor is required to account for output tax on the supply. The output tax is calculated by applying the tax fraction to the consideration for the supply. The vendor must include the amount of output tax in Block 12 of the VAT return for the tax period in which the said period of 90 days ends.
- (c) Should the vendor receive the documentation in respect of which output tax was calculated in terms of paragraph (b) within five years from the end of the tax period during which the original tax invoice in respect of that supply should have been issued, the amount calculated in paragraph (b) may be deducted as an adjustment in Block 18 of the return for the tax period in which this documentation is received.
- (d) In the event that the vendor obtains all the other required documentary proof but does not obtain the required proof of payment for the total consideration within the period set out in paragraph (a), the vendor is not required to account for output tax where –
- (i) the vendor has entered into a written contract with the recipient for the payment of the consideration in respect of the supply to be made after or over a period exceeding the 90 days but not exceeding six months;
 - (ii) the vendor has entered into a written contract with the recipient for the payment of the consideration in respect of the supply to be made after or over a period exceeding six months but not exceeding 12 months and has the relevant approval from a dealer in foreign exchange authorized by the South African Reserve Bank;
 - (iii) the vendor has entered into a written contract with the recipient for the payment of the consideration in respect of the supply to be made after or over a period exceeding 12 months and has the relevant approval from the South African Reserve Bank;
 - (iv) the recipient is unable to effect the payment due to the restrictions imposed on foreign exchange by the country in which the recipient conducts its enterprise;
 - (v) the vendor has the relevant approval from the South African Reserve Bank or a dealer in foreign exchange authorized by the South African Reserve Bank not to repatriate any foreign currency in respect of that supply; or
 - (vi) the vendor has written off the said consideration as irrecoverable as contemplated in section 22.
- (e) The vendor must, where applicable, obtain and retain a copy of the relevant approval referred to in paragraph (d).

- (f) The vendor is required to account for output tax on the supply where the provisions of paragraph (d), excluding subparagraphs (v) and (vi), are applicable and the vendor has not received proof of payment for the total consideration within the period allowed. The output tax is calculated by applying the tax fraction to the consideration for the supply. The vendor must include the amount of output tax in Block 12 of the return for the tax period in which the said period ends.
- (g) Should the vendor receive the documentation in respect of which output tax was calculated in terms of paragraph (f) within five years from the end of the tax period during which the original tax invoice in respect of that supply should have been issued, the amount calculated in paragraph (f) may be deducted as an adjustment in Block 18 of the return for the tax period in which this documentation is received.
- (h) Proof of payment of the retention amount does not have to be obtained in order to satisfy the proof of payment requirement where a written contract provides for a retention amount to be withheld for a period exceeding the five years due to the nature of the goods supplied.
- (i) The rate of tax applicable for purposes of paragraph 7 is the rate of tax in force at the date of issue of the tax invoice.

8. Specific types of supplies of movable goods

Certain specific scenarios are explained in more detail below. The documentary proof requirements as set out in paragraph 6 apply in these instances, except where the context specifically otherwise indicates.

8.1 Second-hand movable goods

Unlike other direct exports, the supply of second-hand movable goods for export may, in terms of the proviso to section 11(1), not be subject to VAT at the zero rate where notional input tax was deducted on the acquisition of such goods.

Section 10(12) sets out a special valuation rule in this regard which provides that the vendor must account for output tax on the supply of the second-hand movable goods at the standard rate on a consideration (inclusive of VAT) equal to the original purchase price of those goods by the vendor. Thus, effectively, the deduction of notional input tax is “paid back” in the form of an equivalent amount of output tax declared in the tax period in which the goods are subsequently supplied.

Example 1 – Second-hand movable goods

Scenario

On 28 November 2007, ABC Motors sells a **second-hand** motor vehicle for R150 000 (including VAT) to Mr B (a resident of Botswana) and issues a tax invoice for the supply on the same date. ABC Motors undertakes to deliver the motor vehicle to Mr B at his residence in Botswana. ABC Motors enters into a contract to engage RSA Transporters (a VAT vendor) to transport the motor vehicle by road, *via* the Ramatlabama designated commercial border post, to Mr B at his residence in Botswana. The motor vehicle was initially acquired by ABC Motors from a private individual for R90 000. On acquiring this motor vehicle, ABC Motors deducted notional input tax of R11 052.63 (R90 000 x 14/114).

Question

Can ABC Motors charge VAT at the zero rate on the supply of the motor vehicle to Mr B?

Answer

As ABC Motors acquired the motor vehicle from a private individual under a non-taxable supply and deducted notional input tax on the acquisition of the second-hand motor vehicle, the supply of the motor vehicle to Mr B cannot be subject to VAT at the zero rate even though it is a “direct export”. The special valuation rule applicable to second-hand goods in such cases requires that VAT must be declared at the standard rate on the consideration of R90 000, being ABC Motors’ cost of acquisition of the motor vehicle from the private individual. ABC Motors must, therefore, charge VAT of R11 052.63 ($R90\,000 \times 14/114$) on the supply even though the motor vehicle was sold for R150 000.

