



# **Legal & Policy**

## **Value-Added Tax**

### **VAT 414**

**Guide for Associations not for Gain  
and Welfare Organisations**



*South African Revenue Service*

## Preface

This guide is a general guide concerning the application of the VAT Act in respect of associations not for gain and welfare organisations in South Africa. Although fairly comprehensive, the guide does not deal with all the legal detail associated with VAT and is not intended for legal reference. Technical and legal terminology has also been avoided wherever possible. For details in respect of the general operation of VAT, refer to the *VAT 404 – Guide for Vendors* which is available on the South African Revenue Service (SARS) website ([www.sars.gov.za](http://www.sars.gov.za)).

All references to the “VAT Act” are to the Value-Added Tax Act 89 of 1991 and references to “sections” are to sections of the VAT Act unless the context indicates otherwise. Similarly, all references to the “TA Act” and the “Income Tax Act” refer to the Tax Administration Act 28 of 2011 and the Income Tax Act 58 of 1962 respectively.

The terms “Republic”, “South Africa” or the abbreviation “RSA”, are used interchangeably in this document as a reference to the sovereign territory of the Republic of South Africa, as set out in the definition of “Republic” in section 1(1) of the VAT Act. The terms “Commissioner” and “Minister” refer to the Commissioner for SARS and the Minister of Finance respectively, unless otherwise indicated. A number of specific terms used throughout the guide are defined in the VAT Act. These terms and others are listed in the **Glossary** in a simplified form to make the guide more user-friendly.

The information in this guide is based on the VAT and Tax Administration legislation (as amended) as at the time of publishing and includes the following:

- The Taxation Laws Amendment Act 25 of 2015 which was promulgated on 8 January 2016 as per *Government Gazette* (GG) 39588); and
- The Tax Administration Laws Amendment Act 23 of 2015) which was promulgated on 8 January 2016 (as per GG 39586).

There are various other guides available on the **SARS website** which may be referred to for more information relating to the specific VAT topics. Refer to the *VAT 404 – Guide for Vendors* for a list of the various guides published.

Associations not for gain and welfare organisations often make supplies of goods and or services for no consideration and should also refer to Interpretation Note 70 “Supplies Made for No Consideration” for a more comprehensive discussion on this topic.

Should any person require further clarification on any matter relating to the VAT treatment of an association not for gain or a welfare organisation, such person may apply for a VAT Ruling as envisaged in section 41B of the VAT Act read with Chapter 7 of the TA Act. Refer to the **Contact details** at the end of this guide for the address to which such ruling applications may be submitted.

Further information on the general tax treatment of associations not for gain and welfare organisations can also be found on the **SARS website** in the form of the *Tax Exemption Guide for Public Benefit Organisations in South Africa* and the *Tax Guide for Recreational Clubs*.

The information in this guide is issued for guidance only. This guide is not an “official publication” as defined in section 1 of the TA Act and accordingly does not create a practice

generally prevailing under section 5 of that Act. It is also not a binding general ruling under section 89 of Chapter 7 of the TA Act or a ruling under section 41B of the VAT Act unless otherwise indicated.

The previous edition of this guide has been withdrawn with effect from 10 March 2016.

Should there be any aspects relating to VAT which are not clear or not dealt with in this guide, or should you require further information or a specific ruling on a legal issue, you may –

- visit the SARS website at **[www.sars.gov.za](http://www.sars.gov.za)**;
- contact your local SARS branch;
- contact your own tax advisors;
- contact the SARS National Call Centre –
  - if calling locally, contact the SARS National Call Centre on 0800 00 7277; or
  - if calling from abroad, contact the SARS National Call Centre on +27 11 602 2093;
- submit legal interpretative queries on the TA Act by e-mail to **[TAAInfo@sars.gov.za](mailto:TAAInfo@sars.gov.za)**;  
or
- submit a VAT ruling application to SARS headed “Application for a VAT Class Ruling” or “Application for a VAT Ruling” together with a completed VAT301 form by email to **[VATRulings@sars.gov.za](mailto:VATRulings@sars.gov.za)** or by facsimile on +27 86 540 9390.

Comments on this guide may be emailed to **[policycomments@sars.gov.za](mailto:policycomments@sars.gov.za)**.

Prepared by

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10 March 2016

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# Chapter 1

## Introduction

### 1.1 Background

Non-profit organisations have a significant role to play in society as they address the social and developmental needs of the country, thereby relieving the State from the financial burden of providing much needed goods or services to the general public, particularly the poor and needy. Tax benefits in general are designed to assist non-profit organisations with an enabling environment in which to achieve their objectives. For example, certain receipts and accruals derived from a trading activity or business undertaking by a public benefit organisation (PBO) are exempt from income tax. Furthermore, provision is specifically made for welfare organisations to register for VAT in respect of any welfare activities conducted, even though supplies are made for no consideration. In order for a non-profit organisation to qualify for the aforementioned, it must apply for approval as a PBO.

Associations not for gain that do not qualify as welfare organisations also enjoy certain benefits under the VAT Act that are not available to other vendors. There are however many different types of associations not for gain, ranging from those that are exclusively involved in serving the personal interests of their members, to those that carry on religious activities and those that are focused on serving the needs of the community at large. Some associations not for gain also carry on normal trading activities and may therefore be in competition with other businesses. This ranges, for example, from the sale of festivity cards to the manufacturing and sale of goods. Whilst the occasional sale of goods or the provision of services should, in principle, not affect the special VAT treatment of an association not for gain, the regular supply of goods or services in a business setting should not receive special tax treatment which is more favourable than other businesses.

In establishing the correct VAT treatment of supplies made by associations not for gain, different terminology and definitions used for purposes of the Income Tax Act and VAT Act must be considered. For example, a “recreational club” and “public benefit organisation” are defined for income tax purposes, but not for VAT purposes. Similarly, the terms “association not for gain” and “welfare organisation” are only defined for VAT purposes as there are special provisions which apply to these organisations.

The correlation between a PBO, an association not for gain and a welfare organisation is discussed in detail in **2.7**. At this stage it can be noted that for income tax purposes, the list of approved public benefit activities (PBAs) are contained in Part I of the Ninth Schedule to the Income Tax Act (the Ninth Schedule). The VAT list of welfare activities is contained in a separate regulation and does not include all of the PBAs listed in the Ninth Schedule.

The terms “public benefit organisation”, “association not for gain” and “welfare organisation” can therefore not be used interchangeably as each one describes a specific kind of organisation. (Refer to **Chapter 2** for a further discussion on these terms.)

### 1.2 Scope of topics

In practice there is a significant overlap between PBOs, associations not for gain and welfare organisations. This guide will therefore distinguish between these concepts and explain the VAT consequences of some of the most common situations which arise for associations not for gain and welfare organisations in the course of conducting an enterprise.

### 1.3 Approach of the guide

The approach of this guide is set out below:

**Chapter 1** – Gives a brief overview of the scope and background to the topics that will be discussed in the guide, the approach adopted, and a brief overview of general tax administration matters.

**Chapter 2** – Sets out the important concepts, terms and definitions mentioned in this guide so that the VAT treatment of supplies which are explained in later chapters can be understood. Some of the key concepts addressed in this chapter are “donation”, “enterprise”, “supply” and “consideration”.

**Chapter 3** – Describes the VAT registration requirements in general and how it applies to associations not for gain and welfare organisations.

**Chapter 4** – Focuses on the various aspects involved in accounting for VAT on transactions, including, where applicable, the special provisions applying to associations not for gain and welfare organisations.

**Chapter 5** – Deals with some additional aspects such as the importation of donated goods, which are not specifically dealt with in any of the other chapters.

### 1.4 Tax administration

The TA Act has brought about an enormous shift in the administration of all taxes in the RSA. It was promulgated on 4 July 2012 and came into effect on 1 October 2012, except for the provisions set out in Schedule 1 to the TA Act relating to interest as per Proclamation 51 dated 14 September 2012 (GG 35687).

The TA Act regulates the administration of all the tax Acts. The VAT Act must therefore be read together with the provisions of the TA Act (for example both the TA Act and VAT Act contain requirements in respect of record keeping which must be complied with). This guide must therefore be read in the context of the TA Act and any public notices or proclamations issued in connection with any general tax administration matter.

Refer to the *VAT 404 – Guide for Vendors* for more details regarding the interaction between the VAT Act and the TA Act.

Further general information regarding the application of the TA Act can be obtained from the Tax Administration webpage on the **SARS website**.

## Chapter 2

### Definitions and concepts

#### 2.1 Association not for gain

An association not for gain is:

- Any religious institution of a public character;
- Any other society, association or organisation (other than an educational institution) which does not carry on its activities for the purposes of profit or gain to any owner, member or shareholder. In order to qualify as an association not for gain, amongst other requirements –
  - the constitution of the organisation must provide that any assets or income of the organisation must be used to further its aims and objects;
  - the assets and income of the organisation may not be used to profit any other person except for reasonable payment to an officer or employee for services actually received; and
  - should the organisation ever be wound up or liquidated, any remaining assets must be transferred to another organisation with similar objectives; or
- Educational institutions of a public character. The constitution of the institution, amongst other requirements, must provide that any assets or income of the institution –
  - must be used to further its aims and objects; and
  - may not be used to profit any person unless it is to an officer or employee for reasonable payment for services actually received.

An association not for gain can therefore include non-profit companies and societies formed for the promotion of culture and arts, charities and public-interest groups.

Associations not for gain are generally subject to the normal rules with regard to VAT registration (for further details regarding registration, refer to **Chapter 3**).

Refer to the discussion in **2.7** for further details of the benefits which are available to associations not for gain.

#### 2.2 Consideration

The concept of “consideration” is one of the cornerstones of VAT. In its simplest form, it means anything that is received in respect of, in response to or for the inducement of the supply of goods or services. It is a VAT-inclusive concept which means that any payment made in respect of a taxable supply includes an element of VAT, whether payment has been made in part, or in full.

Normally, the consideration for a supply will be equal to the amount of money which is payable as the price charged for the supply. In cases where the consideration is not in money, the consideration will be the open market value thereof. It should be noted that this is subject to certain specific value of supply rules which apply to certain transactions, for example in the case of connected persons.



The consideration for a supply may also be a combination of monetary amounts, reciprocal supplies, favours or acts of forbearance. In such cases a value must be attributed to each component of the consideration and aggregated to determine the final VAT inclusive amount.

### 2.3 Donation

For VAT purposes, a “donation”<sup>1</sup> –

- is a payment –
  - which is voluntarily made to any association not for gain for the carrying on or the carrying out of the purposes of that association, whether the payment is in money or otherwise;
  - in respect of which no identifiable direct valuable benefit arises or may arise in the form of a supply of goods or services to the person making that payment or in the form of a supply of goods or services to any other person who is a connected person in relation to the person making the payment; and
- does not include any payment made by a public authority or municipality.

In terms of the definition, it is clear that any amount of money or the value of any goods or services donated to an association not for gain is excluded from the definition of “consideration”. The effect is that the association not for gain does not account for output tax on any money, goods or services received as a donation and the donor is also not allowed to make a deduction of input tax in respect of the donation made.

The most common issues regarding donations are –

- to determine whether there is an “identifiable direct valuable benefit” to the donor, or a connected person in relation to the donor in the form of a supply of goods or services in return for making the donation;
- whether input tax can be deducted in respect of goods or services purchased from donated funds (refer to **4.4**); and
- whether input tax can be deducted by the donor in respect of the donation made to the association not for gain.

Payments to an association not for gain can be categorised as follows:

- Payments where no benefit accrues to the donor (or any connected person in relation to the donor). These payments are regarded as donations.
- Payments where it could be argued that some benefit accrues to the donor (or any connected person in relation to the donor), but where it is not regarded as being an identifiable direct valuable benefit, arising in respect of the payment made. For example, the mere acknowledgment of the donor in a document. These payments are also regarded as donations.
- Payments where the benefit is identifiable, direct and valuable. For example, where a so-called “donation” is made, and in return, the donor (or any connected person in relation to the donor) is provided with some benefit, such as advertising or promotional services. Payments of this nature are not regarded as true donations and output tax is payable by the association not for gain on such receipts.

