

(2 May 2014 – to date)

VALUE-ADDED TAX ACT 89 OF 1991

*(Government Notice 1342 in Government Gazette 13307 dated 12 June 1991. Commencement date:
30 September 1991 [see section 21(a) of the Taxation Laws Amendment Act 136 of 1991])*

REGULATIONS ISSUED IN TERMS OF SECTION 74(1) READ WITH PARAGRAPH (d) OF THE DEFINITION OF "EXPORTED" IN SECTION 1(1) OF THE VALUE-ADDED TAX ACT, 1991 (ACT NO. 89 OF 1991)

*Government Notice R316 in Government Gazette 37580 dated 2 May 2014. Commencement date:
2 May 2014.*

By virtue of the power vested in me by section 74(1) of the Value-Added Tax Act, 1991, I, Pravin Jamnadas Gordhan, Minister of Finance, hereby replace all previous regulations prescribing the application of paragraph (d) of the definition of "exported" in section 1(1) read with section 11(1)(a) of the Value-Added Tax Act, with the regulations in the attached Schedule.

(Signed)

PJ GORDHAN

MINISTER OF FINANCE

SCHEDULE

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Prepared by:

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DEFINITIONS

In these regulations, unless the context indicates otherwise, a term which is assigned a meaning in the Act, has the meaning so assigned, and the following terms have the following meaning:

"agent", for purposes of Parts Two - Section B and Three, means a registered vendor—

- (a) located in the Republic who is the nominated agent of a qualifying purchaser and registered as prescribed in the rules of section 59A of the Customs and Excise Act;
- (b) that has been appointed by a qualifying purchaser to collect, consolidate and deliver movable goods to such qualifying purchaser at an address in an export country; and
- (c) is licensed as a remover of goods in bond as contemplated in section 64D of the Customs and Excise Act;

"cartage contractor" means a person whose activities include the transportation of goods, and includes couriers and freight forwarders. For purposes of Part Two - Section B, the cartage contractor must be a licensed remover of goods in bond as contemplated in section 64D of the Customs and Excise Act;

"circumstances beyond the control" means—

- (a) a natural or human-made disaster;
- (b) a civil disturbance or disruption in services; or
- (c) a serious illness of or accident concerning the qualifying purchaser or the person duly authorised to represent the qualifying purchaser;

"customs official" means an officer as defined in section 1 of the Customs and Excise Act;

"designated commercial port" means a place in the Republic which has been designated by the Commissioner as an exit point from the Republic as listed below:

- (a) *Designated commercial ports* (VRA not present):

Harbours: Cape Town; Durban; East London; Port Elizabeth; Port of Ngqura; Richards Bay

Airports: Lanseria

Border Posts:

Between the Republic and Botswana: Grobler's Bridge; Kopfontein; Skilpadshek; Ramatlabama

Between the Republic and Zimbabwe: Beit Bridge

Between the Republic and Mozambique: Lebombo

Between the Republic and Lesotho: Qacha's Nek; Ficksburg Bridge; Maseru Bridge; Caledonspoort; Van Rooyenshek

Between the Republic and Namibia: Nakop (Narogas); Vioolsdrift

Between the Republic and Swaziland: Mananga; Jeppes Reef; Oshoek; Nerston; Mahamba; Golela

- (b) *Designated commercial ports* (VRA present until further notice is published by the Commissioner):

International Airports: Cape Town; King Shaka; O.R. Tambo

- (c) Other designated commercial ports (VRA not present):

Airports: Bloemfontein; Gateway (Pietersburg/Polokwane); Mbombela (Nelspruit); Port Elizabeth; Mmabatho; Upington; Kruger Mpumalanga; Pilanesberg

Railway Stations: Germiston; Golela; Maseru Bridge; Mafikeng; Johannesburg; Upington

Harbours: Mossel Bay; Saldanha

- (d) Additional commercial ports may be designated by the Commissioner or the existing designated commercial ports may be amended by the Commissioner by giving notice in the *Government Gazette*;

"flash title" means a supply of movable goods by a vendor to a qualifying purchaser contemplated in paragraph (f) of the definition of "qualifying purchaser" and that qualifying purchaser subsequently supplies the movable goods to another qualifying purchaser and ownership of the goods vests in the first mentioned qualifying purchaser only for a moment before the goods are sold to such other qualifying purchaser;

"foreign diplomat" means a diplomat appointed by a foreign country—

- (a) who was stationed in the Republic;
- (b) who is departing from the Republic permanently upon conclusion of his or her term of duty; and
- (c) who is exporting movable goods in accordance with the provisions of paragraph 3;

"foreign enterprise" means an enterprise or business which is carried on continuously or regularly by any person (including South African passport holders) in an export country and in the course or furtherance of which goods or services are supplied to any other person for a consideration. For purposes of Part Two - Section B, the foreign enterprise must also be registered as an exporter in terms of the Customs and Excise Act;

"non-resident of the Republic" means a natural person who is not in the Republic at the time of the supply and is—

- (a) a non-South African passport holder; or
- (b) a permanent resident of an export country;

"qualifying purchaser" means a person who is not a registered vendor (excluding for purposes of paragraph (f) of this definition) and who/which is—

- (a) a foreign diplomat;
 - (b) a foreign enterprise;
 - (c) a non-resident of the Republic;
 - (d) a tourist;
 - (e) any—
 - (i) international organisation established in terms of a Constitutive Act, a constitution or a charter for the purposes of promoting peace and security, human and people's rights and political and socio-economic development or any similar purpose; or
 - (ii) organisation which is similar to an association not for gain or a welfare organisation which is registered as such in that export country;
- and established in an export country and not conducting any activity in the Republic; or
- (f) for purposes of Part Two - Section A, a person who is not a resident of the Republic who acquires goods from a vendor in the Republic with the sole purpose of selling those goods to another person who is not a resident of the Republic;

"registrable goods" means movable goods including any aircraft, ship or other vessel, motor cycle or other vehicle, caravan or trailer in respect of which any form of registration is required under any law in force in an export country;

"SARB" means the South African Reserve Bank;

"standard rate" means the rate of tax levied in terms of section 7(1)(a) of the Act;

"time of export" means in the case of transport by air or sea, the time as contemplated in section 38(3)(b)(i) and (ii) of the Customs and Excise Act;

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

"the TA Act" means the Tax Administration Act, 2011 (Act No. 28 of 2011);

"tourist" means a person who is a non-South African passport holder or a South African passport holder who is a permanent resident of an export country, residing in that export country at the time of the purchase and for whom a refund is requested;

"VAT Refund Administrator" or "VRA" means a person appointed by the Commissioner to administer the refund of tax contemplated in Part One of these regulations;

"warehouse", for purposes of Part Two - Section B, means the agent's premises where goods must be stored by such agent while being consolidated prior to export;

"zero rate" means the rate of tax levied in terms of section 7(1)(a) read with section 11(1) of the Act substantiated by documentary proof as contemplated in section 11(3).