8.2 Movable goods exported from the Republic before an invoice is issued or payment is received in respect of the supply

In the event that movable goods are exported by the vendor prior to an invoice being issued or payment being received in respect of the supply, the time of supply is only triggered when an invoice is issued or any payment in respect of the supply is received. The vendor must comply with the documentary requirements set out in paragraph 6. The documentary proof, for example the export documentation, will therefore pre-date the tax invoice and/or proof of payment.

8.3 Movable goods situated outside the Republic

8.3.1 Movable goods temporarily exported from the Republic which are subsequently supplied whilst situated outside the Republic (i.e. changes from a temporary export to a permanent export)

In the event that movable goods are temporarily exported from the Republic by a vendor, for example for exhibition, demonstration or display purposes in an export country and those goods are sold by the vendor whilst still located in that export country, i.e. before being re-imported into the Republic, the vendor may apply the zero rate to the supply of such movable goods.

The vendor must comply with the documentary requirements set out in paragraph 6 as well as complete a voucher of correction. The recipient’s order or the contract between the recipient and the vendor is not required in this instance. The documentary proof, for example the export documentation, will therefore pre-date the tax invoice and proof of payment.

8.3.2 Sale of movable goods situated outside the Republic

In instances where a vendor sells movable goods already situated outside the Republic, for example, a sale on the high seas, and the vendor consigns or delivers those movable goods to the recipient at an address in an export country, the supply of the movable goods is subject to VAT at the zero rate in terms of section 11(1)(a)(i), read with paragraph (a) of the definition of “exported” in section 1(1). In this instance, “at an address in an export country” includes consignment or delivery of the movable goods to the recipient on board a ship while on the high seas.

The vendor must obtain and retain the required documentary proof as stipulated in paragraph 6.

In addition to the documentation required in terms of paragraph 6, proof that the movable goods were situated outside the Republic at the time of supply must also be obtained and retained by the vendor.

In the event that such movable goods are subsequently imported into the Republic by the recipient, VAT on importation will be levied in terms of section 7(1)(b).

8.3.3 Sale of consignment stock in an export country

In the event that movable goods are located outside the Republic (i.e. in an export country) at for example a distributor's or third party's premises as consignment stock, i.e. the vendor is the owner of such goods, the supply of such movable goods in that export country is subject to VAT at the zero rate in terms of section 11(1)(a)(i) read with paragraph (a) of the definition of "exported" in section 1(1).

The vendor must comply with the documentary requirements set out in paragraph 6 as well as complete a voucher of correction on the sale of the goods. The recipient's order or a contract between the recipient and the vendor is, however, not required in order to zero rate the supply. The documentary proof, for example the export documentation, will pre-date the tax invoice and proof of payment. In the event that the consignment stock is not sold but returned to the Republic by the vendor, the provisions of rebate item 409.00 and Schedule 1 of the VAT Act must be complied with.

8.4 Supplies that are subject to a process of improvement, manufacture, assembly or alteration

The supply of movable goods by a vendor to a recipient in an export country –

- for which the time of supply is regulated by sections 9(1) or 9(3)(b)(i) or (ii);
- which are subject to a process of repair, improvement, manufacture, assembly or alteration by a 3rd party in the Republic;
- are delivered to that 3rd party's premises in the Republic for such further processing, repair, improvement, manufacture, assembly or alteration; and
- are subsequently delivered back to the vendor by the 3rd party who then consigns or delivers the movable goods at an address in an export country;

is subject to VAT at the zero rate in terms of section 11(1)(a)(i) read with paragraph (a) of the definition of "exported" in section 1(1).

The 3rd party must –

- (a) provide the vendor with a certificate containing the details as set out in subparagraphs (c)(i) and (ii) below.

The vendor must –

- (a) ensure that the movable goods are delivered to the 3rd party's premises for further processing, repair, improvement, manufacture, assembly or alteration; and
- (b) ensure that the movable goods are delivered back to the vendor after completion of such further processing, repair, improvement, manufacture, assembly or alteration; and
- (c) obtain and retain the documentation as set out in paragraph 6. In addition, the vendor must obtain and retain a certificate from the 3rd party containing –

- (i) the invoice number and the date of issue of the tax invoice issued by the 3rd party to the recipient for services rendered; and
- (ii) the volume or quantity of movable goods received by the 3rd party from the vendor as well as the volume of the movable goods delivered back to the vendor.

8.5 Movable goods supplied to a vendor and delivered to that vendor's customer at and address in an export country

The supply of movable goods by a vendor to a recipient who is also a registered vendor which are delivered directly to that recipient's customer at an address in an export country, is subject to VAT at the zero rate in terms of section 11(1)(a)(i) read with paragraph (a) of the definition of "exported" in section 1(1).

