

DRAFT INTERPRETATION NOTE

DATE:

ACT : VALUE-ADDED TAX ACT NO. 89 OF 1991
SECTION : SECTIONS 7(1)(a), 11(1)(a) AND 11(2)(e)
SUBJECT : THE SUPPLY OF GOODS AND SERVICES BY PROFESSIONAL HUNTERS AND TAXIDERMISTS TO NON-RESIDENTS

Preamble

In this Note unless the context indicates otherwise –

- **“dip and pack”** means the initial treatment or raw preparation of the trophy as explained in the definition of the “Dip and Pack (Dip and Ship) Facility” in the Veterinary Procedural Notice¹ (the VPN) issued by the Director: Veterinary Services;
- **“foreign hunter”** means a hunter who is not a resident of the Republic and/or physically resides in an export country. A foreign hunter is neither registered nor required to be registered as a VAT vendor;
- **“hunting outfitter”** means a resident of the Republic who is a registered vendor organising the hunting of wild or exotic animals for payment or reward.² The hunting outfitter may either own the game farm where the hunt is conducted or hold concessions to hunt on other game farms;
- **“hunting safari package”** means a tour package supplied to a foreign hunter, which may include the supply of a trophy, accommodation, meals, tracker, guide, professional hunter or transport;
- **“professional hunter”** means a resident of the Republic who is qualified to escort a foreign hunter for payment or reward in order to enable the latter to hunt a wild or exotic animal. A professional hunter may be employed by a hunting outfitter or work independently;
- **“section”** means a section of the VAT Act;
- **“taxidermy”** means the process whereby game trophies receive a complete taxidermy treatment. A complete taxidermy treatment, as set out in the VPN, includes either the –
 - mounting of an animal trophy in a life-like manner (for example, full mount, half mount or shoulder mount);
 - tanning and processing of skins for display purposes; or
 - processing and mounting of skulls, horns, hooves, claws or teeth in some manner for display.

¹ VPN/00/2008-1 Compilation of definitions applicable to the various veterinary procedural notices.

² Draft Norms and Standards for the Regulation of the Hunting Industry in South Africa (Government Gazette No. 32798).

- **“trophy”** means any part of a wild animal or exotic animal that is hunted by a foreign hunter and retained as a token or memento of the hunt by the foreign hunter;
- **“VAT Act”** means the Value-Added Tax No. 89 of 1991; and
- any word or expression bears the meaning ascribed to it in the VAT Act.

1. Purpose

This Note explains the VAT treatment of various supplies to foreign hunters including hunting services, taxidermy services, the supply of a trophy as well as the subsequent export of the trophy.

2. Description of services supplied

The various goods and services generally supplied to foreign hunters are described in more detail in **2.1** to **2.6**.

2.1 Accommodation

The foreign hunter will usually be provided with accommodation by the hunting outfitter as part of the overall hunting safari package.

2.2 Hunting services

Hunting services may include game viewing, tracking game, assistance with the hunt and other related services but excluding raw preparation and taxidermy services as discussed below.

2.3 Trophy fee and raw trophy

Once the foreign hunter has successfully hunted the animal, the foreign hunter becomes the owner of the raw trophy and is required to pay a trophy fee.

2.4 Dip and pack services

These services are performed as the initial treatment of the raw trophy and include all work which may be required to ensure that the trophy does not decay.

2.5 Taxidermy services and the trophy

Complete taxidermy treatment entails the mounting of the animal trophy in a life-like manner (for example, full mount, half mount, shoulder mount), skins that are fully tanned and processed so that they can be displayed (for example, full skin, flat skin, back skins), or skulls (bones), horns or antlers, hooves, claws and teeth that are fully processed and mounted in some manner for display (for example, skull and horns on a shield). In this instance the taxidermist supplies both goods (for example, mounting forms) and services for an all-inclusive price.

2.6 Other services consumed in the Republic

These services may form part of the hunting safari package or may be supplied separately by other vendors and include services such as transportation, car rental, medical assistance and so forth.

3. The law

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

4. Application of the law

The general rule is that goods or services supplied in the Republic by a vendor to the foreign hunter are subject to VAT at the standard rate on the basis that the goods and services are consumed in the Republic. However, there are exceptions to this rule as is evident from the discussion on the various types of supplies listed below.

4.1 Accommodation

The supply of “commercial accommodation”,³ that is, board and lodging together with domestic goods and services,⁴ by a vendor to any person (including a foreign hunter) is subject to VAT at the standard rate if the accommodation is supplied in the Republic.

The consideration for the supply of commercial accommodation to a foreign hunter for an unbroken period of more than 28 days at an all-inclusive fee, is deemed to be only 60% of the all-inclusive charge. The full value of meals, beverages and other entertainment supplied for a separate charge is subject to VAT at the standard rate.