PART ONE

PROCEDURES FOR GRANTING OF REFUNDS OF TAX TO QUALIFYING PURCHASERS RESIDING IN OR CONDUCTING BUSINESS IN EXPORT COUNTRIES

1. Introduction

Part One of these regulations applies where movable goods are supplied by a vendor to a qualifying purchaser and the qualifying purchaser is responsible for exporting the goods from the Republic. The vendor is obliged to levy tax at the standard rate on the supply to the qualifying purchaser. The qualifying purchaser is subsequently entitled to a refund of tax from the VRA subject to certain limitations or conditions contained herein.

2. Responsibilities of the vendor

- (1) The vendor must levy tax at the standard rate on the supply of movable goods to a qualifying purchaser.
- (2) The vendor must issue a tax invoice to the qualifying purchaser and should advise the qualifying purchaser of the entitlement to a refund of the tax from the VRA.
- (3) The vendor supplying second-hand goods on which input tax as contemplated in paragraph (b) of the definition of "input tax" in section 1(1) of the Act was deducted by the vendor or any other person who is a connected person in relation to the vendor when the goods were acquired, must ensure that the tax invoice includes the particulars notifying the full and proper description of the second-hand goods.
- (4) The vendor has no further responsibility with regard to the refund to be made by the VRA, other than to furnish information to SARS when called upon to do so.

3. Responsibilities of the qualifying purchaser or the cartage contractor

- (1) The qualifying purchaser must ensure that the movable goods are exported—

- (a) from the Republic within 90 days from the date of the tax invoice, unless otherwise provided for in these regulations;
- (b) *via* a designated commercial port in accordance with the prescribed Customs and Excise procedure, which requires that the relevant goods must first be declared to a customs official before the claim for a refund of tax is submitted to the VRA. In instances where the movable goods are exported—
 - (i) *via* one of the ports listed in paragraphs (a) or (b) of the definition of "designated commercial port" by the qualifying purchaser personally or by the qualifying purchaser's duly appointed agent for purposes of exporting the movable goods, the qualifying purchaser or in case the qualifying purchaser is not a natural person, the person duly authorised to represent the qualifying purchaser must—
 - (aa) present himself or herself to a customs official at a designated commercial port together with the movable goods and the corresponding tax invoice(s) and to a VRA official where the VRA is present at a designated commercial port;
 - (bb) ensure that, in the case of movable goods which are too large to be kept as hand-luggage and are transported as part of checked-in luggage, the tax invoice(s) in relation to the relevant movable goods is/are endorsed by the customs official (and the VRA official where the VRA has a physical presence at a designated commercial port) to the effect that the relevant movable goods have been inspected by the customs official (and VRA official where applicable) prior to the movable goods being checked in as part of the main luggage;
 - (cc) provide the customs or VRA official with all the relevant details required; and
 - (dd) obtain and retain, if necessary, a copy of the VAT 255 issued by a VRA official;
 - (ii) *via* a designated commercial port listed in paragraph (a) of the definition of "designated commercial port" by the qualifying purchaser, or the qualifying purchaser's duly appointed agent for purposes of exporting the movable goods, the qualifying purchaser may make an application to the VRA for a refund of tax. This application for a refund of tax must be received by the VRA within 90 days from the date of export and must contain—
 - (aa) the qualifying purchaser's postal address and banking details; and
 - (bb) all the documents prescribed in paragraph 5 with the exception of paragraph 5(3), which is not required in these circumstances;

(iii) *via* one of the ports listed in paragraph (c) of the definition of "designated commercial port" by the qualifying purchaser or the qualifying purchaser's duly appointed agent for purposes of exporting the movable goods, the qualifying purchaser may, after the procedures and requirements in this paragraph have been met, make an application to the VRA for a refund of tax. The application for a refund of tax must be received by the VRA within 90 days from the date of export and must contain—

(aa) the qualifying purchaser's postal address and banking details; and

(bb) all the documents prescribed in paragraph 5 with the exception of paragraph 5(3), which is not required in these circumstances;

(iv) *via* any of the ports listed in the definition of "designated commercial port" by a cartage contractor that was appointed by the qualifying purchaser, the qualifying purchaser may make an application to the VRA for a refund of tax only after the movable goods have been received by the qualifying purchaser or the qualifying purchaser's client in an export country. The application for a refund of tax must be received by the VRA within 90 days from the date of export and must contain—

(aa) the qualifying purchaser's postal address and banking details; and

(bb) all the documents prescribed in paragraph 5.

(2) The cartage contractor must ensure that—

(a) the movable goods are—

(i) exported from the Republic within 90 days from the date of the tax invoice unless otherwise provided for in these regulations;

(ii) exported *via* one of the ports listed in the definition of "designated commercial port" in accordance with the prescribed Customs and Excise procedure; and

(iii) delivered to the qualifying purchaser or the qualifying purchaser's client at an address in an export country; and

(b) a tax invoice or an invoice where the cartage contractor is not a registered vendor is issued to the qualifying purchaser evidencing the supply of transport in respect of the movable goods. In addition, the cartage contractor must obtain and retain the applicable Customs documents prescribed in paragraph 5 and provide the qualifying purchaser with these documents or certified copies of such documents.

4. Designated commercial ports

- (1) Movable goods must be exported *via* a designated commercial port. Should the designated commercial ports listed in the definition of "designated commercial port" not be used, the qualifying purchaser will not be entitled to a refund of tax.
- (2) The export of movable goods as well as the declaration of such goods at ports other than those ports listed in the definition of "designated commercial port", may be allowed in exceptional circumstances on application to and after approval by the Commissioner.

