



Tax Guide

Zero-rating of Exported Goods

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1. INTRODUCTION

The exportation of goods from South Africa generally qualifies for zero-rating, i.e. VAT being charged at 0% instead of at the standard rate (which is currently 15%).

This is to ensure that South African businesses are competitive in the international market, and in line with the policy objective of a destination-based VAT system that only consumption in South Africa should be subject to VAT.¹ The seller-vendor must account for the export transaction in its VAT201 Vendor Return, but at the zero rate instead of the standard rate. The benefit of a zero-rated supply (being regarded as a taxable supply) is that the vendor may recover the VAT paid (or still payable) by it on goods or services acquired to make the export sale from SARS by way of an input tax deduction.

As the zero-rating provides a benefit to vendors, this dispensation can be available only when the goods are in fact exported. VAT export fraud does not only erode the tax base, but also results in a higher tax burden for honest taxpayers, as well as in unequal playing fields for businesses. Consequently, in order to qualify for zero-rating of export sales, a vendor must meet all the procedural and documentary requirements prescribed in respect of different export scenarios.

The VAT rules which must be met to zero-rate an export sale distinguish between direct exports (i.e. where the seller is in control of the export process), indirect exports (i.e. where the purchaser is in control of the export process), and export sales for foreign-going ships and aircrafts.

2. PURPOSE, SCOPE AND LIMITATIONS OF THE GUIDE

This Guide provides an overview of the circumstances when the export sale of goods may be zero-rated, as well as the procedural and documentary requirements which must be met. The purpose of the Guide is, therefore, not to provide tax or legal advice.

This Guide is understood to be correct as at 29 November 2024, and it should be borne in mind that tax laws and practices can change over time.

3. LEGISLATION

This Guide deals with the following legislation:

- Value-Added Tax Act, No. 89 of 1991 (VAT Act);
- Government Notice R316 in *Government Gazette* 37580 of 2 May 2014 (Export Regulations);
- Customs and Excise Act, No. 91 of 1964 (C&E Act); and
- Tax Administration Act, No. 28 of 2011 (TA Act).

¹ Refer to the Report of the Value-Added Tax Committee ('VATCOM Report'), p 2 and par. 2 of IN 30(3).

4. TERMINOLOGY

The meaning of certain abbreviations or terms, which are used in this Guide, are as follows:

Abbreviation or term	Meaning
Export country	Any country other than the RSA and any place situated outside the RSA
Export Regulations	Government Notice R316 in <i>Government Gazette</i> 37580 of 2 May 2014
Guide VAT 404	Guide for Vendors (2022 edition)
Guide VAT 420	Guide for Motor Dealers (2016 edition)
He (etc.)	Also includes she (etc.) or it, as appropriate
IN 30(3)	Interpretation Note 30 (Issue 3): <i>The supply of movable goods as contemplated in section 11(1)(a)(i) read with paragraph (a) of the definition of 'exported' and the corresponding documentary proof</i>
IN 31(4)	Interpretation Note 31 (Issue 4): <i>Documentary proof required for the zero-rating of goods or services</i>
IN 81(2)	Interpretation Note 81 (Issue 2): <i>The supply of goods and services by professional hunters and taxidermists to non-residents</i>
Par.	Paragraph
Resident of the Republic	A resident for income tax purposes, or any other person, to the extent that it carries on an enterprise or other activity in the RSA and has a fixed or permanent place in the RSA relating thereto
RSA	Republic of South Africa (i.e. the geographical territory of the RSA, including the territorial waters, the contiguous zone and the continental shelf), ² South African, or Republic, as the context indicates
SARB	South African Reserve Bank
SARS	South African Revenue Service or (where appropriate) the Commissioner for SARS
Section	A section of the VAT Act, unless stated otherwise
The VAT Act	The Value-Added Tax Act, No. 89 of 1991
VAT	Value-added tax
VAT201 return	VAT201 <i>Vendor Declaration</i> which must be submitted to SARS for each tax period
Vendor	Person who is, or who must be, registered with SARS as a vendor for VAT purposes

It should be noted that various other terms are defined in section 1(1) of the VAT Act and the Export Regulations, and that SARS has defined certain terms in IN 30(3). Furthermore, various terms have a specific meaning in terms of the C&E Act. Refer in this regard also to SAICA's Value-Added Tax Export Compliance Guide available on the SAICA website. (Members will need to login to access this guide).

² Referred to respectively in sections 4, 5 and 8 of the Maritime Zones Act 15 of 1994. Refer to the definition of 'Republic' in section 1(1).
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5. EXPORT SALES

5.1 Designated commercial ports

5.1.1 Approved ports

Both direct and indirect export sales can qualify for zero-rating only if the goods are exported through a designated commercial port.