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<sup>1</sup> As defined in section 1(1).

For a payment or a supply of goods or services to qualify as a “donation” it must be completely gratuitous. In other words, the payment or supply of goods or services must be made out of “disinterested benevolence” and the donor must not receive anything in return from the recipient of the donation other than mere acknowledgement or an insignificant token of gratitude.<sup>2</sup> If the token of gratitude, acknowledgement or benefit has a significant value, it would in all likelihood constitute consideration for a taxable supply made by the recipient of the payment.

Whether a benefit is an “identifiable direct valuable benefit” to the donor or a connected person in relation to the donor is determined by the circumstances of the particular case. For example, a requirement that the recipient must perform advertising or promotional services in return for the payment will clearly give rise to an “identifiable direct valuable benefit” to the person making the payment. This applies whether or not the advertising or promotional effort turns out to be successful. It is sufficient that the recipient is required to perform the services as a condition of receiving the payment. The payment in this case will not qualify as a donation.

### **Example 1 – Street collections**

*Facts:*

XYZ, an association not for gain and a vendor, holds a street collection to obtain funding to further its aims of supplying free food to indigent persons. All persons that make donations expect nothing in return from XYZ.

Is XYZ required to account for output tax in respect of the donations it received?

*Result:*

XYZ is not required to account for output tax on the donations received as the donors do not expect anything in return. In other words, the payments made by the donors were completely gratuitous.

### **Example 2 – Fund-raising events**

*Facts:*

XYZ in **Example 1** holds a fund-raising event during which donations are received. The donations were made by the donors without any conditions attached. XYZ mentions the names of donors who donated more than R10 000 on its website.

Is XYZ required to account for output tax in respect of the donations it received?

*Result:*

Although it could be argued that the acknowledgment of the donors by XYZ gives rise to a benefit, the donations were unconditional and are not sufficiently linked with any identifiable direct valuable benefits received by the donors. The payments are therefore still considered to be donations and XYZ will not account for output tax thereon.

<sup>2</sup> Refer to Interpretation Note 70 “Supplies Made for No Consideration” for more information.

**Example 3 – Staging an event***Facts:*

ABC Bank (a vendor) makes a payment to XYZ in **Example 1** each year to stage a musical production. XYZ stages the event with the purpose of raising funds to further its stated aims and objectives. The payment by the bank is subject to the condition that all tickets must have the logo of the bank printed on them and that the bank may display advertising banners at the event.

Is XYZ required to account for output tax in respect of the donation it received from ABC Bank?

*Result:*

ABC Bank receives an identifiable direct valuable benefit in the form of an advertising and promotional service from XYZ. The payment made by ABC Bank to XYZ is therefore not a true donation, but rather, consideration for a taxable supply of services. XYZ must issue a tax invoice to the bank in respect of the service supplied and account for output tax. ABC Bank may be entitled to deduct input tax to the extent that the services are acquired for the purposes of making taxable supplies.

**2.4 Enterprise**

A person will generally be considered to be carrying on an enterprise if all of the following requirements are met:

- An enterprise or activity must be carried on continuously or regularly by a person in the Republic or partly in the Republic.
- In the course or furtherance of such enterprise or activity, goods or services must be supplied to another person.
- There must be a consideration payable for the goods or services supplied.

This is the general rule for all business activities which make supplies of a type which constitute taxable supplies and includes any business activities in which an association not for gain or welfare organisation may be involved. To the extent that an association not for gain carries on non-business activities for which no consideration is received, that activity is not an enterprise activity. For example, the carrying on of religious activities by churches and other faith-based organisations which are associations not for gain does not constitute an “enterprise” activity.

Even though a welfare organisation does not charge a consideration for making supplies in the course of carrying out specific welfare activities, the VAT Act makes special provision to regard welfare organisations as enterprises to the extent that they carry out any of the welfare activities. (Refer to **Annexure A** and **2.6, 2.7** and **3.3** for more details in this regard.)

**2.5 Supply**

Refer to the **Glossary** for the definition of “supply” which includes a sale, donation or barter transaction. For the purpose of this guide, it is necessary to distinguish between a “taxable supply”, an “exempt supply” and other non-taxable supplies (refer to the **Glossary** for an explanation of “other non-taxable supplies”).

### 2.5.1 Taxable supply

A “taxable supply” is any supply made by a vendor in the course or furtherance of an enterprise on which VAT should be levied, and includes supplies which are subject to VAT at the zero rate. The term also includes deemed supplies which are dealt with under specific provisions of the VAT Act, for example –

- the receipt of a grant from the State or a municipality for the purposes of making taxable supplies (refer to **4.2.2**); and
- the receipt of an indemnity payment under a contract of insurance.

### 2.5.2 Exempt supply

Exempt supplies are not taxable supplies and are therefore not subject to VAT. It follows that no output tax is levied when making an exempt supply and no input tax may be deducted on any expenses incurred in order to make exempt supplies. This rule also applies if the person making the exempt supplies is registered for VAT in respect of other taxable activities. The value of exempt supplies does not form part of the taxable turnover and is not used to determine whether a person must register for VAT. If a person makes only exempt supplies, that person cannot register as a vendor (refer to **4.3**).

Examples of exempt supplies include:

- Financial services (for example, the provision of credit, the supply of a life insurance policy and educational services);
- Donated goods or services sold by associations not for gain or any manufactured goods sold by an association not for gain provided that 80% of the value of the materials used to manufacture such goods consists of donated goods (for example, the sale of donated goods by recreational clubs or religious organisations at fundraising events);
- Renting of a dwelling for use as a private home (but not commercial accommodation);
- Passenger transport within South Africa by taxi, bus, or train;
- Educational services provided by primary and secondary schools, universities and other recognised educational institutions;
- Childcare provided at crèches and after-school care centres; and
- Certain goods and services supplied by bargaining councils or political parties to their members under certain conditions.

## 2.6 Welfare organisation

A welfare organisation will in most cases qualify as an association not for gain, but special rules apply in respect of any welfare activities carried on.

To qualify as a “welfare organisation” for VAT purposes, the organisation must be a PBO that has been approved by SARS for income tax exemption purposes (for example, a PBO as contemplated in section 30(1) read with section 30(3) of the Income Tax Act).<sup>3</sup>

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<sup>3</sup> For more information and details pertaining to qualifying and registering as a PBO, refer to the *Tax Exemption Guide for Public Benefit Organisations in South Africa* on the SARS website.

A PBO as contemplated in the Income Tax Act is –

- a “non-profit company” as defined in section 1 of the Companies Act 71 of 2008 (Companies Act);
- a trust established in South Africa; or
- an association of persons formed or established in South Africa,

which carries on approved PBAs as set out in Part I of the Ninth Schedule and complies with section 30 of the Income Tax Act. Refer to the *Tax Exemption Guide for Public Benefit Organisations in South Africa*, which is available on the **SARS website**<sup>4</sup> for further information relating to PBOs.

In order to qualify as a “welfare organisation”, a PBO must carry on, or intend to carry on any of the welfare activities determined by the Minister in Government Notice No. 112 published in *Government Gazette 27235* dated 11 February 2005 (GN112) that fall under the following headings –

- Welfare and Humanitarian;
- Health Care;
- Land and Housing;
- Education and Development; or
- Conservation, Environment and Animal Welfare. (Refer to **Annexure A.**)

An association not for gain must be approved as a PBO which qualifies for exemption as such under the Income Tax Act before it can qualify as a “welfare organisation”. Furthermore, the PBO is only regarded as a welfare organisation to the extent that it carries on one or more of the listed welfare activities in GN 112.

The benefit of qualifying as a welfare organisation is that, in addition to the special VAT provisions applicable to an association not for gain, a welfare organisation is not required to supply goods or services for a consideration for it to be regarded as an enterprise. The minimum threshold of R50 000<sup>5</sup> for voluntary registration is therefore not applicable to a welfare organisation. This means that a welfare organisation is entitled to register for VAT purposes and to deduct input tax in respect of any approved welfare activities which it carries on, even if it does not charge any consideration.

Although derived from the PBAs in Part I of the Ninth Schedule, the welfare activities listed in GN112 for VAT purposes are a lot more restrictive. Some notable exclusions from the welfare activities listed in GN112 are cultural and religious activities, as well as activities associated with the promotion of belief systems and philosophy.<sup>6</sup> Having regard to the special rule applicable to welfare organisations in respect of carrying on an “enterprise” (as discussed above and also refer to **2.4**), to the extent that supplies are made for no consideration in furthering or promoting the aforementioned excluded causes, no enterprise is conducted as those activities are not welfare activities. To the extent that a welfare organisation also carries on ordinary business activities involving the supply of goods or services for a consideration, the normal VAT rules will apply. In this case, it must be noted that if the welfare organisation also conducts out-of-scope activities to promote culture, religious, or other belief systems which results in supplies being

<sup>4</sup> [www.sars.gov.za](http://www.sars.gov.za) > *Businesses and Employers* > *Tax Exempt Organisations*.

<sup>5</sup> Refer to **3.1**.

<sup>6</sup> These are listed in paragraphs 5 and 6 of Part I to the Ninth Schedule.

made for no consideration, such supplies are not re-characterised to be taxable supplies merely because the welfare organisation has registered for VAT in respect of its taxable activities.

Although the normal VAT rules apply in the case where a welfare organisation's overall enterprise activities are not limited to the welfare activities listed above as it also conducts an enterprise to the extent that it carries on normal business activities, it is not necessary for the welfare organisation to have more than one VAT registration number. If it is however specifically requested, separate VAT registration numbers may be issued for each of its separately identifiable branches, divisions or enterprises.<sup>7</sup>

## 2.7 Differences between a public benefit organisation, an association not for gain and a welfare organisation

### 2.7.1 General

As mentioned in **Chapter 1**, different terminology is used for income tax and VAT purposes in providing for a legislative basis to deal with essentially the same or similar types of organisations. It is therefore important to understand the correlation between terms such as –

- “public benefit organisation” and “recreational club” which are defined in sections 30 and 30A of the Income Tax Act respectively; and
- “association not for gain” and “welfare organisation” which are defined in section 1(1) of the VAT Act.

For income tax purposes, the main difference between a PBO and a recreational club is that a PBO operates for the benefit of the general public, whereas a recreational club operates for the benefit of its members who come together by mutual consent to act jointly for a common purpose. A PBO predominantly relies on donations, grants or bequests in order to fund its objectives, while a club receives its income from its members who contribute by way of membership fees or subscriptions.

Clubs are formed for the mutual benefit of members who contribute to share the cost of providing a collective benefit, namely, the social or recreational facility. The common objective of clubs excludes personal financial gain for the individual members. Under this principle, the sharing of expenses by various persons joining together based on mutuality, does not generate additional taxable income for the club, and it is to this extent that clubs enjoy preferential tax treatment under the Income Tax Act. Clubs which operate for the financial gain of individual persons or members will not qualify for approval. Refer to the *Tax Guide for Recreational Clubs* which is available on the **SARS website** for more information in this regard.

Organisations which fall within the definitions “association not for gain” and “welfare organisation” are identified for preferential treatment under the VAT Act. PBOs and welfare organisations will usually qualify as associations not for gain, but not every association not for gain will qualify as a PBO or a welfare organisation. In addition, not every organisation that qualifies as a PBO for income tax purposes will qualify as a welfare organisation for VAT purposes.

Following from the discussion on the terms “association not for gain” and “welfare organisation” in **2.1** and **2.6**, the correlation between these terms and a PBO is summarised

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<sup>7</sup> Refer to **3.2**.

below. The emphasis is on the benefits which are available to the different types of organisations under the VAT Act.