5. Documentation

Where movable goods are exported by road, sea, air or rail, the following documentation is required:

- (1) The original tax invoice and—
 - (a) except where it is a requirement of the export country in which the qualifying purchaser resides or conducts its business that the original tax invoice must be submitted to that country's Revenue Authority or other government department of that country. In this instance, a certified copy of the original tax invoice may be submitted by the qualifying purchaser to the VRA together with proof that the original tax invoice is required by the export country; or
 - (b) where a discount was afforded to the qualifying purchaser for prompt payment of the amount due, the terms, e.g. the percentage or amount, of the prompt payment discount must be indicated on the tax invoice as required by proviso (C) to section 21(3); or
 - (c) where the qualifying purchaser is allowed to make payments in instalments (excluding under an instalment credit agreement), the qualifying purchaser must submit a supporting payment schedule setting out all the instalments to be paid, including the value of each instalment, as well as the specific payment date for each instalment; or
 - (d) where the original tax invoice is issued electronically by the vendor to the qualifying purchaser, the qualifying purchaser may submit a paper copy of the original tax invoice which is marked "printed copy" and certified by a commissioner of oaths to the VRA; or
 - (e) in the case where movable goods forming part of a single supply for which a single tax invoice is issued are exported in several consignments, a certified copy of the original tax invoice may be submitted to the VRA together with all the other required documentation for the consignments subsequent to the first consignment.
- (2) A copy of the qualifying purchaser's—

- (a) passport, including those pages reflecting the qualifying purchaser's name, passport number and country of residence. This requirement is not applicable where the VRA is present at the specific designated commercial port and the refund is processed on the qualifying purchaser's departure from the Republic; or
 - (b) passport which must include those pages reflecting the following—
 - (i) endorsement reflecting entry into the Republic; and
 - (ii) endorsement reflecting exit from the Republic,where the qualifying purchaser or in case the qualifying purchaser is not a natural person, the person duly authorised to represent the qualifying purchaser was in the Republic at the time of purchase; or
 - (c) trading license or any other equivalent document acceptable to the Commissioner proving that the business is conducted in an export country, as well as the letter of authorisation authorising the person to represent the qualifying purchaser and a copy of the authorised person's passport; or
 - (d) passport and a letter from the relevant diplomatic or consular mission stating that he or she is departing from the Republic permanently in the case of a foreign diplomat; or
 - (e) proof of permanent residence in an export country and proof that the person currently resides in the export country in the case of a tourist who is a South African passport holder.
- (3) A copy of the tax invoice or invoice from the qualifying purchaser's cartage contractor to the qualifying purchaser where applicable.
- (4) Proof of payment for the supply of movable goods exceeding R10 000. Notwithstanding this, the Commissioner may request proof of payment to verify the refund of tax in respect of movable goods exported where the consideration is less than R10 000. Proof of payment must, where applicable, be in compliance with the SARB requirements.
- (5) In the case of registrable goods, proof of registration in the export country concerned (in the form of a copy of the registration certificate, certified by a commissioner of oaths).
- (6) The export documentation prescribed under the Customs and Excise Act. In the case of a qualifying purchaser who is—

- (a) a traveller as contemplated in section 15 of the Customs and Excise Act and the rules thereto; and
- (b) not required to be registered as an exporter in terms of the Customs and Excise Act;

the qualifying purchaser must provide the VRA with proof of importation of the movable goods into the export country where the VRA is not present at the designated commercial port.

6. The refund

- (1) The VRA is, in terms of section 44(9) of the Act, authorised to make a refund of tax to a qualifying purchaser where the VRA is satisfied that the qualifying purchaser has—
 - (a) fulfilled all the responsibilities set out in paragraph 3; and
 - (b) submitted all the required documentation within the prescribed time periods or any extended period provided for in these regulations.
- (2) The VRA may effect the refund—
 - (a) in the case of a qualifying purchaser resident in either Botswana, Swaziland or Namibia by either issuing a cheque in the currency of that country in which the qualifying purchaser resides or by way of an Electronic Funds Transfer (EFT) in the currency of that country into the nominated bank account of the qualifying purchaser held at a bank registered in such country equal to the value of the Rand amount as approved by the Commissioner;
 - (b) in the case of qualifying purchasers exiting the Republic through one of the ports listed in paragraphs (a), (b) or (c) of the definition of "designated commercial port," excluding residents of Botswana, Swaziland and Namibia—
 - (i) by issuing a prepaid debit card or similar card for refunds exceeding R300 provided that—
 - (aa) for refunds exceeding R300 but not exceeding R3 000, the prepaid debit card will be loaded with the funds after the qualifying purchaser's departure from the Republic provided that the refund claim is not selected for audit (Where the refund claim is selected for audit, the procedure which is applicable to refunds exceeding R3 000 will apply); and
 - (bb) for refunds exceeding R3 000, the prepaid debit card will be loaded with the funds once the refund has been approved by the Commissioner; or
 - (ii) alternatively, at the VRA's discretion, by—

- (aa) way of an EFT into the nominated bank account of the qualifying purchaser of an amount equal to the Rand amount in the event that the qualifying purchaser elects not to be issued with a prepaid debit card; or
 - (bb) by issuing a cheque in the currency of the Republic to the qualifying purchaser in the case of a refund not exceeding R300 and advising the qualifying purchaser to cash the cheque at the Bureau de Change facility in the international departure area of the relevant airport. In the event that the qualifying purchaser is unable or unwilling to cash the cheque, the qualifying purchaser will be requested to provide his/her banking details and the refund will be effected by way of an EFT into the nominated bank account of the qualifying purchaser of an amount equal to the Rand amount; or
 - (cc) by way of an EFT into the nominated bank account of the qualifying purchaser of an amount equal to the Rand amount in the event that the qualifying purchaser exits the Republic through any of the other designated commercial ports;
 - (c) where the specified payment method is not practical for any reason, at the VRA's discretion, by—
 - (i) issuing a cheque drawn on a foreign bank (dollars (United States of America) or pounds (Great Britain)); or
 - (ii) crediting the qualifying purchaser's credit card with the payment provided that the payment method complies with the requirements of the common monetary area and subject to the approval of SARB;
 - (d) alternatively, by making use of any other payment method approved by the Commissioner.
- (3) In the case where movable goods forming part of a single supply are exported in several consignments, the refund will be effected in respect of each consignment to the extent of the value of the goods exported. The value of the movable goods exported per consignment will be determined with reference to the relevant export documentation.
- (4) In the case where the qualifying purchaser is allowed to make payments in instalments, the refund will be effected in respect of each instalment to the extent of payment made. The value of each refund will be determined with reference to the supporting payment schedule contemplated in paragraph 5(1)(c) together with proof of payment of the specific instalment.
- (5) If all the requirements have been met at the time of departure from one of the designated commercial ports where the VRA is present [see paragraph (b) of the definition of "designated commercial port"], a

refund limited to an amount as determined by the Commissioner may be paid immediately by the VRA at that designated commercial port. Provided that where—