A 'designate commercial port' is any of the following places in the RSA which have been designated in the Export Regulations or IN 30(3) as an exit point from the RSA for purposes of the zero-rating of export sales:³

Designated ports	Places in South Africa
Designated international airports	Bloemfontein, Cape Town, Gateway (Polokwane), King Shaka (Durban), Kruger (Mpumalanga), Lanseria, OR Tambo (Johannesburg), Pilanesberg, Port Elizabeth and Upington
Designated harbours	Cape Town, Durban, East London, Mossel Bay, Port Elizabeth, Port Ngqura, Richards Bay and Saldanha
Designated railway stations	Germiston, Golela, Johannesburg, Maseru Bridge, Mafikeng and Upington
Designated road border posts	<i>Country:</i> Botswana Lesotho Namibia eSwatini (Swaziland) Mozambique Zimbabwe <i>Border post:</i> Groblers Bridge, Kopfontein, Ramatlabama and Skilpadshek Caledonspoort, Ficksburg Bridge, ⁴ Maseru Bridge, Qacha's Nek and Van Rooyenshek Nakop/Narogas and Violsdrift Golela, Jeppes Reef, Mahamba, Mananga, Nerston and Oshoek Lebombo Beit Bridge

5.1.2 Alternative ports

The export of movable goods as well as the declaration of such goods at ports other than these designated commercial ports may be allowed in exceptional circumstances on application to and after approval by SARS.⁵

5.2 When export sales may be zero-rated

5.2.1 Overview

A taxable supply of movable goods by a vendor in the course or furtherance of its enterprise, which would normally be subject to VAT at the standard rate, may be zero-rated where the supplier has supplied the goods in terms of a sale or instalment credit agreement and:

³ Refer to the definition of 'designated commercial port' in the Export Regulations and IN 30(3).

⁴ While Ficksburg Bridge is not listed in IN 30(3), it is listed as a designated commercial port for purposes of zero-rated direct and indirect exports in par. 12.1 of Guide VAT 404.

⁵ Refer to the Customs & Border Management – External Use of Non-Designated Commercial Ports Policy Number SC-CF-13 for more detail in this regard – refer to par. 4 of IN 30(3) regarding direct exports and regulation 8(2)(a) of the Export Regulations regarding indirect exports.

- (i) the supplier has exported the goods under a direct export (*also known as a paragraph (a) export*), i.e. where:⁶
 - the goods have been consigned or delivered by the vendor to the recipient,
 - at an address in an export country,
 - as evidenced by documentary proof acceptable to SARS; or
- (ii) the recipient has exported the goods under an indirect export (*also known as a paragraph (d) export*) and the supplier has elected to zero-rate the supply, i.e. where:⁷
 - the goods have been removed from the RSA by the recipient or recipient's agent,
 - for conveyance to an export country,
 - in accordance with Part 2 of the Export Regulations.

5.2.2 Sale of movable goods

5.2.2.1 Goods

For VAT purposes, 'goods' are corporeal movable things, fixed property, any real right in such thing or fixed property, and electricity, but excluding—

- money, i.e.:
 - coins issued, or which are still in circulation, but excluding coins made wholly or mainly from a precious metal (i.e. gold, silver, platinum and iridium), other than silver;
 - any paper currency which is a legal tender;
 - any coin (other than a coin made wholly or mainly from a precious metal) or paper currency of another country, which is currency;
 - any bill of exchange, promissory note, bank draft, postal order or money order, except when sold as a collector's piece, investment article or item of numismatic interest;
- a mortgage right or right under a pledge of any such thing or fixed property; or
- stamps, forms or cards with a money value and issued for the payment of taxes or duties, except when sold or imported, subsequent to its original sale or issue it is disposed of, as a collector's piece or investment article.

As only movable goods can qualify for zero-rating, only 'goods' which can be physically transported for exportation to another country, as well as electricity, can qualify for zero-rating upon exportation. Any reference to the exportation of 'goods' hereinafter, is a reference to such movable goods.

5.2.2.2 Sale or instalment agreement

A 'sale' is an agreement of purchase and sale and includes any transaction or act whereby or in consequence of which ownership of goods passes or is to pass from one person to another.

'Instalment credit agreement' means any agreement whereby goods:

- (a) are supplied under a sale under which-
 - payment must be made by the purchaser to the seller of a stated or determinable sum of money at a stated or determinable future date or in whole or in part in instalments over a period in the future; and
 - such sum of money includes finance charges stipulated in the agreement of sale and the aggregate of the amounts payable exceeds the cash value of the supply; and

⁶ Refer to section 11(1)(a)(i) read with par. (a) of the definition of 'exported' in section 1(1) and section 11(3).

⁷ Refer to section 11(1)(a)(ii) read with par. (d) of the definition of 'exported' in section 1(1) and section 11(3).