### 2.7.2 Benefits available to an association not for gain

An association not for gain is treated much like any other business if it makes taxable supplies but, in addition, the following special provisions apply:

- Different activities of associations not for gain can be regarded as separate persons for VAT purposes (refer to **3.2**).
- The association not for gain may be registered on the payments basis of accounting for VAT on supplies made. This assists those associations using very basic accounting systems (refer to **3.5**).
- No output tax is payable on any donations received, for example, where a person donates money to a soccer club to cover the costs of new kit and footballs to be used by the club (refer to **2.3**).
- The sale of any donated goods or services, or other manufactured goods are exempt from VAT if the donated goods and services constitute at least 80% of the value of the supply (refer to **4.3**).
- Certain goods imported which are forwarded free of charge to an association not for gain are exempt from VAT on importation if used exclusively for educational, religious or welfare purposes or for medical or scientific research (refer to **5.2**).

An association not for gain must also be formally established and have a written constitution, otherwise it is regarded as an ordinary business and will not be entitled to any benefits which are available to an association not for gain under the VAT Act.

### 2.7.3 Benefits available to a welfare organisation

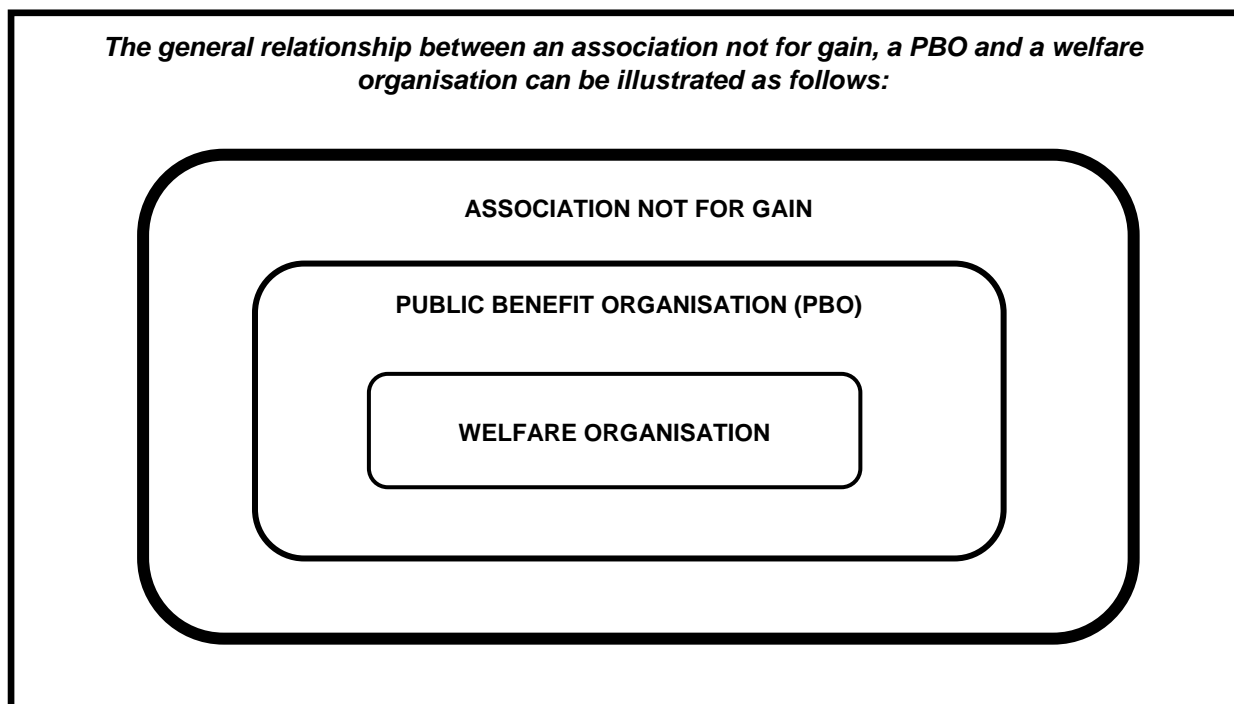
In addition to the benefits available to an association not for gain as set out in **2.7.2**, a welfare organisation may enjoy the following benefits:

- There are specific rules that apply to a welfare organisation with regard to registering for VAT. Whereas the normal rules for VAT registration require the supply of goods or services to be made for a consideration, this is not a requirement for a welfare organisation. If an organisation carries on one or more of the listed welfare activities and it is an approved PBO for income tax purposes, it can register for VAT voluntarily and deduct input tax in connection with the carrying on of those welfare activities, even if those supplies are made for no consideration.
- Generally, vendors are not permitted to deduct input tax in respect of any goods or services acquired for the purpose of supplying entertainment. A welfare organisation is however, entitled to deduct input tax where the entertainment expenses are incurred for the purpose of providing entertainment which is integral to the carrying on of a welfare activity. For example, the provision of food and accommodation to needy children constitutes the supply of “entertainment”. This supply is however also a welfare activity as contemplated in GN112. Input tax may therefore be deducted by the welfare organisation on the VAT-inclusive costs of supplying such entertainment. (Refer to **4.6.1**.)
- Since the soliciting of donations is an integral part of a welfare organisation’s enterprise activities, it will be allowed to deduct any VAT that it incurs in that regard to the extent that the donations are procured by the welfare organisation for purposes

of carrying out its welfare activities. Associations not for gain that do not qualify as welfare organisations are not entitled to the same benefit.

#### 2.7.4 Benefits available to a PBO

The benefits available to a PBO will depend on whether the organisation is merely an “association not for gain” (in which case the benefits as per 2.7.2 will apply), or whether it qualifies as a “welfare organisation” (in which case the additional benefits as per 2.7.3 will also apply).





## Chapter 3

### Registration

#### 3.1 General

The registration of vendors is regulated by the TA Act together with the VAT Act. Whilst the TA Act sets out the obligations that a person must comply with when registering for VAT, the VAT Act sets out when, and under which circumstances, a person must or may register for VAT.

Section 22 of the TA Act read with section 23 of the VAT Act requires that a person must register as a vendor if that person carries on an enterprise which makes taxable supplies exceeding the compulsory VAT registration threshold of R1 million in any consecutive period of 12-months. A person is also required to register if the total value of taxable supplies expected to be made by that person in terms of a written contractual obligation will exceed R1 million in any consecutive period of 12 months.<sup>8</sup>

An association not for gain may apply for voluntary registration if the total value of taxable supplies has exceeded R50 000 in the past 12-month period or there is a reasonable expectation that the total value of taxable supplies will exceed R50 000 within 12 months from the date of registration.<sup>9</sup>

It follows, for example, that to the extent that a person –

- does not make any supplies of goods or services to another person; or
- only makes supplies of goods or services to other persons for no consideration;<sup>10</sup> or
- only makes exempt supplies or out-of-scope supplies for VAT purposes;

that person may not register for VAT.

By design, a welfare organisation conducts an enterprise for VAT purposes to the extent that it carries on any of the listed welfare activities for VAT purposes and may register for VAT voluntarily merely by the fact that it carries on those activities.<sup>11</sup> This means that even when a welfare organisation supplies goods or services for no consideration, it may still register for VAT. It should be noted, however, that to the extent a welfare organisation is engaged in business activities which involve the making of taxable supplies for a consideration, the normal VAT rules with regard to accounting for input tax and output tax will apply.

Provided that an association not for gain carries on an “enterprise” and complies with the normal rules for VAT registration, the organisation can benefit from the special VAT provisions applicable to an association not for gain mentioned in **2.7.2**. The activities of an association not for gain which are funded by levies, membership fees, entrance fees and charges for goods or services will usually qualify as “enterprise” activities, whether or not it

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<sup>8</sup> Section 23(1)(b).

<sup>9</sup> The circumstances under which it can be reasonably expected that the R50 000 threshold will be met are set out in Regulation No. R.447 published in *Government Gazette* No. 38836 dated 29 May 2015.

<sup>10</sup> Refer to **3.3** for an exception to this rule which applies to welfare organisations.

<sup>11</sup> The definition of “enterprise” in section 1(1) specifically includes the activities of a welfare organisation to the extent that the activities carried on by the welfare organisation are welfare activities as listed in GN112.

operates on a not-for-profit basis. However, if the activities essentially constitute a hobby or private activity conducted in the form of an informal club or society where the exact expenses incurred as a group are shared by the participants, the activities do not qualify as an enterprise.

#### Example 4 – VAT registration

##### *Facts:*

ABC, is an association not for gain which carries on the activity of providing meals to the aged and also operates a crèche and after-care facility for school-going children. ABC is not an approved PBO and is not exempt from income tax. It therefore does not qualify as a “welfare organisation” for VAT purposes. The following payments are received by ABC in regard to the activities conducted:

	R
Meals to the aged (taxable supplies)	750 000
Crèche and after-care (exempt supplies) <sup>12</sup>	<u>300 000</u>
Total turnover for the past 12-month period	<u>1 050 000</u>

Is ABC required to register for VAT?

##### *Result:*

Although the association receives consideration for the crèche and after-care services, the supply of such services is exempt from VAT. Therefore, ABC does not carry on an “enterprise” as defined in regard to those activities. As the total value of taxable supplies made by the association for the provision of meals to the aged does not exceed the compulsory VAT registration threshold of R1 million, ABC is not required to register as a vendor. The association may however register voluntarily as the value of its taxable supplies is more than R50 000 in the past 12-month period.

If ABC chooses to register voluntarily, VAT must be levied on the meals supplied and it will be entitled to deduct input tax on the VAT-inclusive expenses incurred to make those supplies provided that the meals are supplied at a charge which covers all direct and indirect costs to provide such meals or a charge which is equal to the open market value of such supplies. No output tax will be declared on any charges for the crèche and after-care services, nor may any input tax be deducted in relation to these expenses, as the services remain exempt, even if the association is registered for VAT.

For more information regarding registration for VAT purposes, refer to the *VAT 404 – Guide for Vendors*.

### 3.2 Branches, divisions and separate enterprises

An association not for gain which carries on its enterprise in branches or divisions, or carries on separate enterprises, may apply in writing for any of those branches, divisions or enterprises to be regarded as separate persons,<sup>13</sup> and to be registered separately for VAT.<sup>14</sup>

<sup>12</sup> Section 12(j).

<sup>13</sup> Section 23(5).

<sup>14</sup> Section 50.

An application for the registration of separate activities must be made in writing to SARS, and will only be allowed where the separate branch, division or enterprise –

- maintains an independent accounting system (for example, separate records to identify the income and expenses of the separate components of the enterprise); and
- can be separately identified by the nature of its activities or its geographic location.

The practical implication of these special provisions is that an association not for gain can apply the registration threshold value of R1 million (or R50 000 for voluntary registration) to each of its branches, divisions or enterprises separately in order to determine which of them must, or could be registered.

This provision is only available to recreational clubs, PBOs and welfare organisations that meet the definition of “association not for gain”.

### Example 5 – Divisional VAT registration

#### *Facts:*

XYZ, a welfare organisation, conducts its activities in different divisions at different geographic locations and maintains independent accounting records for each division. It received the following income for the past 12-month period:

	R
<b>Division A:</b> Rental income from offices – Cape Town:	190 000
<b>Division B:</b> Supply of commercial accommodation to the aged – Durban:	170 000
<b>Division C:</b> Supply of food and beverages at a soup kitchen – Pretoria:	10 000

The association is considering VAT registration for some, or all, of its activities. The association applies to SARS in April 2016 for permission to treat the separate divisions as separate persons for VAT purposes.

What are the VAT implications and options available to the organisation if the permission is granted?

#### *Result:*

**Division A:** The income is less than R1 million. The association is not required to register this division for VAT. It can apply to register the division voluntarily if it chooses.

**Division B:** The organisation can register this division voluntarily as the value of taxable supplies exceeds R120 000<sup>15</sup> (which is the minimum threshold for vendors that supply commercial accommodation to qualify as an “enterprise”).