- (a) the claim is for a higher value than that as determined by the Commissioner;
- (b) the VRA has determined that the claim must first be authorised by the Commissioner;
- (c) the claim is a claim as described in paragraphs 3(1)(b)(iii) or 3(1)(b)(iv) and the movable goods were exported by the cartage contractor through a port as listed in paragraph (c) of the definition of "designated commercial port";
- (d) the claim is in respect of second-hand goods; or
- (e) the claim is in respect of registrable goods,

the refund will be paid by the VRA to the qualifying purchaser after departure from the Republic. This procedure is also applicable where a claim is handed to a customs official at a designated commercial port where the VRA is not present. Payment of the refund will then be effected as contemplated in paragraph 6(2), only after—

- (i) the Commissioner has approved the claim; or
 - (ii) in the case of second-hand goods, where the proviso to section 11(1) of the Act read with the provisions of section 10(12) of the Act are applicable, the Commissioner has determined the amount refundable; or
 - (iii) in the case of registrable goods, proof of registration in the export country concerned (in the form of a copy of the registration certificate, certified by a commissioner of oaths), is submitted to the VRA.
- (6) The Commissioner may extend the period within which a qualifying purchaser may submit an application for a refund of tax where the Commissioner is satisfied that—
- (a) the qualifying purchaser is unable to obtain all the required documentation within the prescribed period due to circumstances beyond the control of the qualifying purchaser; or
 - (b) a vendor incorrectly levied tax at the zero rate on a supply of movable goods to a qualifying purchaser, the qualifying purchaser subsequently paid the amount of tax that should have been charged by the vendor on the supply and all the other requirements prescribed in this Part are complied with.

Provided that the extended period, in the case of subparagraph (a), may not exceed 12 months and, in the case of subparagraph (b), may not exceed 5 years from the date of the original zero rated tax invoice. Provided further that for the purpose of subparagraph (b) the period within which the qualifying purchaser must submit an application for a refund of tax may not exceed 30 days from the date of approval given by the Commissioner.

The qualifying purchaser must, in respect of paragraph 6(6), obtain and retain, where appropriate, the export documentation prescribed under the Customs and Excise Act or proof of import into the export country where the export documentation is not required.

(7) No refund of tax will be made where—

- (a) the qualifying purchaser has exported the movable goods after 90 days from the date of the tax invoice, unless otherwise provided for in these regulations;
- (b) the tax inclusive total of all movable goods purchased during a particular visit to the Republic and exported by the qualifying purchaser at the end of that visit, does not exceed R250 per qualifying purchaser;
- (c) the foreign passport holder has permanent resident status in the Republic; or
- (d) the qualifying purchaser's spouse has permanent residence status in the Republic.

7. Commission in respect of refunds

The VRA will deduct a commission, as agreed between the VRA and the Commissioner, from the tax refundable to the qualifying purchaser.

PART TWO - SECTION A

PROCEDURES FOR THE VENDOR WHO ELECTS TO SUPPLY MOVABLE GOODS AT THE ZERO RATE TO A QUALIFYING PURCHASER, WHERE THE MOVABLE GOODS ARE INITIALLY DELIVERED TO A HARBOUR, AN AIRPORT, OR ARE SUPPLIED BY MEANS OF A PIPELINE OR ELECTRICAL TRANSMISSION LINE IN THE REPUBLIC BEFORE BEING EXPORTED

8. Introduction

- (1) Part Two - Section A of these regulations applies where a vendor supplies movable goods to a qualifying purchaser and the vendor elects to levy tax at the zero rate on the supply of the goods.
- (2) The vendor may only elect to levy tax at the zero rate where—

- (a) the vendor ensures that the movable goods are delivered (irrespective of the contractual conditions of delivery) to any of the harbours or airports listed in the definition of "designated commercial port" from where the movable goods are to be exported by the qualifying purchaser.

The export of movable goods as well as the declaration of such goods at ports other than those ports listed in the definition of "designated commercial port", may be allowed in exceptional circumstances on application to and after approval by the Commissioner;

- (b) the movable goods are exported by means of a pipeline or electrical transmission line;
- (c) the vendor supplies the goods to a qualifying purchaser on a flash title basis;
- (d) the vendor supplies the movable goods to a qualifying purchaser and—
 - (i) the time of supply is regulated by sections 9(1) or 9(3)(b)(i) or (ii) of the Act;
 - (ii) the movable goods are subject to a process of repair, improvement, manufacture, assembly or alteration by a vendor other than the vendor who supplied the goods in the Republic;
 - (iii) the vendor ensures that the movable goods are delivered to the premises of the vendor responsible for further processing, repair, improvement, manufacture, assembly or alteration for such further processing, repair, improvement, manufacture, assembly or alteration; and
 - (iv) the vendor responsible for the further processing, repair, improvement, manufacture, assembly or alteration ensures that the movable goods are subsequently^[sic] delivered to any of the harbours or airports listed in the definition of "designated commercial port"; or
- (e) the vendor supplies movable goods to a qualifying purchaser or registered vendor and the movable goods are—
 - (i) situated at the designated harbour or airport;
 - (ii) delivered to either the port authority, master of the ship, a container operator, the pilot of an aircraft or are brought within the control area of the airport authority; and
 - (iii) destined to be exported from the Republic.

- (3) The vendor electing not to apply the zero rate, must levy tax at the standard rate and the qualifying purchaser can apply for a refund in accordance with the provisions of Part One of these regulations.