4.2 Hunting services

The nature of these services is such that the foreign hunter consumes the services whilst being physically present in the Republic. The supply of these services is therefore subject to VAT at the standard rate.

4.3 Trophy fee

The trophy fee is consideration received for the supply of any part of a hunted animal. This constitutes a supply of goods to the foreign hunter. The hunting outfitter can zero-rate the supply of the goods if the goods are exported by the hunting outfitter to the foreign hunter as a direct export,⁵ provided the relevant documentary requirements are met.⁶ It is acknowledged that the goods supplied, being a hunted animal, is a trophy when exported (that is, the animal or a part thereof undergoes various processes and becomes a trophy).

³ “Commercial accommodation” is defined in section 1(1).

⁴ “Domestic goods and services” is defined in section 1(1) to include cleaning, electricity, meals and so forth.

⁵ Supplied to the foreign hunter in terms of a sale or instalment credit agreement and consigned or delivered by the hunting outfitter to the foreign hunter at an address in an export country.

⁶ As required under paragraph (a) of the definition of “exported” in section 1(1) and section 11(3), read with Interpretation Note No. 30 (Issue 3) dated 5 May 2014 “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” (or as updated).

The hunting outfitter may also elect to zero-rate the supply of the hunted animal if the animal is delivered to a designated harbour and airport and the requirements of the export regulations⁷ are met. This type of export is referred to as an indirect export. Alternatively, the hunting outfitter can charge 14% VAT on the supply. The sale of the hunted animal by the hunting outfitter which is to be exported by the foreign hunter via road or rail will also be charged with 14% VAT. Under these circumstances, the foreign hunter will be entitled to claim a VAT refund from the VAT Refund Administrator, provided the requirements of the export regulations are met.

Generally, the hunting outfitter retains all other parts of the hunted animal that are not going to be transformed into a trophy. The sale of these parts of the animal, that is, the portion excluding the trophy, in South Africa, is subject to VAT at the standard rate.

Hunting outfitters may also require hunters to pay trophy fees for wounded animals which would be subject to VAT at the standard rate.

4.4 Dip and pack services

The supply of raw preparation services during the course of dipping and packing a trophy may be zero-rated under section 11(2)(f)(ii)(aa). The zero rate can only apply if the trophy is exported to the foreign hunter after the supply of the services and the supplier obtaining and retaining the required documentary proof envisaged in section 11(3).⁸ In this regard, the phrase “exported to the said person” in section 11(2)(f)(ii)(aa) means a direct export. Based on the aforementioned, in order for the zero rate to apply to the supply of dip and pack services, the goods must be “exported” by the hunting outfitter.

The supply of dip and pack services will not qualify for zero-rating under section 11(2)(f)(ii)(aa) if the foreign hunter is physically present in the Republic at the time these services are rendered.

4.5 Taxidermy services and the trophy

The supply of taxidermy services may be zero-rated under section 11(2)(f)(ii)(aa) if the goods are exported to the foreign hunter after the supply of the services.⁹ As discussed in 4.4, the supply of these services can only be zero-rated if the goods are “exported” by the hunting outfitter (that is, direct exports). However, if the foreign hunter is physically present in the Republic at the time services are rendered, the provisions of section 11(2)(f)(ii)(aa) cannot be used to zero-rate the supply.

4.6 Other services consumed in the Republic

Other services not specifically provided for above which are supplied while the foreign hunter is in the Republic are subject to VAT at the standard rate, unless the VAT Act specifically provides for an exemption or zero-rating of these services.

In this regard, services may include the supply of transport services to fare-paying passengers by road or rail (for example, shuttle services) which is exempt from VAT

⁷ Issued under section 74(1) read with paragraph (d) of “exported” as defined in section 1(1).

⁸ Also see Interpretation Note No. 31 (Issue 3) dated 22 March 2013 “Documentary Proof Required for the Zero-Rating of Goods or Services” (or as updated).

⁹ The zero-rating of these services is subject to the documentary proof envisaged in section 11(3) being retained by the vendor.

under section 12(g). This particular exemption is not applicable to transport provided in a game viewing vehicle which is subject to VAT at the standard rate. For further information, refer to Interpretation Note No. 42 dated 2 April 2007 "The Supply of Goods and/or Services by the Travel and Tourism Industry" (or as updated).

4.7 Single charge for a hunting safari package

In order to correctly identify the VAT implications pertaining to the supply of a hunting safari package which is provided at a single charge, it is necessary to identify the separate supplies included in such a package, for example, hunting services, accommodation, flights, transport, game viewing and taxidermy services.

If the various components of the hunting safari package would be subject to VAT at the standard and zero rate if separate considerations had been charged (and not a single charge), then each of these components of the package will be deemed to be a separate supply with the applicable VAT rate charged to each of these deemed separate supplies.