**Division C:** The organisation can register this division voluntarily for VAT on the basis that it is a welfare activity that is conducted. In this case the minimum threshold of R50 000 for voluntary registration does not apply. (Refer to 3.3.)

To summarise, the organisation can choose to register the activities of Divisions A, B and C, or any one or more of them under one VAT registration number. Alternatively, it can register one or more of divisions A, B or C separately.

<sup>15</sup> Before 1 April 2016, the threshold for commercial accommodation was R60 000.

### 3.3 Special rule for welfare organisations

The general rule regarding the minimum voluntary registration threshold of R50 000 is not applicable to welfare organisations. A welfare organisation is, under section 23(3)(a), allowed to register for VAT without making taxable supplies to the value of the minimum threshold of R50 000. This is because there is a special provision in the definition of “enterprise”<sup>16</sup> which allows a welfare organisation to conduct an enterprise even if supplies are made for no consideration. This special rule only applies in respect of the welfare activities listed in GN112 which are conducted by the welfare organisation (refer also to **2.6** and **Annexure A**).

The benefit to a welfare organisation of registering for VAT is that it will be entitled to deduct input tax in respect of expenses related to its welfare activities, even where no consideration is charged on supplies made by it.<sup>17</sup>

To the extent that the organisation has activities involving the making of exempt supplies as listed in section 12 of the VAT Act, those activities do not form part of that organisation’s enterprise. For example, if a VAT registered welfare organisation makes taxable but also exempt supplies such as the provision of financial services or residential accommodation in a dwelling, it will not be conducting an enterprise to that extent.

Registration will also not be allowed in so far as the activities involve the making of supplies for no consideration in pursuance of religious, philosophical or other belief systems, as these do not qualify as “welfare activities”.<sup>18</sup> Consequently, these supplies are non-taxable and no input tax may be deducted on any expenses incurred to make those supplies. The principle to be observed in this regard is that exempt supplies or other non-taxable activities are not re-characterised as taxable when the organisation that carries on those activities is registered for VAT and qualifies as a “welfare organisation” due to other “welfare activities” which it may carry on.

#### **Example 6 – Animal welfare**

*Facts:*

XYZ is an association not for gain and an approved PBO for income tax purposes. It carries on activities in connection with the rehabilitation of abused and neglected animals as a service to the general public without receiving any payment. The activities are funded exclusively from donations, inheritances and bequests.

Does the organisation qualify as a “welfare organisation” and can it register for VAT?

*Result:*

As the organisation is an association not for gain and an approved PBO, it can qualify as a “welfare organisation” to the extent that it carries on any of the approved “welfare activities” listed in GN112.

<sup>16</sup> Paragraph (b)(ii).

<sup>17</sup> Refer to Interpretation Note 70 “Supplies Made for No Consideration” for more information.

<sup>18</sup> This principle applies no matter how benevolent or altruistic the objectives of the organisation may seem.

Under the heading “Conservation, environment and animal welfare” in GN112, paragraph 4(b) indicates that “the care of animals, including the rehabilitation, or prevention of the ill-treatment of animals” is a welfare activity. Since the activities of XYZ matches this description, it will qualify as a “welfare organisation” to the extent that it carries on that welfare activity. Consequently, it may apply for voluntary VAT registration in that regard which will enable it to deduct input tax and obtain a refund of the VAT which it incurs in carrying on the welfare activity, even though the taxable supplies are made by XYZ for no consideration.

### 3.4 Tax periods

Once registered as a vendor, that person is required to submit returns and account for VAT to SARS according to the allocated tax period.

There are five different tax periods as follows:

- Category A – two-monthly (ending at the end of every odd month). For example, January, March, May, July etc.
- Category B – two-monthly (ending at the end of every even month). For example, February, April, June etc.
- Category C – monthly (compulsory for vendors making taxable supplies greater than R30 million in any consecutive period of 12 months, but may also be requested by any vendor).
- Category D – six-monthly (certain farmers and micro-businesses – taxable supplies less than R1,5 million in any consecutive period of 12 months).
- Category E – annually (only in exceptional circumstances for connected persons with only one transaction per consecutive period of 12 months).

The standard tax period which is usually allocated to a vendor at the time of registration is a two-monthly tax period (for example, Category A or B). The Commissioner may, however, allocate any of the other tax periods to the association not for gain or welfare organisation upon application and provided that the conditions relating to the tax period concerned are met.

For more information on the available tax periods, refer to the *VAT 404 – Guide for Vendors*.

### 3.5 Accounting basis

The general rule is that vendors are required to account for VAT on an invoice basis which means that the vendor must account for the full amount of VAT included in the price of the goods or services supplied or deduct any VAT incurred on the acquisition of goods or services in the tax period when the time of supply has occurred.<sup>19</sup> There are, however, some exceptions to this general rule. SARS may, on application in writing by a vendor direct that that vendor accounts for VAT on a payments basis.<sup>20</sup> This exception is only available to certain vendors which are listed in section 15(2) of the VAT Act.

An association not for gain is one of the entities to which the special rule applies and application may be made to the local SARS office to account for VAT on the payments basis, regardless of

<sup>19</sup> This is however subject to the vendor making the deduction of input tax being in possession of the required documentary proof as required by section 16(2) before making such deduction.

<sup>20</sup> Section 15(2)(a).

the value of its taxable supplies. Under the payments basis, output tax on supplies made is generally accounted for in the tax period that payment is received from the purchaser, and input tax on purchases is deducted in the period that payment is made to the supplier subject to the association not for gain being in possession of the prescribed documentation. It must be noted that even if an association not for gain obtained approval to account for VAT on the payments basis, the association is required to account for VAT in respect of any supply of goods or services for a consideration in excess of R100 000, on the invoice basis.

## Chapter 4

### Output tax and input tax

#### 4.1 Taxable supplies

A “taxable supply” is any supply made by a vendor in the course or furtherance of an enterprise on which VAT should be levied including supplies which are subject to VAT at the zero rate. It also includes deemed supplies which are dealt with under specific provisions of the VAT Act.

#### 4.2 Output tax

“Output tax”<sup>21</sup> is the VAT charged on taxable supplies of goods or services in the course of conducting an enterprise. No output tax is payable on the consideration charged in respect of any exempt supplies, other non-taxable supplies or on the receipt of any donations (refer to 2.3 and 2.5.2 respectively).

##### 4.2.1 Standard-rated supplies

The general rule is that the supply of goods or services by a vendor in the course of conducting that vendor’s enterprise is subject to VAT at the standard rate unless there is a specific exemption or exception that applies. This means that VAT must be levied by the vendor at 14%.

Some examples of supplies on which output tax at the standard rate is payable include the following:

- The sale of key rings, mugs and other paraphernalia;
- The provision of membership in an organisation for which a membership fee is payable;
- The making available of facilities for functions, for example the rental of a hall;
- Raffle tickets sold;
- Entrance fees paid for entrance to a museum or sporting event; and
- Tour guide services, for which a fee is charged.

#### Example 7 – Veterinary services

*Facts:*

Mr G took his dog to XYZ, an animal clinic, for immunisation and paid R114. XYZ is an association not for gain which is registered for VAT.

What is the VAT implication for XYZ?

*Result:*

As XYZ is making a taxable supply of services, it must account for R14 output tax ( $R114 \times 14 / 114$ ). The R114 paid by Mr G is not a donation, but consideration for the immunisation services rendered.

<sup>21</sup> As defined in section 1(1) of the VAT Act.

The supply would however constitute an exempt supply if the service supplied consists of donated goods or services, for example the immunisation is performed by a volunteering veterinarian and the product used for the immunisation was donated to XYZ,. In this case, no output tax would be payable by XYZ but XYZ would also not be entitled to make any input tax deductions in respect of any VAT incurred in order to supply the services.

Note that even if XYZ qualified as a “welfare organisation” under GN 112, it would still be required to charge VAT on the supply and account for output tax in its VAT 201 return for the tax period concerned where it charges a fee in respect of the service.

Should XYZ however not charge a fee, no output tax would have to be accounted for, although, having regard to the special enterprise rule applicable to welfare organisations, XYZ would still be able to deduct the VAT it incurred in order to make the supply as input tax.

### Example 8 – Raffle tickets

#### *Facts:*

A welfare organisation holds a raffle to raise funds to provide food and shelter to refugees. In order to participate in the raffle, persons must buy a ticket for R100. Mrs B buys a ticket for R100, but she also donates an extra amount of R50 to the welfare organisation in support of its cause. Mrs B does not expect anything in return for the donation.

What is the VAT implication for the welfare organisation?

#### *Result:*

The welfare organisation must pay output tax of R12,28 ( $R100 \times 14 / 114$ ) on the sale of the raffle ticket as the VAT-inclusive price paid for the raffle ticket was R100 (and not R150).

No additional goods or services have been supplied in regard to the extra R50 donated, and therefore no output tax must be declared on that receipt. (Refer to the definition of “consideration” and “donation” in **Chapter 2**.)

### 4.2.2 Deemed supplies

In some instances it might be required for a vendor to account for output tax even though no supply of goods or services was actually made by that vendor. In this regard, the VAT Act specifically makes provision for certain supplies to be deemed to be made in the course or furtherance of the vendor’s enterprise. Such deemed supplies are generally subject to VAT at the standard rate but can also be subject to VAT at the zero rate, depending on the circumstances.

The following are examples where a deemed supply would arise:

- Short-term insurance claims that have been paid in connection with the enterprise.
- Grants and subsidies.<sup>22</sup>

<sup>22</sup> For more information, refer to Interpretation Note 39 “VAT Treatment of Public Authorities, Grants and Transfer Payments”.



**Example 9 – Insurance indemnity payments***Facts:*

XYZ, a Home Care Centre, is a welfare organisation and is registered for VAT. A fire breaks out in a building that was used in the course of carrying on a welfare activity. XYZ subsequently receives an indemnity payment (for example, insurance payment) of R228 000 from its insurer to repair the damage.

What is the VAT implication for XYZ?

*Result:*

The indemnity payment is deemed to be consideration received by XYZ for a supply of services performed by it in the course or furtherance of its enterprise.<sup>23</sup> XYZ must account for output tax at the standard rate on the indemnity payment received. It may, however, deduct input tax on the VAT-inclusive costs incurred to repair the damage to the building.

A “grant” means any appropriation, grant-in-aid, subsidy or contribution transferred, granted or paid to a vendor by a public authority, municipality or constitutional institution. The payment concerned may, however, not be in respect of an actual supply of any goods or services procured by the public authority, municipality or constitutional institution making the payment. A grant (or “subsidy” as it is sometimes called) is given by government bodies to vendors such as PBOs if they carry on activities which are in the interest of the general public.

When an association not for gain is a vendor and it receives a grant for the purposes of making taxable supplies to other persons, that vendor is deemed to supply a service to the public authority (for example, a government department, constitutional institution or municipality).<sup>24</sup> The vendor must account for output tax at the zero rate on the deemed supply of a service which arises as a result of the grant or subsidy received.<sup>25</sup>

In the case where a public authority or municipality makes any payment to a designated entity in the course or furtherance of the designated entity’s enterprise, the designated entity is deemed to supply a service to the public authority or municipality concerned.<sup>26</sup> The deemed supply which arises in this regard is normally subject to VAT at the standard rate. A welfare organisation is also a designated entity,<sup>27</sup> however, unlike other designated entities, a special rule applies so that the deemed supply which arises is subject to VAT at the zero rate.<sup>28</sup>

It is important to note that in both the case of the payment by government of a grant to a vendor or a payment by a public authority or municipality to a designated entity, the payment must not be in respect of the actual supply of goods or services to the entity paying the grant.

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<sup>23</sup> Section 8(8) and **2.5.1**.

<sup>24</sup> Section 8(5A).

<sup>25</sup> Section 11(2)(f).

<sup>26</sup> Section 8(5).

<sup>27</sup> Paragraph (iv) of the definition of “designated entity” in section 1(1).

<sup>28</sup> Section 11(2)(n).