9. Responsibilities of the vendor supplying the movable goods and the vendor responsible for further processing, repair, improvement, manufacture, assembly or alteration of the movable goods

- (1) The vendor supplying the movable goods must—
- (a) ensure that the movable goods are delivered to any of the designated harbours or airports listed in the definition of "designated commercial port". This provision will not apply where the movable goods are delivered to the vendor responsible for further processing, repair, improvement, manufacture, assembly or alteration before the movable goods are exported;
 - (b) obtain and retain for a period of five years as contemplated in section 55 of the Act and Part A of Chapter 4 of the TA Act the relevant documentary proof as stipulated in paragraph 10;
 - (c) comply with the procedures as stipulated in paragraphs 15 and 16;
 - (d) ensure that the zero rate is not applied in respect of the supply of second-hand goods where the proviso to section 11(1) of the Act read with the provisions of section 10(12) of the Act are applicable.
- (2) The vendor responsible for the further processing, repair, improvement, manufacture, assembly or alteration of the goods must—
- (a) after completion of the said process, ensure that the movable goods are delivered to any of the designated commercial harbours or airports as listed in the definition of "designated commercial ports" where required to do so;
 - (b) obtain and retain the export documentation prescribed under the Customs and Excise Act;
 - (c) comply with the procedures as stipulated in paragraphs 15 and 16;
 - (d) provide the vendor with a statement containing the details as set out in paragraph 10(1)(g)(ii) within 21 days from the date that the movable goods were exported or required to be exported.

10. Documentation¹

- (1) The vendor supplying the movable goods must obtain and retain—
- (a) a copy of the zero-rated tax invoice issued to the qualifying purchaser. In the case of the supply consisting of second-hand goods on which input tax as contemplated in paragraph (b) of the

¹ Note that all documentation must be kept or retained as contemplated in section 30 of the TA Act read with public notice GN 787 published in GG 35733 of 1 October 2012.

definition of "input tax" in section 1(1) of the Act was or may be deducted by the vendor or any other person who is a connected person in relation to the vendor when the goods were acquired, the vendor must ensure that the tax invoice complies with the provisions of section 20(4) of the Act;

- (b) a copy of the qualifying purchaser's—
 - (i) passport including those pages reflecting the qualifying purchaser's name, passport number and country of residence. Where the qualifying purchaser or in the case where the qualifying purchaser is not a natural person, the person duly authorised to represent the qualifying purchaser was in the Republic at the time of supply, the passport must also include those pages reflecting an endorsement—
 - (aa) reflecting entry into the Republic; and
 - (bb) reflecting exit from the Republic;
 - (ii) trading license or any other equivalent document acceptable to the Commissioner proving that the business is conducted in an export country as well as the letter of authorisation authorising the person to represent the qualifying purchaser and a copy of the authorised person's passport; or
 - (iii) in the case of a foreign diplomat, passport and a letter from the relevant diplomatic or consular mission stating that he or she is departing from the Republic permanently;
- (c) the qualifying purchaser's order or the contract between the vendor and the qualifying purchaser;
- (d) proof of payment in respect of the movable goods supplied to the qualifying purchaser. Proof of payment must, where applicable, be in compliance with the SARB requirements;
- (e) proof of delivery of the movable goods to a designated harbour or airport;
- (f) the export documentation prescribed under the Customs and Excise Act; and
- (g) the following additional documentation in the event that the provisions of subparagraph 8(2)(d) apply—
 - (i) proof of delivery of the movable goods to the vendor responsible for the further processing, repair, improvement, manufacture, assembly or alteration;
 - (ii) a statement from the vendor responsible for the further processing, repair, improvement, manufacture, assembly or alteration containing—

- (aa) the invoice number and the date of issue of the tax invoice by the vendor responsible for the further processing, repair, improvement, manufacture, assembly or alteration to the qualifying purchaser for the services rendered or the contract for services rendered entered into by the aforementioned vendor and the qualifying purchaser;
- (bb) confirmation that the movable goods supplied by the vendor and delivered to the qualifying purchaser have been used in the further processing, repair, improvement, manufacture, assembly or alteration of the movable goods;
- (cc) details of the export documentation prescribed under the Customs and Excise Act, for example the export declaration's MRN and LRN reference numbers;

Provided that where the movable goods are exported by means of a pipeline or electrical transmission line, the Commissioner will, on application by the vendor, determine the documentary proof to be obtained and retained by the vendor including but not limited to—

- (i) the export documentation prescribed under the Customs and Excise Act;
- (ii) a tax invoice; and
- (iii) proof of payment which must, where applicable, be in compliance with the SARB requirements.

PART TWO - SECTION B

PROCEDURES FOR THE VENDOR WHO ELECTS TO SUPPLY MOVABLE GOODS TO A QUALIFYING PURCHASER AT THE ZERO RATE WHERE THE MOVABLE GOODS ARE TO BE EXPORTED VIA ROAD OR RAIL

11. Introduction

- (1) Part Two - Section B of these regulations applies—
 - (a) where a vendor supplies movable goods to a qualifying purchaser and those goods are to be exported from the Republic by the qualifying purchaser's agent and the vendor elects to levy tax at the zero rate on the supply of the goods; or
 - (b) to the supply and exportation of specific lubricants by the manufacturers thereof in the Oil and Gas Industry.

12. Movable goods exported via road and rail

- (1) For purposes of Part Two - Section B of these regulations, "proof of export" includes the export documentation prescribed under the Customs and Excise Act.
- (2) In order for the vendor to elect to supply the movable goods exported by road or rail at the zero rate—
 - (a) the vendor must—
 - (i) consign or deliver (irrespective of the contractual conditions of delivery) the movable goods to the agent's premises; or
 - (ii) ensure that the movable goods are delivered to the agent's premises.
- (3) The role and responsibilities of the vendor
 - (a) The vendor accepts an order from, or enters into an agreement with, a qualifying purchaser.
 - (b) The vendor must—
 - (i) obtain confirmation—
 - (aa) of the appointment of an agent by the qualifying purchaser; and
 - (bb) that the qualifying purchaser's agent is a registered customs client;
 - (ii) issue a tax invoice to the qualifying purchaser or its agent for the goods supplied;
 - (iii) receive payment in respect of the supply of goods from the qualifying purchaser;
 - (iv) consign or deliver (irrespective of the contractual conditions of delivery) the movable goods to the agent's premises or ensure that the movable goods are delivered to the agent's premises;
 - (v) obtain and retain—
 - (aa) proof of delivery of the movable goods to the agent;
 - (bb) confirmation of proof of export from the agent within the required time period; and
 - (cc) a statement from the agent containing an inventory reconciliation of all the movable goods received from the vendor and exported by the agent or a cartage contractor engaged by either the qualifying purchaser or its agent to the specific qualifying purchaser;