5. Conclusion

The supply of accommodation, hunting services and other goods or services that are consumed while the foreign hunter is in the Republic will be subject to VAT at the standard rate. The supply of dip and pack services as well as the trophy fee may be zero rated provided the relevant provisions contained in section 11 are met.

Should further clarity on any of the matters dealt with in this Note be required, it is recommended that an application for a VAT ruling or VAT class ruling be made by e-mail to **VATRulings@sars.gov.za** or facsimile on +27 86 540 9390. The application should consist of a completed VAT301 form and must comply with the provisions of section 79 of the Tax Administration Act No.28 of 2011, excluding section 79(4)(f), (k) and (6).

Legal and Policy Division
SOUTH AFRICAN REVENUE SERVICE

Annexure – The law**Section 1(1) – Definitions**

“commercial accommodation” means—

- (a) lodging or board and lodging, together with domestic goods and services, in any house, flat, apartment, room, hotel, motel, inn, guesthouse, boarding house, residential establishment, holiday accommodation unit, chalet, tent, caravan, camping site, houseboat or similar establishment, which is regularly or systematically supplied and where the total annual receipts from the supply thereof exceeds R60 000 in a period of 12 months or is reasonably expected to exceed that amount in a period of 12 months, but excluding a dwelling supplied in terms of an agreement for the letting and hiring thereof;

...

“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; or

...

- (d) removed from the Republic by the recipient for conveyance to an export country in accordance with the provisions of an export incentive scheme approved by the Minister;

“Republic”, in the geographical sense, means the territory of the Republic of South Africa and includes the territorial waters, the contiguous zone and the continental shelf referred to respectively in sections 4, 5 and 8 of the Maritime Zones Act, 1994 (Act 15 of 1994);

“resident of the Republic” means a resident as defined in section 1 of the Income Tax Act: Provided that any other person or any other company shall be deemed to be a resident of the Republic to the extent that such person or company carries on in the Republic any enterprise or other activity and has a fixed or permanent place in the Republic relating to such enterprise or other activity;

“supply” includes performance in terms of a sale, rental agreement, instalment credit agreement and all other forms of supply, whether voluntary, compulsory or by operation of law, irrespective of where the supply is effected, and any derivative of “supply” shall be construed accordingly;

“vendor” means any person who is or is required to be registered under this Act: Provided that where the Commissioner has under section 23 or 50A determined the date from which a person is a vendor that person shall be deemed to be a vendor from that date;

Section 7 – Imposition of value-added tax

(1) Subject to the exemptions, exceptions, deductions and adjustments provided for in this Act, there shall be levied and paid for the benefit of the National Revenue Fund a tax, to be known as the value-added tax—

- (a) on the supply by any vendor of goods or services supplied by him on or after the commencement date in the course or furtherance of any enterprise carried on by him;
- (b) on the importation of any goods into the Republic by any person on or after the commencement date; and
- (c) on the supply of any imported services by any person on or after the commencement date,

calculated at the rate of 14 per cent on the value of the supply concerned or the importation, as the case may be.

Section 9 – Time of supply

(1) For the purposes of this Act a supply of goods or services shall, except as otherwise provided in this Act, be deemed to take place at the time an invoice is issued by the supplier or the recipient in respect of that supply or the time any payment of consideration is received by the supplier in respect of that supply, whichever time is earlier.

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; or
 - (ii) the goods have been exported by the recipient and the supplier has elected to supply the goods at the zero rate as contemplated in Part 2 of an export incentive scheme referred to in paragraph (d) of the definition of “exported” in section 1: Provided that—
 - (aa) where a supplier has supplied the goods to the recipient in the Republic otherwise than in terms of this subparagraph, such supply shall not be charged with tax at the rate of zero per cent; and
 - (bb) where the goods have been removed from the Republic by the recipient in accordance with the provisions of an export incentive scheme referred to in paragraph (d) of the definition of “exported” in section 1, such tax shall be refunded to the recipient in accordance with the provisions of section 44(9); or

...

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

...

- (*ℓ*) the services are supplied to a person who is not a resident of the Republic, not being services which are supplied directly—
- (i) in connection with land or any improvement thereto situated inside the Republic; or
 - (ii) in connection with movable property (excluding debt securities, equity securities or participatory securities) situated inside the Republic at the time the services are rendered, except movable property which—
 - (*aa*) is exported to the said person subsequent to the supply of such services; or
 - (*bb*) forms part of a supply by the said person to a registered vendor and such services are supplied to the said person for purposes of such supply to the registered vendor; or
 - (iii) to the said person or any other person, other than in circumstances contemplated in subparagraph (ii)(*bb*), if the said person or such other person is in the Republic at the time the services are rendered,
- and not being services which are the acceptance by any person of an obligation to refrain from carrying on any enterprise, to the extent that the carrying on of that enterprise would have occurred within the Republic; or

...

(3) Where a rate of zero per cent has been applied by any vendor under the provisions 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.