**Example 10 – Receipt from a municipality***Facts:*

ABC is a welfare organisation and a vendor which provides rehabilitation care to drug addicts. It receives a subsidy of R600 000 from a municipality which is used to cover expenses related to the provision of services to patients who are booked into the facility for treatment. In order to generate additional funds the centre also operates a clothing shop from which taxable sales totalling R91 200 (including VAT) were made in the previous 12-month period.

What is ABC's output tax liability in respect of the above transactions?

*Result:*

ABC will account for output tax as follows:

		R
Standard-rated supplies (clothing shop):	$R91\,200 \times 14 / 114$	11 200
Zero-rated supplies (subsidy):	$R600\,000 \times 0\%$	<u>nil</u>
<b>Total output tax:</b>		<u>11 200</u>

As is the case with the standard-rated supplies, any VAT incurred in carrying out the welfare activities for which the subsidy ("grant") was intended may be deducted as input tax.

**Example 11 – Government subsidy***Facts:*

XYZ, a welfare organisation and a vendor, receives a monthly subsidy of R3 000 from the Department of Health to assist it to pay for the medicine supplied for no consideration to homeless children.

What is the VAT treatment of the above transaction?

*Result:*

The deemed supply which arises in respect of the receipt of the subsidy is zero-rated for VAT purposes. XYZ therefore calculates output tax on the amount received at the zero rate. XYZ will nevertheless be entitled to deduct the VAT incurred on any medicines purchased to treat the homeless children, as the expense is incurred in the course of carrying on the welfare activity ("enterprise").

**4.2.3 Zero-rated supplies**

Zero-rated supplies are taxable supplies on which VAT is levied at the rate of 0%. The application by a vendor of the zero rate under section 11 must be substantiated by documentary evidence which is acceptable to the Commissioner. The supply of certain basic foodstuffs or the deemed supply arising as set out under 4.2.2 are examples of supplies which are subject to VAT at the zero rate are.

**4.3 Exempt supplies**

An exempt supply is a supply which is exempt from VAT under section 12. It is a supply of goods or services where VAT is not chargeable at either the standard or the zero rate and does not form part of a vendor's taxable turnover. A person who only makes exempt supplies cannot register for VAT or charge VAT on those supplies. As a result, the VAT

which is incurred in the course or furtherance of making these supplies cannot be deducted as input tax (refer to 4.4 for more detail).

The following are examples of exempt supplies which are relevant for purposes of an association not for gain or welfare organisation:

- The supply of a dwelling (refer to **Chapter 5** for a discussion on the supply of accommodation).
- The supply of any donated goods or services by an association not for gain.
- The supply of educational services.

#### 4.3.1 Donated goods or services

The supply by an association not for gain of any donated goods or services is exempt from VAT.<sup>29</sup> The association not for gain therefore does not have to account for output tax in respect of these supplies. The same exemption applies where the association not for gain makes or manufactures any other goods which it supplies, and at least 80% of the value of the materials used to manufacture the goods consists of donated goods. Remember that a donation is a payment which is made voluntarily and the person making the payment must not receive any kind of identifiable direct valuable benefit (refer to the definition of “donation” in **Chapter 2**).

##### Example 12 – Cake sales

*Facts:*

XYZ, an association not for gain and a vendor, arranges a cake sale to raise funds and obtains a donation of 50 cakes from a local bakery which are to be sold at the event.

Is the supply of cakes by XYZ subject to VAT?

*Result:*

Because the cakes were donated, XYZ may not levy VAT on the sale of the cakes, as the sale is an exempt supply. XYZ will also not be entitled to deduct any input tax to the extent of the exempt supplies

Should XYZ however be a welfare organisation and the cake sale is held in the course or furtherance of the organisation’s welfare activities, the exemption does not apply. In this case, XYZ would be making taxable supplies for a consideration and must account for output tax on the sales and may deduct the VAT incurred as input tax.

##### Example 13 – Sale of furniture

*Facts:*

An association not for gain (which is a vendor) has as its main objective, the provision of care for the physically disabled. The association also manufactures and sells wooden furniture which is made primarily from donated materials (90% of the value). The association purchases the remaining 10% of the materials, such as glue and screws, required to manufacture the furniture.

Is the supply of furniture by the association not for gain subject to VAT?

<sup>29</sup> Section 12(b).

*Result:*

The sale of the furniture is exempt from VAT as more than 80% of the value of the materials consists of donated goods. The VAT paid by the association on the 10% of the material purchased may not be deducted as input tax, regardless of whether the furniture was sold at a profit or at a loss as the costs were incurred in order for the association to make exempt supplies. The same rules apply if the furniture is given away for no consideration. Furthermore, the association will only be entitled to deduct a portion of the VAT incurred on general overheads (such as electricity) which are for taxable supplies as well as for exempt supplies.

**Example 14 – Sale of donated goods***Facts:*

Ms F purchased sport equipment from ABC, a welfare organisation and a vendor. The sport equipment was previously donated to ABC by a business in the area.

*Result:*

The supply of the sport equipment in the course or furtherance of ABC's welfare activities is subject to VAT at the standard rate. ABC must therefore charge output tax on the sale and may deduct any VAT incurred by it in the course of making these supplies.

**4.3.2 The supply of educational services**

The supply of educational services by the following entities is exempt from VAT:<sup>30</sup>

- A state school registered under the South African Schools Act, 1996 or a public or private college registered under the Further Education and Training Colleges Act 16 of 2006;
- Institutions providing higher education which are established under the Higher Education Act, 1997; and
- PBOs providing adult basic education and training including literacy and numeracy education registered under the Adult Basic Education and Training Act 52 of 2000, education and training of religious or social workers, training or education of persons with a permanent physical or mental impairment or courses to enable indigent persons to enter a higher education institution.

It is important to note that the supply of educational services by a welfare organisation which is registered as one of the educational institutions as set out above, is an exempt supply. The welfare organisation is thus, to the extent that it makes these exempt supplies, notwithstanding the fact that it might be carrying on certain PBAs, deemed not to be carrying on an enterprise. To this extent, the welfare organisation is not entitled to deduct any VAT incurred in the course or furtherance of making these exempt supplies.

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<sup>30</sup> Section 12(h).

## 4.4 Input tax

### 4.4.1 General rules

“Input tax” is the VAT incurred by a vendor in the course of making taxable supplies. It also includes VAT deemed to have been incurred on second-hand goods acquired under a non-taxable supply, for example, where the goods were acquired from a non-vendor. This VAT is generally referred to as “notional input tax” and is calculated by applying the tax fraction to the purchase price. The deduction of notional input tax is also limited to the extent that the goods have been paid for by the recipient. In order for a vendor to make a deduction of input tax, the vendor must be in possession of the prescribed documentation as set out in section 16(2).

The normal rules for deducting input tax that apply to all vendors are also applicable to associations not for gain. Remember that input tax may not be deducted on goods and services acquired for making exempt supplies or supplies which are outside the scope of VAT, for example, when goods or services are acquired for private purposes. When any VAT is incurred on expenses for both taxable and non-taxable (for example exempt) purposes, the input tax must be apportioned. (Refer to **4.5** below.)

Welfare organisations enjoy input tax benefits that are not available to other vendors. These benefits include the ability to deduct input tax in respect of its welfare activities even if those supplies are not made for a consideration. Furthermore, a welfare organisation is not subject to the general disallowance of input tax claims on entertainment expenses where the entertainment is acquired for welfare purposes, for example, accommodation and meals for street children. (Refer to **Chapter 5** for more detail.)

For more information on how and when to make a deduction of input tax, refer to the *VAT 404 – Guide for Vendors*.

### 4.4.2 Soliciting of donations

If an association not for gain (not being a welfare organisation) incurs VAT on expenses in soliciting donations, it may not deduct the VAT incurred as input tax. This is because the expenses are not incurred by the association for the purpose of making taxable supplies for a consideration. A welfare organisation is however entitled to deduct the VAT incurred in soliciting donations as input tax, as this activity is integral to the welfare activities which fall within the ambit of its enterprise.

#### **Example 15 – Donations**

*Facts:*

A mining company (vendor) donates R100 000 in cash to ABC, an association not for gain (vendor). ABC is not a welfare organisation.

What is the VAT implication for ABC?

*Result:*

ABC does not declare output tax on the donation. Should the donated cash be spent on enterprise activities or used to buy goods for the purpose of making taxable supplies, the society will be able to deduct input tax on those purchases subject to the normal rules for deducting input tax. The society may not deduct input tax on expenses incurred to obtain the donation, for example printing, postage and entertainment.

**Example 16 – Marketing costs***Facts:*

A welfare organisation (vendor) incurs advertising and printing costs in securing a donation which will be used to further its welfare activities. Is the welfare organisation entitled to deduct input tax in respect of such costs incurred?

*Result:*

The welfare organisation may deduct the VAT paid as input tax even though output tax will not be declared on the donation received as the costs were incurred in the course or furtherance of its welfare activities. The deduction is however subject to the retention of the required supporting documents, for example tax invoices.

**Example 17 – Costs incurred to solicit donations***Facts:*

In addition to its religious activities, a church (association not for gain) conducts trading activities from the church building, in respect of which it is registered as a vendor. It incurs printing, administration, stationery and other incidental costs (including VAT) in soliciting donations from its members and holding street collections. The donations are to be used to build a new church.

Is the church entitled to an input tax deduction in respect of the listed costs incurred?

*Result:*

Since the conducting of religious activities is not a welfare activity or an “enterprise” activity, the church may not deduct the full amount of VAT on expenses incurred in soliciting donations or building the new church as “input tax”. An apportionment of input tax must be conducted.

**4.5 Apportionment of input tax**

The VAT paid on the acquisition of any goods or services wholly for the purpose of making taxable supplies may be deducted in full. If it is acquired wholly for purposes of making exempt or other non-taxable supplies, no input tax may be deducted. If the goods or services are however acquired for purposes of making both taxable and non-taxable (for example exempt supplies) supplies, only a portion of the VAT incurred may be deducted as input tax. If this is the case, the VAT incurred on any expenses to make those supplies must firstly be directly attributed to the appropriate taxable or non-taxable supplies and thereafter, apportioned. In this regard, the apportionment ratio must be determined by using an approved method so that only a fair and reasonable portion of the VAT incurred for the mixed purpose is deducted as input tax.<sup>31</sup> The turnover-based method is the only standard method that has been approved and which may be used for apportioning input tax without prior approval provided that the method is fair and reasonable.

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<sup>31</sup> Section 17(1).

The standard turnover-based apportionment ratio<sup>32</sup> is calculated as follows:

$$y = \frac{a}{a+b+c} \times \frac{100}{1}$$

**Where:**

- “y” = the apportionment ratio/percentage;  
 “a” = the value of all taxable supplies (including deemed taxable supplies) made during the period;  
 “b” = the value of all exempt supplies made during the period; and  
 “c” = the sum of any other amounts not included in “a” or “b” in the formula, which were received or which accrued during the period (whether in respect of a supply or not).

**Notes:**

1. The term “value” excludes any VAT component.
2. “c” in the formula will typically include items such as dividends and statutory fines (if any).
3. Exclude from the calculation the value of any capital goods or services supplied, unless supplied under a rental agreement/operating lease (that is, not a financial lease or instalment credit agreement).<sup>33</sup>
4. Exclude from the calculation the value of any goods or services supplied where input tax on those goods or services was specifically denied.
5. The apportionment percentage should be rounded off to two decimal places.
6. Where the formula yields an apportionment ratio/percentage of 95% or more, the full amount of VAT incurred on mixed expenses may be deducted (referred to as the *de minimis* rule).

In circumstances where the turnover-based method is inappropriate because it produces an absurd result, proves impossible to use, or does not yield a fair approximation of the extent of taxable application of the enterprise’s VAT-inclusive expenses, the vendor must approach SARS to obtain consensus on an alternative method which yields a more accurate result. In deciding whether the turnover-based method is appropriate, the vendor must apply a common-sense approach which would be applied by a reasonable person. The method must therefore achieve a “fair and reasonable” result which is a proper reflection of the manner in which the vendor’s resources (business inputs) are applied for making taxable and non-taxable supplies respectively. Applications must be emailed to [VATRulings@sars.gov.za](mailto:VATRulings@sars.gov.za).