- (vi) ensure that the movable goods are exported from the Republic within a period of 90 days from the earlier of the time an invoice is issued by the vendor or the time any payment of consideration is received by the vendor and obtain the required documentation within the prescribed time period.
 - (c) Failure by the vendor to comply with the abovementioned requirements will result in the supply being subject to tax at the standard rate. The vendor must consequently calculate output tax by applying the tax fraction to the consideration (i.e. in terms of section 64(1), the consideration is deemed to include tax).
 - (d) The vendor must furthermore comply with the requirements set out in paragraphs 15 and 16.
- (4) The role and responsibilities of the agent
- (a) The agent is appointed by the qualifying purchaser for the collection, consolidation and exportation of goods supplied to the qualifying purchaser by one or more suppliers.
 - (b) The agent must—
 - (i) conclude an agreement with the qualifying purchaser to be appointed as its South African representative for customs purposes as well as its agent in respect of all supplies made to that qualifying purchaser by vendors in terms of this Part;
 - (ii) be registered as prescribed in the rules for section 59A of the Customs and Excise Act as well as licensed as a remover of goods in bond;
 - (iii) take receipt of the goods, issue a "goods received note" to the vendor or the vendor's cartage contractor and enter it into a warehouse²;
 - (iv) receive the tax invoice or a certified copy of the tax invoice from the vendor;
 - (v) declare the goods for export on behalf of the qualifying purchaser prior to removal from the warehouse;
 - (vi) obtain and retain—
 - (aa) the "proceed to port" notice in respect of the movable goods to be exported;
 - (bb) the "proof of export"; and

² Note that this warehouse is not a customs and excise warehouse licensed in terms of the Customs and Excise Act.

- (cc) proof of import into the export country or proof of delivery of the movable goods to the qualifying purchaser or the qualifying purchaser's agent in the export country;
 - (vii) provide a statement to the vendor containing the details regarding the proof of export;
 - (viii) maintain proper inventory control and reconciliation of goods received and exported per vendor;
 - (ix) provide an inventory reconciliation as listed in subparagraph (viii) to the vendor within 21 days from the date that the movable goods were exported or required to be exported;
 - (x) export the movable goods from the Republic within a period of 90 days from the earlier of the time an invoice is issued by the vendor or the time any payment of consideration is received by the vendor and obtain the required documentation within the prescribed time period.
 - (c) Failure by the agent to comply with the abovementioned requirements will result in the supply being subject to tax at the standard rate. The vendor (i.e. the relevant supplier(s)) must consequently calculate output tax by applying the tax fraction to the consideration for the supply of the movable goods (i.e. in terms of section 64(1), the consideration is deemed to include tax).
 - (d) The agent must comply with the requirements set out in paragraphs 15 and 16.
- (5) The role and responsibilities of the cartage contractor
- (a) The cartage contractor, which may be the agent, may be contractually bound either to—
 - (i) the vendor, the qualifying purchaser or the qualifying purchaser's agent for the movement of the goods from the vendor's premises to the agent's premises. The cartage contractor must—
 - (aa) deliver the movable goods to the warehouse;
 - (bb) be licensed as a remover of goods in bond; and
 - (cc) obtain and retain proof of delivery of the movable goods to the warehouse; or
 - (ii) the qualifying purchaser or its agent for the exportation of the movable goods from the agent's premises to the qualifying purchaser in an export country. The cartage contractor must—

- (aa) deliver the movable goods to the qualifying purchaser *via* one of the designated border posts listed in the definition of "designated commercial port";
- (bb) be licensed as a remover of goods in bond;
- (cc) obtain proof of export from the Republic to the export country; and
- (dd) obtain proof of import of the goods into the export country or proof of delivery of the movable goods to the qualifying purchaser or the qualifying purchaser's agent in the export country.

(6) Role and responsibilities of the qualifying purchaser

- (a) The qualifying purchaser orders from or, enters into an agreement with, a vendor for the supply of movable goods to be exported from the Republic to an export country.
- (b) The qualifying purchaser must register as an "exporter" as prescribed in rule 59A.03(1) to the Customs and Excise Act and appoint an agent as its South African representative for Customs purposes and enter into an agreement with its agent in the Republic in order to fulfil the requirements of this Part.
- (c) The qualifying purchaser must make payment to the vendor for the supply of the movable goods.

(7) Time periods in respect of export

The movable goods may be stored in the agent's warehouse but must be exported from the Republic within 90 days calculated from the earlier of the time an invoice is issued by the vendor or the time any payment of consideration is received by the vendor.

(8) Payment in respect of the supply

- (a) Payment for the supply of goods under this Part must be—
 - (i) received by the vendor from the qualifying purchaser;
 - (ii) reported on the Electronic Export Monitoring System and to SARB *via* the Cross Border Foreign Exchange Transaction Reporting System (CBFETRS); and
 - (iii) reported on the relevant Customs Declaration with the correct mandatory Exporter Code (CCN) and Unique Consignment Reference (UCR) prescribed in terms of the Customs and Excise Act.

- (b) The payment must be in compliance with SARB's foreign exchange regulations.

(9) Oil and Gas Industry

For purposes of the Oil and Gas Industry, the zero rating will only apply to lubricating oils and greases manufactured not on raw materials such as aliphatic solvents by manufacturers in the industry and exported *via* road or rail by the qualifying purchaser or its cartage contractor and cleared under tariff headings 2710.12.47, 2710.12.49 or 2710.12.52 as contemplated in the Customs and Excise Act. The zero rating does not extend to the export of fuel levy goods.

13. Documentation³

(1) The vendor must obtain and retain—

- (a) a copy of the zero-rated tax invoice issued to the qualifying purchaser. In the case of the supply consisting of second-hand goods on which input tax as contemplated in paragraph (b) of the definition of "input tax" in section 1(1) of the Act was or may be deducted by the vendor or any other person who is a connected person in relation to the vendor when the goods were acquired, the vendor must ensure that the tax invoice complies with the provisions of section 20(4) of the Act;

- (b) a copy of the qualifying purchaser's—

- (i) passport including those pages reflecting the qualifying purchaser's name, passport number and country of residence. Where the qualifying purchaser or in case the qualifying purchaser is not a natural person, the person duly authorised to represent the qualifying purchaser was in the Republic at the time of purchase, the passport must also include those pages reflecting an endorsement—

- (aa) reflecting entry into the Republic; and

- (bb) reflecting exit from the Republic;

- (ii) trading license or any other equivalent document acceptable to the Commissioner proving that the business is conducted in an export country as well as the letter of authorisation and a copy of the authorised person's passport; or

- (c) the qualifying purchaser's order or the contract between the vendor and the qualifying purchaser;

³ Note that all documentation must be kept or retained as contemplated in section 30 of the TA Act read with public notice GN 787 published in GG 35733 of 1 October 2012.