Two separate supplies of the movable goods take place which can be illustrated by way of an example:

Example 2 – Movable goods exported and delivered to the recipient's customer in an export country

Scenario

ABC Ltd, a company incorporated in Switzerland, orders movable goods from XYZ (Pty) Ltd, a South African registered company and a registered vendor. XYZ (Pty) Ltd orders the movable goods from another company incorporated in South Africa and also registered as a vendor, CDE (Pty) Ltd with the instruction to deliver the goods directly to its customer, ABC Ltd at its premises in Switzerland.

Question

- (i) Can CDE (Pty) Ltd zero rate the supply of movable goods to XYZ (Pty) Ltd?
- (ii) Can XYZ (Pty) Ltd zero rate the supply of movable goods to ABC Ltd?

Answer

- (i) As the movable goods are consigned or delivered by CDE (Pty) Ltd to XYZ (Pty) Ltd at an address in an export country, CDE (Pty) Ltd may levy VAT at the zero rate on the supply of movable goods to XYZ (Pty) Ltd. CDE (Pty) Ltd must furthermore ensure that the required documentary proof stipulated in paragraph 6 is obtained and retained as set out in paragraph 7. The documentary proof must reflect the delivery address in the export country and may reflect the vendor's, the recipient's or the recipient's customer's name.
- (ii) As the movable goods are consigned or delivered at an address in an export country, XYZ (Pty) Ltd may apply the zero rate to the supply of movable goods that are to be exported or that are already located outside the Republic at the time of the supply to ABC Ltd.¹

The following documentary proof is required –

- (i) a copy of the zero-rated tax invoice in respect of the supply of the movable goods by XYZ (Pty) Ltd to ABC Ltd;

¹ Paragraph (a) of the definition of "exported" in section 1(1) does not require the movable goods to be exported from the Republic but rather stipulates that the vendor must consign or deliver the movable goods to the recipient at an address in an export country.

- (ii) the order or the contract between XYZ (Pty) Ltd and ABC Ltd;
- (iii) proof that the movable goods are to be exported or are already located outside the Republic (copies of the documents required under number (i) above will constitute sufficient proof);
- (iv) proof that the movable goods have been received by ABC Ltd in the export country; and
- (v) proof of payment in respect of the supply of the movable goods to ABC Ltd.

The zero-rating provision shall not apply in instances where the movable goods are supplied to more than one recipient in the Republic before being exported to the final recipient in an export country.

Example 3 – Movable goods exported and delivered to the recipient’s customer in an export country

On the basis of the above example, where CDE (Pty) Ltd supplies movable goods to XYZ (Pty) Ltd and XYZ (Pty) Ltd on-supplies those movable goods to QRS (Pty) Ltd also a South African registered company and a registered vendor and who then supplies the movable goods to ABC Ltd, the customer in the export country, CDE (Pty) Ltd and XYZ (Pty) Ltd must apply the standard rate to the supply of movable goods. QRS (Pty) Ltd may apply the zero rate to the supply of movable goods to ABC Ltd.

9. Glossary

Refer to **Annexure B**.

10. Conclusion

In order for a vendor to substantiate its entitlement to apply the zero rate to the supply of movable goods to a recipient at an address in an export country, that vendor must be in possession of documentary proof as is acceptable to the Commissioner.

In the event that the Commissioner is not satisfied that there is sufficient proof of export, the supply is deemed to include VAT at the standard rate.

This Note might not prescribe all possible scenarios. A vendor experiencing a difficulty in determining the applicable rate of tax must, before applying the zero rate to the supply of movable goods, submit a written application to the Commissioner either by e-mail to **VATRulings@sars.gov.za** or by fax to 086 540 9390 requesting a binding private or binding class ruling confirming the application of the zero rate in the specific circumstances. All applications made in terms of section 41B of the VAT Act must comply with section 79 of the TA Act, excluding sections 79(4)(f) and (k) and (6).

Annexure A – The law

Section 1(1) – Definitions

“**Customs and Excise Act**” means the Customs and Excise Act, 1964 (Act 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, any real right in any such thing or fixed property and electricity, 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 – Zero rating

(1) 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(1);

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

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

Annexure B – Glossary

For the purposes of this Interpretation Note, all documents include the electronic form of such document and the following words and phrases have the meaning as described below –

- **a copy of the airfreight transport document**, which must, *inter alia*, reflect the flight number, the date and the place of departure, includes an air waybill;
- **a copy of the proof of delivery issued by the 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 cartage contractor took possession of the movable goods from the supplying vendor**, includes:
 - a goods received note issued by the cartage contractor;
 - a delivery note;
 - the vendor's tax invoice in respect of the goods, being signed and stamped by the cartage contractor;
- **a copy of the sea freight transport document** 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”;
- **“invoice”** 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 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 vendor releases the movable goods for transportation, to the point where the 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 vendor** includes:
 - telephone and email orders;
 - picking slips generated as a result of a telephonic order by the customer.