With the implementation of the TA Act, the effective date of application of an approved apportionment method has to be within the year of assessment (where the vendor is a taxpayer) or within 12 months ending on the last day of February or the last day of the vendor’s financial year (where the vendor is not a taxpayer as defined in section 1 of the Income Tax Act), during which the application for the aforementioned method was made.<sup>34</sup> The back-dating of an apportionment ruling is therefore limited to these periods.

<sup>32</sup> Refer to Binding General Ruling 16 and the *VAT 404 – Guide for Vendors* regarding the standard apportionment method. If the extent to which the goods or services are later applied in the enterprise increases or decreases, an adjustment may be required at that later date.

<sup>33</sup> This exclusion only applies to a vendor that does not usually supply capital items on a regular basis as a normal part of the business, unless such items are supplied under an instalment credit agreement.

<sup>34</sup> Section 17(1)(iii).

**Example 18 – Apportionment***Facts:*

A VAT registered association not for gain is engaged in the following activities from which it earned the annual income specified:

	R
• Rental of office space (taxable supply, excl.)	400 000
• Commercial accommodation supplied to the aged (taxable supplies, excl.)	200 000
• Supply of residential accommodation (dwellings) to the aged (exempt supplies)	<u>400 000</u>
	<b><u>1 000 000</u></b>

The association not for gain has incurred the following expenses (including VAT) during a tax period:

	R
• Electrical repairs to the office	11 400
• Security gates fitted to the dwellings	5 570
• Paint used for all the buildings	114 000
• Garden services for the entire premises	9 120

Is the turnover-based method appropriate to calculate the amount of input tax deductible by the association not for gain?

*Result:*

The input tax apportionment percentage is calculated as follows:

$$\frac{R400\,000 \text{ (rental of office space)} + R200\,000 \text{ (commercial accommodation)}}{R1\,000\,000 \text{ (total value of all supplies and any other income)}} \times \frac{100}{1} = \mathbf{60\%}$$

The amount of input tax deductible by the association not for gain for the tax period in respect of the listed expenses is calculated as follows:

	R
• Electrical repairs to the office (wholly for taxable supplies: R11 400 × 14 / 114)	1 400
• Security gates fitted to the dwellings (wholly for exempt supplies)	nil
• Paint used for all the buildings (mixed supplies: R114 000 × 14 / 114 × 60%)	8 400
• Garden services for the entire premises (mixed supplies: R9 120 × 14 / 114 × 60%)	<u>672</u>
<b>Input tax</b>	<b><u>10 472</u></b>

The association not for gain applies the turnover-based method of apportionment as it results in a proper reflection of the manner in which the association's resources are applied for making both taxable and non-taxable supplies.

The association not for gain may, however, only deduct the input tax if the relevant supporting documents (for example, tax invoices) are retained.<sup>35</sup>

<sup>35</sup> Section 16(2) read with section 16(3).



## 4.6 Denial of input tax

### 4.6.1 Entertainment

The VAT Act provides that input tax is denied on certain expenses even if the expenses are incurred in the course of conducting an enterprise. In this regard, the VAT incurred on the acquisition of any goods or services for purposes of entertainment, is not deductible as input tax. “Entertainment” is the provision of any food, beverages, accommodation, entertainment, amusement, recreation or hospitality of any kind by a vendor to another person.

The VAT Act, however, allows a vendor to deduct input tax in respect of entertainment expenses incurred if the vendor supplies the entertainment in the course of an enterprise which continuously or regularly supplies entertainment to clients or customers and the entertainment is supplied at a charge which covers both the direct and indirect costs of the entertainment or the charge is equal to the open market value of the supply of entertainment. Therefore, if a vendor incurs entertainment expenses and provides it free of charge to other persons, that vendor is generally not entitled to input tax on the acquisition of the entertainment. (Refer to the *VAT 411 – Guide for Entertainment, Accommodation and Catering* for further details.)

The VAT Act provides a special rule for welfare organisations which allows input tax to be deducted on entertainment expenses incurred, if the goods or services are acquired for the purpose of making supplies in the furtherance of its aims and objects (refer to **Annexure A**). This applies even if the goods or services are supplied free of charge to another person.

A welfare organisation may, for example, deduct input tax in respect of the following:

- The acquisition of food for supply to homeless children (Welfare and humanitarian activity).
- The provision of meals and accommodation in a clinic to poor and needy persons (Health care activity).

#### **Example 19 – Free meals**

*Facts:*

ABC, which is a vendor and a welfare organisation, provides free meals to indigent persons. It spends R15 000 (inclusive of VAT) in acquiring food (not subject to the zero rate) and other entertainment goods in order to carry on the welfare activities.

*Result:*

ABC is entitled to deduct input tax of R1 842,11 ( $R15\,000 \times 14 / 114$ ), even though the meals are supplied free of charge. This rule is only applicable to a welfare organisation to the extent that it carries on welfare activities listed in GN 112.

## Chapter 5

### Miscellaneous

#### 5.1 General

As already mentioned in this guide, there are various special provisions in the VAT Act that apply to associations not for gain and welfare organisations.

This chapter considers those provisions that are important for purposes of an association not for gain or welfare organisation that have not already been discussed.

#### 5.2 Importation of certain goods not for resale

Goods which have been donated by a non-resident to an association not for gain and imported by that association under conditions prescribed by the International Trade Administration Commission (ITAC), are exempt from VAT on importation.<sup>36</sup> The Customs and Excise Act<sup>37</sup> also provides for a rebate of customs duty on goods imported in similar circumstances. The importation of clothing and foodstuffs are specifically excluded under certain rebate items.<sup>38</sup> The exemption is also subject to the conditions mentioned below.

The association not for gain must satisfy SARS that the goods will be used exclusively –

- for educational, religious or welfare purposes; or
- in the furtherance of that association's objectives directed to the provision of educational, medical or welfare services or scientific research; or
- for issue to, or treatment of, indigent persons, free of charge.

Furthermore, the recipient association not for gain responsible for distributing the goods must provide an undertaking that –

- the goods are for the exclusive use by the organisation or for free distribution;
- the goods will not be sold, leased, hired or otherwise disposed of for gain; and
- no consideration or other counter-performance may be accepted by any person in respect of such goods.

All documents and information pertaining to the exemption must be submitted to SARS prior to clearing the goods at the port of entry. Separate documentation must be lodged in respect of each donation in respect of which an exemption is required.

Further information regarding the procedure and the documentation which must be submitted to SARS when applying for the exemption is set out in detail in **Annexure B**.

Alternatively, the application can also be e-mailed to **VATExemption@sars.gov.za**.

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<sup>36</sup> Refer to paragraph 5(b) of Schedule 1 to the VAT Act.

<sup>37</sup> The Customs and Excise Act No. 91 of 1964.

<sup>38</sup> Rebate item 405.04.00.00.05.00/05 excludes clothing and rebate item 405.04.00.00.06.09 excludes clothing and foodstuff.

### 5.3 The supply of accommodation

#### 5.3.1 The supply of a “dwelling” (exempt accommodation)

The supply of accommodation in a dwelling under an agreement for the letting and hiring of a dwelling is exempt from VAT. Therefore, no output tax must be accounted for and no input tax may be deducted in respect of any VAT incurred in the making of these supplies. A dwelling is typically regarded as a house or flat used for private residential purposes.

Examples include:

- The letting of a flat under a rental agreement;
- The letting of a room in a house under a rental agreement; and
- The purchase of a life right in a unit in a retirement village.

#### 5.3.2 The supply of “commercial accommodation” (taxable accommodation)

The supply of commercial accommodation is a taxable supply and it includes lodging or board and lodging supplied together with domestic goods and services (for example, meals, laundry services, the use of a telephone or television set) in a house, flat, apartment, room, hotel, guest house etc. The total value of the supplies of the commercial accommodation must exceed or be likely to exceed R120 000 in a period of 12 months before the activity will fall within the definition of an “enterprise” as defined and the person will be able to register as a vendor.

Board and lodging is not always taxed on the full amount of consideration. This is an attempt to treat people living in commercial accommodation on a similar basis as those living in their own or rented homes. When a person stays for longer than 28 days in any hotel, guesthouse, inn, boarding house, retirement home, etc., the consideration for the supply of the commercial accommodation is deemed to only be 60% of the all-inclusive charge for the accommodation and domestic goods or services. This is the amount which will be subject to VAT.

Domestic goods and services include the provision of meals, and certain facilities or amenities such as furniture, fittings, telephone, television, radio, cleaning, maintenance, water, electricity, gas, air conditioning and heating, where it is included in the price, and as part of the accommodation supplied.

Any domestic goods and services, or other goods and services which are charged or supplied separately, and which are not included in the all-inclusive tariff, will attract VAT at the standard rate on the full tariff if the person stays for 28 days or less (refer to **Example 20** below).

#### **Example 20 – Retirement home**

*Facts:*

After going on pension on 1 October 2015, Mr D moves into a government subsidised retirement home as his new permanent residence. The monthly charge is R4 000 (before VAT is calculated) which includes all meals. The home charges a separate amount of R100 plus VAT for birthday teas which are not included in the monthly all-inclusive charge for the accommodation and other domestic goods and services provided to the residents. Mr D’s birthday tea is held in October 2015.

Calculate the total of Mr D’s account (including VAT) for October 2015.

*Result:*

Mr D's account for the month of October 2015 would be as follows:

	R
Accommodation for October 2015:	4 000
R4 000 × 60% = R2 400	
VAT @ 14% on R2 400	336
Birthday Tea	100
VAT @ 14 % on additional charge of R100	<u>14</u>
<b>Total payable (including VAT)</b>	<b><u>4 450</u></b>

*Interaction between subsidy and consideration for other supplies*

The State subsidises the establishment (vendor) which supplies the commercial accommodation. Consequently, the retirement establishment is deemed to supply a service to the State in respect of the grant received. This deemed service is subject to VAT at the zero rate.

Consideration charged to Mr D by the home for any actual supplies made, would however attract VAT at the standard rate in the normal manner, irrespective of whether the enterprise is subsidised or not.

The supply of accommodation and domestic goods and services made by the home to Mr D will therefore be subject to VAT at the standard rate regardless of whether he pays the charges out of any State pension which he may receive or from other funds. Should Mr D pass away during the first month of his stay, the account may still be calculated at 60% from the first day as he would have resided in the home as his dwelling.

**Example 21 – Children's home***Facts:*

ABC is an association not for gain that provides care and board and lodging (commercial accommodation) to 20 children. It is registered as a vendor under Category C tax period (monthly) and accounts for VAT on the payments basis. For the tax period ending July 2014, ABC received R1 000 from each of five parents whose children stay at the home, and an allowance (grant) from the State of R700 for each of the remaining 15 children. In addition, during the tax period, ABC raises R2 000 from the sale of donated goods, earns R500 interest on investments, receives R570 rent for an advertising board on the premises and collects R7 000 in donations. All the children stay at ABC for periods in excess of 28 days. When a fee is charged for the child to stay at the home, the fee includes all domestic goods and services such as laundry, food, the use of furniture and amenities.

The cost of goods and services acquired to make taxable supplies of commercial accommodation and domestic goods and services for the July 2014 tax period amounted to R22 800 (inclusive of VAT).