- (d) proof of payment in respect of the movable goods supplied to the qualifying purchaser. Proof of payment must, where applicable, be in compliance with the SARB requirements;
 - (e) proof of delivery of the movable goods to the agent's premises;
 - (f) a statement from the agent as contemplated in paragraph 12(3)(b)(v)(cc); and
 - (g) confirmation of the proof of export from the agent.
- (2) The agent must obtain and retain—
- (a) a copy of the agreement between the agent and the qualifying purchaser in terms of which the agent is appointed by the qualifying purchaser for the purposes contemplated in paragraph 12(4)(b)(i) or confirmation of such agreement and appointment;
 - (b) proof of registration as a licensed remover of goods in bond;
 - (c) proof of import of the movable goods into the export country or proof of delivery of the movable goods to the qualifying purchaser or its customer in the export country;
 - (d) a copy of the inventory reconciliation contemplated in paragraph 12(4)(b)(viii);
 - (e) the "proof of export".
- (3) The manufacturers of lubricating oils and greases as contemplated in paragraph 12(9) must obtain and retain—
- (a) a copy of the zero-rated tax invoice issued to the qualifying purchaser. In the case of the supply consisting of second-hand goods on which input tax as contemplated in paragraph (b) of the definition of "input tax" in section 1(1) of the Act was or may be deducted by the vendor or any other person who is a connected person in relation to the vendor when the goods were acquired, the vendor must ensure that the tax invoice complies with the provisions of section 20(4) of the Act;
 - (b) a copy of the qualifying purchaser's trading license or any other equivalent document acceptable to the Commissioner proving that the business is conducted in an export country as well as the letter of authorisation and a copy of the authorised person's passport;
 - (c) the qualifying purchaser's order or the contract between the vendor and the qualifying purchaser;
 - (d) proof of payment in respect of the movable goods supplied to the qualifying purchaser. Proof of payment must, where applicable, be in compliance with the SARB requirements;

- (e) the "proof of export".

PART THREE

14. Introduction

This Part of these regulations sets out the time periods within which movable goods must be exported from the Republic, the party responsible for exporting the goods as well as the time periods within which the required documentary proof must be obtained.

15. Export time periods (applicable to Parts One, Two - Section A and Two - Section B)

(1) General rule

- (a) Subject to the exceptions listed in subparagraph (2), movable goods must be exported from the Republic within 90 days from the earlier of the time an invoice is issued or the time any payment of consideration is received by the vendor. In the case of Part One, the movable goods must be exported within 90 days from the date of the tax invoice.
- (b) In the event that the vendor and the qualifying purchaser are connected persons, the provisions of the Act setting out the rules with regard to connected persons are *mutatis mutandis* applicable to the supply of movable goods being exported.

(2) Exceptions

- (a) The supply of movable goods for which an advance payment is required, must be exported within 30 days from the date(s) for export agreed upon in the contract entered into between the vendor and the qualifying purchaser;
- (b) The supply of precious metals which are to be exported from the Republic *via* air must be exported within a period of 30 days from the date of the export release as per the "Release Instruction" received from the qualifying purchaser acquiring the precious metal;
- (c) The supply of movable goods for which—
 - (i) the time of supply is regulated by sections 9(1) or 9(3)(b)(i) or (ii); and
 - (ii) are subject to a process of repair, improvement, erection, manufacture, assembly or alteration,

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

- (d) The supply by a vendor of any part of a hunted animal to a qualifying purchaser that is subsequently subject to a process of preservation or mounting of that animal as a trophy, must be exported within a period of 7 months calculated from the earlier of the time an invoice is issued or the time any payment of consideration is received by the vendor;
- (e) The supply by a vendor of tank containers which are to be used for the carriage of bulk liquid, powders or gases on a foreign-going ship must be exported from the Republic within a period of 6 months calculated from the date of completion of the manufacturing or reconditioning of the tank container;
- (f)
 - (i) For purposes of Parts Two - Section A and Two - Section B, the Commissioner may extend the period within which movable goods supplied by a vendor to a qualifying purchaser must be exported from the Republic where such movable goods have not been exported within the prescribed periods in subparagraphs (1) and (2)(a) to (e) due to circumstances beyond the control of the vendor or due to exceptional commercial delays or difficulties. The vendor must, before the expiry of the 90-day period as set out in subparagraph (1) or before the expiry of the extended period as set out in subparagraphs (2)(a) to (e), submit a written application to the Commissioner either by e-mail to VATRulings@sars.gov.za or by fax to 086 540 9390 requesting a binding private or binding class ruling confirming the extension of the aforementioned 90-day or such other extended period. Such an application must contain the circumstances that would be regarded as being circumstances beyond the control of the vendor or as exceptional commercial delays or difficulties.
 - (ii) In the event that the qualifying purchaser is unable to submit the application as set out above, the qualifying purchaser must submit the application to the Commissioner either by e-mail to VATRulings@sars.gov.za or by fax to 086 540 9390⁴ within a period of 30 days from the expiry of the period within which the application should have been submitted. Such an application must include both the circumstances that would be regarded as being circumstances beyond the control of the vendor or exceptional commercial delays or difficulties and the reasons substantiating why the application could not have been submitted timeously.
 - (iii) For purposes of subparagraph (f), exceptional commercial delays or difficulties means—
 - (aa) a qualifying purchaser being unable to secure transport for the export of the movable goods. This provision does not apply in instances where the qualifying purchaser is

⁴ Or any other e-mail address or fax number as amended.

unable to secure transport due to financial difficulties experienced by the qualifying purchaser;

(bb) an order or contract where the terms are altered by the recipient; or

(cc) specific requirements imposed by the export country pertaining to a specific type of good (e.g. registrable goods).

(3) Where the provisions of subparagraph (2) are applicable, the vendor must obtain and retain proof to substantiate the application of the relevant exception.

16. Time period to obtain documentary proof (applicable to Parts Two - Section A and Two - Section B)

(1) The vendor electing to supply movable goods at the zero rate as envisaged in Parts Two - Section A and Two - Section B of these regulations or the qualifying purchaser's agent, whichever is applicable, must obtain the stipulated documentary proof within a period of 90 days calculated from the date the movable goods are required to be exported as contemplated in paragraph 15 and retain the required documentation as contemplated in section 55 of the Act and Part A of Chapter 4 of the TA Act.