*Result:*

The VAT payable by, or refundable to ABC for the month is calculated as follows:

#### OUTPUT TAX

<b>Standard-rated:</b>	<b>R</b>
Advertising board R570 × 14 / 114	70,00
Accommodation: 5 children × R1 000 each = R5 000 × 60% × 14 / 114	<u>368,42</u>
<i>(Only 60% of the value of supply is subject to VAT as the children stayed for a period in excess of 28 days at an all-inclusive charge of R1 000)</i>	438,42
<b>Zero-rated:</b> <sup>39</sup>	
Child allowance (State grant): R700 × 15 children = R10 500 × 0%	<u>NIL</u>
<b>TOTAL OUTPUT TAX</b>	<b>438,42</b>

#### INPUT TAX

VAT paid on purchases (for commercial accommodation): R22 800 × 14 / 114	<u><b>2 800,00</b></u>
<b>VAT REFUNDABLE</b>	<u><b>2 361,58</b></u>

**Notes:**

1. The sale of donated goods (R2 000) is exempt from VAT.
2. The donation received (R7 000) is not subject to VAT as it is not consideration for a taxable supply.
3. Interest earned (R500) is exempt from VAT.
4. The child grants accrue to the home as guardian and not to the children and are therefore subject to VAT at the zero rate (refer to **4.2.2**).
5. Apportionment of input tax is not required as the expenses incurred by the association can be directly attributed to taxable supplies (for example, providing commercial accommodation).

## 5.4 Exemption from transfer duty for public benefit organisations

Transfer duty is levied under the Transfer Duty Act No. 40 of 1949 (TD Act) on a sliding scale basis on the value of any “fixed property” acquired by any person. Transfer duty will only apply if the property transaction is not subject to VAT. A PBO is, however, in terms of section 9(1)(c) of the TD Act exempt from the payment of transfer duty on any property acquired provided that the whole or substantially the whole of the property is used for the purpose of carrying on one or more of the PBAs. (For more information on this subject, refer to the *Tax Exemption Guide for Public Benefit Organisations in South Africa*.)

<sup>39</sup> Although there is no actual output tax to be paid in respect of zero-rated supplies, vendors are nevertheless required to declare any amounts which have been received in the form of grants or subsidies, or other amounts which are subject to VAT at the zero rate in field 2 of the VAT 201 return.

## Glossary

- Association not for gain** Any religious institution, society or organisation which is carried on, otherwise than for profit and in terms of its written constitution which governs it –
- is required to use any property or income solely in the furtherance of its aims;
  - is prohibited to transfer any portion of property or income to any person, except as reasonable remuneration for services provided; and
  - is obliged, at its winding-up or liquidation to give or transfer its assets after satisfaction of debts, to another similar society.

It can also be an educational institution of a public character which –

- is carried on not for profit;
- is in terms of its memorandum which governs it required to use any property or income solely in the furtherance of its aims; and
- is prohibited to transfer any portion of property or income to any person, except as reasonable remuneration for services rendered.

**Commercial accommodation**

The supply of 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,
- in a home for the aged, children, physically, or mentally handicapped persons,
- in a hospice.

In instances where a person carries on an enterprise or activity supplying commercial accommodation, the total value of taxable supplies made by that person must exceed (or must reasonably be expected to exceed) R120 000 in any 12-month consecutive period in order for the commercial accommodation activities to be deemed an “enterprise”.

A dwelling supplied in terms of an agreement for letting and hiring thereof is not regarded as commercial accommodation.

Also refer to “domestic goods and services” below in respect of values.

**Consideration**

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

Any act of forbearance whether voluntary or not for the inducement of a supply of goods or services will constitute consideration, but it excludes any donation made to an association not for gain. A “deposit” is also not consideration unless and until it is applied as such. Deposits are usually paid to secure a future supply of goods or services or as a security for borrowed goods until their safe return to the owner.

**Consideration  
(continued)**

A security deposit only constitutes “consideration” as defined, if it is later applied as such. Any prepayment for a supply constitutes consideration and is different from a security deposit.

A supply for no consideration has a value of “nil”, except in certain cases when the supply is between connected persons.

**Domestic goods and services**

This *includes* –

- cleaning and maintenance;
- electricity, gas, water, air conditioning or heating;
- a telephone, television set, radio or other similar article;
- furniture and other fittings;
- meals;
- laundry;
- nursing services ; or
- water,

when supplied together with commercial accommodation.

If a person stays for longer than 28 days in any hotel, guesthouse, inn, boarding house, retirement home, or similar establishment, only 60% of an all-inclusive charge for accommodation and domestic goods or services will be subject to VAT. Refer to section 10(10) of the VAT Act for more information.

**Donation**

A payment made voluntarily to any association not for gain for the carrying out of its objectives. The person making the payment must not receive any identifiable direct valuable benefit as a result of the gift.

**Dwelling**

Except where used in the supply of commercial accommodation, any building, premises, structure or any other place, or any part thereof, used or intended for use predominantly as a place of residence for any natural person, including all fixtures and fittings.

**Exempt supplies**

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

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

Examples:

- Certain financial services.
- Supplies by any "association not for gain" of certain donated goods or services.
- Rental of accommodation in any "dwelling" including employee housing.
- Certain educational services.
- Services of employee organisations (for example, Trade unions).
- Certain services to members of a sectional title, share block or retirement housing scheme funded out of levies. (Not applicable to timeshare schemes).

- Public road and railway transport for fare-paying passengers and their luggage.
- Childcare services in a crèche or after school care centre.

**Goods***Includes –*

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

*Excludes –*

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

**Grant**

An amount for which a public authority, constitutional institution or municipality has budgeted, and is paid over to other institutions or persons. The relevant public authority, constitutional institution or municipality may not, however, receive any goods or services in return for these payments.

**Input tax**

This is the tax paid by the recipient to the supplier of goods or services. Input tax may only be deducted by the recipient vendor if the goods or services are acquired for making taxable supplies and if the vendor is in possession of the relevant documentary proof set out in section 16(2). An apportionment of input tax must be made if goods or services are acquired only partly for making taxable supplies. In the case of an importation, the vendor must be in possession of a valid bill of entry and proof that the VAT has been paid to Customs.

In certain instances, input tax may also be deducted on non-taxable supplies of second-hand goods acquired by the vendor, but the vendor must retain a proper record of the details of the transaction on form VAT 264 or an alternative document containing the information acceptable to the Commissioner in certain prescribed circumstances. Should the second-hand goods acquired constitute fixed property, the transfer of which requires registration in a Deeds Registry, input tax may only be deducted once the property has been registered in the name of the vendor claiming a deduction.

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



<b>Non-taxable supplies</b>	This term refers to supplies which are not listed as exempt supplies in section 12. These supplies are normally referred to as being “out-of-scope” as they fall outside the scope of the definition of “enterprise” or the VAT Act. Out-of-scope supplies are treated in the same manner as exempt supplies in that no VAT is charged and no input tax may be deducted in respect of any goods or services acquired to make those supplies. Refer to Interpretation Note 70 “Supplies Made for No Consideration” for more information in this regard.
<b>Output tax</b>	The tax (VAT) charged by a vendor on a taxable supply of goods or services.
<b>Person</b>	The entity which is liable for VAT registration and includes – <ul style="list-style-type: none"><li>• sole proprietor, for example, a natural person;</li><li>• company/close corporation;</li><li>• deceased/insolvent estate;</li><li>• trusts;</li><li>• incorporated body of persons for example, an entity established under its own enabling Act of Parliament;</li><li>• unincorporated body of persons such as a partnership; club, society or association with its own written constitution;</li><li>• foreign donor funded project; and</li><li>• municipalities/public authorities.</li></ul>
<b>SARS</b>	The acronym for the South African Revenue Service.
<b>Services</b>	The term “services” is very broad and <b>includes</b> – <ul style="list-style-type: none"><li>• the granting, assignment, cession, surrender of any right;</li><li>• the making available of any facility or advantage; and</li><li>• certain acts which are deemed to be services in terms of section 8 of the VAT Act.</li></ul> The term <b>excludes</b> – <ul style="list-style-type: none"><li>• a supply of “goods”;</li><li>• money; and</li><li>• any stamp, form or card which falls into the definition of “goods”.</li></ul> <p><u>Examples:</u></p> <ul style="list-style-type: none"><li>• Commercial services – electricians, plumbers, builders.</li><li>• Professional services – doctors, accountants, lawyers.</li><li>• Advertising agencies.</li><li>• Intellectual property rights – patents, trademarks, copy rights, know-how.</li><li>• Restraint of trade.</li><li>• Cover under an insurance contract.</li></ul>

<b>Supply</b>	<p>This term is defined very widely. It 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.</p>
<b>Taxable supplies</b>	<p>These are supplies which are chargeable with tax under the VAT Act. There are two types of taxable supplies, namely –</p> <ul style="list-style-type: none"><li>• those which attract the zero rate (listed in section 11 of the VAT Act); and</li><li>• those on which the standard rate of 14% must be charged.</li></ul> <p>A taxable supply does not include any exempt supply listed in section 12 of the VAT Act, even if supplied by a registered vendor.</p>
<b>Time of supply</b>	<p>The general rule with regard to the time of supply is that the supply takes place at the earlier of the time that an invoice is issued in respect of that supply or the time that any payment of consideration is received by the supplier. There are however special rules applicable in certain instances. Refer to the <i>VAT 404 – Guide for Vendors</i> for more information in this regard.</p>
<b>VAT</b>	<p>The acronym for value-added tax.</p>
<b>Vendor</b>	<p>This includes any person who is registered, or is required to be registered for VAT. Any person that makes taxable supplies in excess of the R1 million compulsory VAT registration threshold prescribed in section 23 is a vendor, whether that person has actually registered for VAT or not. The Commissioner may, in certain instances, determine the date from which a person is a vendor.</p> <p>A person can also register voluntarily as a vendor if the value of taxable supplies made is in excess of R50 000, or can reasonably be expected to exceed this amount (refer to Regulation R.447 published in <i>Government Gazette No. 38836</i> dated 29 May 2015) in any 12-month consecutive period. For persons that supply “commercial accommodation”, the voluntary registration threshold is R120 000 (before 1 April 2016, the threshold was R60 000). A person who continuously carries on an activity of a nature which results in taxable supplies to be made only after a period of time, can also register voluntarily for VAT. Refer to R.446 published in <i>Government Gazette No. 38836</i> dated 29 May 2015 for the nature of activities under which this would apply.</p> <p>A welfare organisation may register as a vendor to the extent that it carries on “welfare activities” even if it makes supplies to carry out those welfare activities for no consideration.</p>
<b>Welfare activities</b>	<p>Welfare activities for VAT purposes are listed in the Regulation No. 112 in the <i>Government Gazette No. 27235</i> issued on 11 February 2005. Welfare activities must be carried on by an approved PBO for income tax purposes before the organisation may qualify as a welfare organisation.</p>

**Welfare organisation**

This is any PBO that has been approved by the Commissioner in terms of section 30(3) of the Income Tax Act which carries on a welfare activity determined by the Minister to be of a philanthropic or benevolent nature, under the following headings:

- (a) Welfare and humanitarian.
- (b) Health care.
- (c) Land and housing.
- (d) Education and development.
- (e) Conservation, environment and animal welfare.

The VAT Act contains specific benefits which apply to welfare organisations. The main benefit is that it can register for VAT and obtain a refund of VAT that it incurs to the extent that it carries on welfare activities, even if those supplies are made for no consideration.

**Annexure A – Determination of welfare activities for purposes of the definition of “welfare organisation” in section 1 of the Value-Added Tax Act, 1991**

Published as Government Notice No. 112 in the *Government Gazette* No. 27235 on 11 February 2005.

**1. WELFARE AND HUMANITARIAN**

- (a) The care or counselling of, or the provision of educational programmes relating to abandoned abused neglected, orphaned or homeless children.
- (b) The care or counselling of poor and needy persons where more than 90 per cent of those persons to whom the care or counselling are provided are over the age of 60.
- (c) The care or counselling of, or the provision of educational programmes relating to physically or mentally abused and traumatised persons.
- (d) The provision of disaster relief.
- (e) The rescue or care of persons in distress.
- (f) The provision of poverty relief.
- (g) Rehabilitative care or counselling or education of prisoners, former prisoners and convicted offenders and persons awaiting trial.
- (h) The rehabilitation, care or counselling of persons addicted to a dependence-forming substance or the provision of preventative and educational programmes regarding addiction to dependence-forming substances.
- (i) Conflict resolution, the promotion of reconciliation, mutual respect and tolerance between the various peoples of South Africa.
- (j) The promotion or advocacy of human rights and democracy.
- (k) The protection of the safety of the general public.
- (l) The promotion or protection of family stability.
- (m) The provision of legal services for poor and needy persons.
- (n) The provision of facilities for the protection and care of children under school-going age of poor and needy parents, other than the services contemplated in section 12(j) of the Value-Added Tax Act, 1991.
- (o) The promotion or protection of the rights and interests of, and the care of, asylum seekers and refugees.
- (p) Community development for poor and needy persons and anti-poverty initiative, including-
  - (i) the promotion of community-based projects relating to self-help, empowerment, capacity building, skills development and anti-poverty;
  - (ii) the provision of training, support or assistance to community-based projects contemplated in item (i); or
  - (iii) the provision of training, support or assistance to emerging micro enterprises to improve capacity to start and manage businesses, which may include the granting of loans on such conditions as may be prescribed by the Minister by way of regulation.
- (q) The promotion of access to media and a free press.

## 2. HEALTH CARE

- (a) The provision of health care services to poor and needy persons.
- (b) The care or counselling of terminally ill persons or persons with a severe physical or mental disability, and the counselling of their families in this regard.
- (c) The prevention of HIV infection, the provision of preventative and educational programmes relating to HIV/Aids.
- (d) The care, counselling or treatment of persons afflicted with HIV/Aids, including the care or counselling of their families and dependants in this regard.
- (e) The provision of blood transfusion, organ donor or similar services.
- (f) The provision of primary health care education, sex education or family planning.

## 3. LAND AND HOUSING

- (a) The development, construction, upgrading, conversion or procurement of housing units for the benefit of persons whose monthly household income falls within the housing subsidy eligibility requirements of the National Housing code published pursuant to section 4 of the Housing Act, 1997 (Act No 107 of 1997).
- (b) The development, servicing, upgrading or procurement of stands, or the provision of building materials, for purposes of the activities contemplated in subparagraph (a).
- (c) Building and equipping of clinics, crèches, community centres, sports facilities or other facilities of a similar nature for the benefit of the poor and needy.
- (d) The protection, enforcement or improvement of the rights of poor and needy tenants, labour tenants or occupiers, to use or occupy land or housing.

## 4. EDUCATION AND DEVELOPMENT

- (a) The provision of school buildings or equipment for public schools and educational institutions engaged in exempt activities contemplated in section 12(h) of the Value-Added Tax Act, 1991, for the benefit of the poor and needy and physically disabled.
- (b) Career guidance and counselling services provided to persons for purposes of attending any school or higher education institution as envisaged in section 12(h)(i)(aa) and (bb) of the Value-Added Tax Act, 1991.
- (c) Programmes addressing life skill needs of children at schools, pre-schools or educational institutions as envisaged in section 12(h) of the Value-Added Tax Act, 1991.
- (d) Educational enrichment, academic support, supplementary tuition or outreach programmes for the poor and needy.
- (e) Training for unemployed persons with the purpose of enabling them to obtain employment.

## 5. CONSERVATION, ENVIRONMENT AND ANIMAL WELFARE

- (a) Engaging in the conservation, rehabilitation or protection of the natural environment, including flora, fauna or the biosphere.
- (b) The care of animals, including the rehabilitation, or prevention of the ill-treatment of animals.
- (c) The promotion of, and education and training programmes relating to environmental awareness, greening, clean-up or sustainable development projects.

## Annexure B – Documentary requirements and procedure regarding the exemption from VAT on the importation of certain donated goods

All associations not for gain need to submit the following documents and information to SARS in respect of each donation of goods qualifying for exemption under section 13(3) read with paragraph 5 of Schedule 1 to the VAT Act prior to clearing the goods from the relevant port of entry:

- (1) Letter from the donor confirming that the goods were donated. The letter must contain the following information relating to the donor:
  - The registered name<sup>40</sup> of the organisation or, if an individual, the name of the donor;
  - Address;
  - Signature of the donor or donor's representative;
  - Contact details; and
  - Date the letter was issued.
- (2) Letter from the recipient organisation which confirms the donation. The letter must include a statement as to how the donated goods will be utilised and that the goods are not for resale. The letter should be on the organisation's official letterhead and include the following information:
  - Registered address and address of place of business;
  - Full names and signature of the author;
  - Date the letter was prepared and signed;
  - Contact details, for example physical and postal address; e-mail address; telephone number etc.;
  - Detailed description of goods;
  - Distinction between new and second-hand goods;
  - Estimated commercial (customs) value of the goods; and
  - A declaration from the recipient organisation confirming that:
    - The donated goods are for exclusive use by the recipient organisation or for free distribution;
    - The donated goods will not be sold, leased, hired or otherwise disposed of for gain; and
    - No consideration or other counter performance will be accepted by any person in respect of the supply of the donated goods.
- (3) Letter of authority if the recipient of the goods is represented by another person/company.
- (4) Proof that the recipient of the donation is an association not for gain. This can be evidenced by –
  - a Non-Profit Organisation Certificate issued by SASSA;<sup>41</sup>
  - a Certificate of Incorporation of the Company not having a share capital (non-profit company) issued by the CIPC<sup>42</sup> in the applicant's name;
  - the organisation's Memorandum of Understanding; or
  - *Government Gazette* reflecting the purpose of the goods being imported.

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<sup>40</sup> In the case of a company or other organisation with multiple branches, the address of the branch/division donating the goods must be disclosed.

<sup>41</sup> South African Social Security Agency.

<sup>42</sup> Companies and Intellectual Property Commission.

- (5) Educational Institutions that cannot provide the required proof as stipulated in paragraph 4, must submit their Institution Constitution for consideration.
- Please note that the SARS letters issued by the Tax Exemption Unit will not be acceptable as these letters only cover the exemptions for Income Tax.
- (6) In the case of medicine being imported, a letter from Department of Health authorising the specific institute to import donated medication.
- (7) Copies of relevant shipping documentation, for example post office collection slip, air waybill or bill of lading and invoice. If goods were imported in hand luggage, proof of flight details and proof of identity are required.
- (8) Draft SAD 500 and customs worksheet (excluding parcels collected at the Post Office).
- (9) In the case of second-hand goods, a copy of the Import Permit issued by International Trade Administration Commission (ITAC) is required. If no permit is required, written confirmation of this fact by ITAC must be provided.<sup>43</sup>
- (10) In addition to any import permit which may be required in certain circumstances, some items/goods require a rebate permit to be endorsed. Applicants must therefore check with ITAC if any other documentation or requirements must be met in regard to the importation, and if so, to provide a copy of same to SARS.
- (11) Document indicating the nature, estimated value, volume and mass of the goods.
- (12) All queries relating to donations of clothing should be directed to Lance Human at e-mail *lhuman@sars.gov.za*.

Please note that the turnaround time for applications received is 3 working days provided all the requested documentation mentioned above has been provided. Failure to produce all the required documentation within the specified period (for example, 3 working days from the request for outstanding documents) will result in the application being rejected.

All applications must be forwarded to:

*The Commissioner for the South African Revenue Service*

*Customs Operations Support*

*Private Bag X923*

*Pretoria*

*0001*

The application can also be e-mailed to **VATExemption@sars.gov.za**.

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<sup>43</sup> Tel: +27(0)12 394-3618/3592, Fax: +27(0)12 394 0517 and Email: **fmahlangu@itac.org.za** or **tsambo@itac.org.za**.

## Contact details

The **SARS website** contains contact details of all SARS branch offices and border posts.

Contact details appearing on the website under “Contact Us” (other than branch offices and border posts) are reproduced below for your convenience.

### SARS Head Office

**Physical Address**

South African Revenue Service  
Lehae La SARS  
299 Bronkhorst Street  
Nieuw Muckleneuk  
0181  
Pretoria

**Postal Address**

Private Bag X923  
Pretoria  
0001

South Africa

**SARS website**

[www.sars.gov.za](http://www.sars.gov.za)

**Telephone**

(012) 422 4000

**SARS Fraud and Anti-Corruption hotline**

0800 00 28 70

### SARS Large Business Centre (LBC) Head Office

**Physical Address**

Megawatt Park  
Maxwell Drive  
Sunninghill  
Johannesburg

**Postal Address**

Private Bag X170  
Rivonia  
2128  
South Africa

**Telephone**

(011) 602 2010

**Email**

[LBC@sars.gov.za](mailto:LBC@sars.gov.za)

For the contact details of regional LBC offices and each LBC sector go to “Contact Us” on SARS’ website then go to “Head Office” and “Large Business Centre”.

### SARS Service Monitoring Office

**Telephone**

0860 12 12 16

**Fax**

(012) 431 9695

**Website**

[www.sars.gov.za/ssmo](http://www.sars.gov.za/ssmo)

**Postal Address**

PO Box 11616  
Hatfield  
0028  
South Africa

**Email**

[ssmo@sars.gov.za](mailto:ssmo@sars.gov.za)

### e-Filing

**Call centre**

0800 00 72 77

**Fax**

(011) 602 5312

**Website**

[www.efiling.gov.za](http://www.efiling.gov.za)

**Email**

[eFilingAssist@sars.gov.za](mailto:eFilingAssist@sars.gov.za)



## VAT Rulings

**Fax**

086 540 9390

**Email**
[VATRulings@sars.gov.za](mailto:VATRulings@sars.gov.za)

### National Call Centre / SARS Contact Centres

- You may contact SARS by phone, email, fax or visiting a SARS Branch:
- Call our SARS Contact Centre on 0800 00 7277
- International Callers may contact our Contact Centre on +27 11 602 2093
- National eFiling email address for specific eFiling enquiries: [eFilingAssist@sars.gov.za](mailto:eFilingAssist@sars.gov.za)
- Email or fax one of our dedicated four contact centres:

Area	Telephone	Fax	Email
<b>Northern South Africa</b> Vendors residing in Gauteng north (including Centurion and Pretoria), North West, Mpumalanga and Limpopo.	0800 00 7277	012 670 6880	<a href="mailto:Contact.north@sars.gov.za">Contact.north@sars.gov.za</a>
<b>Central South Africa</b> Vendors residing in Gauteng south (including Midrand, the Greater Johannesburg area, Kempton Park, Boksburg, Vereeniging and Springs), the Free State and Northern Cape.	0800 00 7277	010 208 5005	<a href="mailto:Contact.central@sars.gov.za">Contact.central@sars.gov.za</a>
<b>Eastern South Africa</b> Vendors residing in KZN and northern parts of the Eastern Cape (up to and including East London).	0800 00 7277	031 328 6018	<a href="mailto:Contact.east@sars.gov.za">Contact.east@sars.gov.za</a>
<b>Southern South Africa</b> Vendors residing in the Eastern Cape, south of East London and the Western Cape.	0800 00 7277	021 413 8905	<a href="mailto:Contact.south@sars.gov.za">Contact.south@sars.gov.za</a>

### Practitioners Unit

**Telephone/ Call Centre**

0800 00 72 77

**Email**
[pcc.pavilion@sars.gov.za](mailto:pcc.pavilion@sars.gov.za)
**Business hours**

Weekdays 8:00 – 16:00 (except Wednesdays)

Wednesdays 9:00 – 16:00

**Physical address**

Pavilion  
 226 Bronkhorst Street  
 Nieuw Muckleneuk  
 Pretoria

This facility is for Tax Practitioners already registered with SARS (Pretoria area only). Appointments can be made online by visiting: [www.sars.gov.za](http://www.sars.gov.za), then go to the Tax Practitioners' web page.

### Customs: Importation of donated goods

**Postal Address**

The Commissioner for the South African  
Revenue Service  
Customs Operations Support  
Private Bag X923  
Pretoria  
0001

**Email**

VATExemption@sars.gov.za