(2) In the event that the required documentary proof is not obtained by either the vendor or the qualifying purchaser's agent within the prescribed period set out in subparagraph (1), the requirements of section 11(3) are not met and VAT therefore could not have been levied at the zero rate in terms of section 11(1).

(3) As a result, the vendor is required to account for output tax on the supply. The output tax is calculated by applying the tax fraction to the consideration for the supply. The vendor must include the amount of output tax in Block 12 of the return for the tax period in which the said period of 90 days ends.

(4) Should the vendor or agent, as the case may be, receive the documentation in respect of which output tax was calculated in terms of subparagraph (3) within five years from the end of the tax period during which the original tax invoice in respect of that supply should have been issued, the amount calculated in subparagraph (3) may be deducted as an adjustment in Block 18, of the return for the tax period in which this documentation is received: Provided that the vendor must be able to provide proof to the Commissioner that the vendor—

(a) has made the taxable supply for a consideration in money;

(b) has furnished a return in respect of the tax period for which the output tax calculated in subparagraph (3) was payable; and

(c) has properly accounted for the output tax on that supply as contemplated in subparagraph (3).

- (5) For purposes of Parts Two - Section A and Two - Section B, the Commissioner may extend the period within which the required documentary proof must be obtained by the vendor where such documentary proof has not been obtained within the prescribed period set out in subparagraph (1) due to circumstances beyond the control of that vendor. The vendor must, before the expiry of the 90-day period as set out in subparagraph (1), submit a written application to the Commissioner either by e-mail to VATRulings@sars.gov.za or by fax to 086 540 9390 requesting a binding private or binding class ruling confirming the extension of the aforementioned 90-day period. Such an application must contain the circumstances that prevented the vendor from obtaining the documentation timeously.
- (6) The vendor having obtained all the other required documentary proof is not required to account for output tax as a result of not obtaining the required proof of payment for the full consideration within the period set out in subparagraph (1), where—
- (a) the vendor has entered into a written contract with the qualifying purchaser for the payment of the consideration in respect of the supply to be made after or over a period exceeding the 90 days but not exceeding 6 months;
 - (b) the vendor has entered into a written contract with the qualifying purchaser for the payment of the consideration in respect of the supply to be made after or over a period exceeding 6 months but not exceeding 12 months and has the relevant approval from a dealer in foreign exchange authorised by the South African Reserve Bank;
 - (c) the vendor has entered into a written contract with the qualifying purchaser for the payment of the consideration in respect of the supply to be made after or over a period exceeding 12 months and has the relevant approval from the South African Reserve Bank;
 - (d) a written contract provides for a retention amount to be withheld for a period exceeding the 5 years due to the nature of the goods supplied and proof of payment of the retention amount has not been obtained;
 - (e) the qualifying purchaser is unable to effect the payment due to the restrictions imposed on foreign exchange by the country in which the qualifying purchaser conducts its enterprise;
 - (f) the vendor has the relevant approval from the South African Reserve Bank or a dealer in foreign exchange authorised by the South African Reserve Bank not to repatriate any foreign currency in respect of that supply;
 - (g) in the case of exports *via* air or sea, the time of export has occurred but the movable goods have not yet been removed from the Republic. This exception is limited to a period of 6 months from the time of export; or

- (h) the vendor has written off the said consideration as irrecoverable.
- (7) The vendor must obtain and retain a copy of the relevant approval referred to in subparagraph 6. The aforementioned approval does not have to be obtained where the movable goods are exported to a country falling within the common monetary[sic] area as defined in SARB's Exchange control manual as updated.
- (8) In the event that the proof of payment of the full consideration is not obtained by the vendor within the prescribed periods set out in subparagraph (6), excluding subparagraphs (f) and (h), the vendor would not comply with the requirements of these regulations and is therefore not allowed to levy tax at the zero rate in terms of section 11(1).
- (9) As a result, the vendor is required to account for output tax on the supply to the extent of payment not received. The output tax is calculated by applying the tax fraction to the outstanding consideration for the supply. The vendor must include the amount of output tax in Block 12 of the return for the tax period in which the said period ends.
- (10) Should the vendor receive the documentation in respect of which output tax was calculated in terms of subparagraph (9) within the extended period approved by a dealer in foreign exchange authorised by SARB or approved by SARB, limited to a period of five years from the end of the tax period during which the original tax invoice in respect of that supply should have been issued, the amount calculated in subparagraph (9) may be deducted as an adjustment in Block 18, of the return for the tax period in which this documentation is received: Provided that the vendor must provide proof to the Commissioner that the vendor—
 - (a) has made the taxable supply for a consideration in money;
 - (b) has furnished a return in respect of the tax period for which the output tax calculated in subparagraph (9) was payable; and
 - (c) has properly accounted for the output tax on that supply as contemplated in subparagraph (9).
- (11) Where a written contract provides for a retention amount to be withheld for a period exceeding the five years, proof of payment of that retention amount does not have to be obtained in order to satisfy the proof of payment requirement.
- (12) In the event that the vendor and the qualifying purchaser are connected persons, the provisions of the Act setting out the rules with regard to connected persons are *mutatis mutandis* applicable to the supply of movable goods being exported.
- (13) The rate of tax applicable for purposes of this Part is the rate of tax in force at the date of issue of the tax invoice.

17. Government agreements

Notwithstanding anything to the contrary in these regulations, a qualifying purchaser shall not be entitled to receive a refund of tax contemplated in these regulations where the Government of the Republic has entered into an agreement with the government of any other country in terms of which the tax to be refunded to a qualifying purchaser, in respect of the export of movable goods from the Republic, is to be paid directly to the Government of that other country.

18. Transitional Rules

- (1) With regard to supplies for the exportation of movable goods for which the time of supply occurred before the date of gazetting these regulations, the provisions of the VAT Export Incentive Scheme published as Notice 2761 in Government *Gazette* 19471 of 13 November 1998 are applicable.
- (2) With regard to—
 - (a) any supply for which the time of supply occurred on/after the date of gazetting these regulations; or
 - (b) progressive supplies as contemplated in section 9(3)(b) of the Act where—
 - (i) any payment in respect of the supply becomes due or is received before as well as after the date of gazetting of these regulations; or
 - (ii) any invoice issued in relation to that payment occurs before as well as after the date of gazetting of these regulations; and
 - (iii) the goods are delivered only after the date of gazetting these regulations;

the provisions of these regulations will be applicable.