(b)

- the purchaser does not become the owner of the goods merely by virtue of the delivery to or the use, possession or enjoyment by him thereof, or the seller is entitled to the return of those goods if the purchaser fails to comply with any term of that agreement; or
- are supplied under a lease under which-
 - the rent is a stated or determinable sum of money payable at a stated or determinable future date or periodically in whole or in part in instalments over a period in the future; and
 - such sum of money includes finance charges, or an amount determined with reference to the time value of money, and the aggregate of the amounts payable and any residual value exceeds the cash value of the supply; and
 - the lessee is entitled to the possession, use or enjoyment of the goods for a period of at least 12 months; and
 - the lessee accepts the full risk of destruction or loss of, or other disadvantage to, the goods and assumes all obligations in connection with the insurance, maintenance and repair; or
 - the lessor accepts the full risk of destruction or loss of, or other disadvantage to the goods and assumes all obligations in connection with the insurance of the goods and the lessee accepts the full risk of maintenance and repair of the goods and reimburses the lessor for the insurance of the goods.

Any reference to a 'sale' of goods hereinafter also covers a supply in terms of an instalment credit agreement.

5.2.3 Second-hand goods

The export sale of second-hand goods may not be zero-rated if a deduction of notional input tax was made on the purchase of the second-hand goods under a non-taxable supply by:⁸

- the seller of the second-hand goods; or
- a connected person in relation to the seller.

The term 'second-hand goods' essentially means goods which were previously owned and used, but excluding animals and certain gold products.

For example, if Mr D, a vendor who is a dealer in second-hand goods, purchases a bicycle from a non-vendor for R10 000, Mr D may make a deduction of $(15/115 \times R10\,000 = R1\,304.35)$. Assume Mr D subsequently advertises the bicycle for R23 000 (including VAT of R3 000). If Mr N from Namibia buys the bicycle and requests Mr D to deliver the bicycle at Mr N's address in Namibia, Mr D may not zero-rate the sale and charge only R20 000 to Mr N, even if the sale qualifies as a direct export.

While the export may not be zero-rated, VAT will not be charged on the full selling price of the goods. Refer to par. 5.5.7.1 below, as well as the SAICA Tax Guide: Notional Input VAT available on the SAICA website, for more details.

5.3 Direct exports

5.3.1 Overview

⁸ Refer to the proviso to section 11(1), the valuation rule in section 10(12), the definitions of 'second-hand goods' and 'connected person' in section 1(1), and section 20(4)(e) as to tax invoices.

A direct export takes place where the vendor has supplied the goods in terms of a sale and has exported the goods in the sense that he has consigned or delivered the goods to the recipient at an address in an export country.

Such a direct export sale qualifies for zero-rating if it is evidenced by documentary proof acceptable to SARS.⁹ If a vendor meets the documentary and procedural requirements listed by SARS in IN 30(3), the export sale may be zero-rated. If a vendor's circumstances are such that the procedures or documentary proof prescribed in IN 30(3) are inappropriate, the vendor should request a VAT ruling from SARS to obtain approval for the use of an alternative export process or alternative documentary proof.

For a direct export sale of goods to be zero-rated, all the following requirements must be met:

- the goods must be consigned or delivered by the vendor,
- to the recipient at an address in an export country,
- through a designated commercial port,
- within the prescribed time period (refer to par. 5.5.5 below),
- as evidenced by acceptable documentary proof which,
- must be obtained within the prescribed time period (refer to par. 5.5.6 below).

5.3.2 'Consigned or delivered'

5.3.2.1 The vendor must be in control of the export

For the goods to be regarded as having been consigned or delivered by the vendor to the recipient at an address in an export country, the selling vendor must be in control of the export and ensure that the goods are exported from the RSA.¹⁰ The Incoterms® 2020 which will usually indicate that the vendor is in control of the export are:¹¹

⁹ Refer to section 11(1)(a)(i) and the definition of 'exported' in section 1(1), IN 30(3) and Guide VAT 404, par. 12.1.

¹⁰ Refer also to IN 30(3), par. 2.

¹¹ 'Incoterms®' is an acronym for 'international commercial terms'. These represent widely used terms of sale and are a set of internationally recognized rules which define the responsibilities of sellers and buyers. Incoterms specifies who is responsible for paying for and managing the shipment, insurance, documentation, customs clearance, and other logistical activities. Refer to <https://iccwbo.org/business-solutions/incoterms-rules/incoterms-2020/>.

- **CPT** – Carriage Paid To
- **CIP** – Carriage and Insurance Paid To
- **DAP** – Delivered at Place
- **DPU** – Delivered at Place Unloaded
- **DDP** – Delivered Duty Paid
- **CFR** – Cost and Freight
- **CIF** – Cost Insurance and Freight

The legal and VAT consequences of the transaction must, however, be determined with reference to all contractual provisions, and not merely on the basis of the Incoterm® referred to in the contract.

The vendor may either physically deliver the goods himself in an export country or make use of a cartage contractor.¹²

5.3.2.2 Physical delivery by the vendor

The vendor may physically deliver the goods to the recipient at an address in the export country, e.g. when the goods are exported from the RSA in the vendor's baggage or by means of the vendor's own transport.

5.3.2.3 Cartage contractor

The vendor may contract with a cartage contractor for the delivery of the goods to the recipient at an address in an export country, provided:

- the cartage contractor acts on behalf of the vendor; and
- the vendor is liable for the full cost relating to such delivery.

The cartage contractor does not have to be registered as a vendor, but must:

- be a person whose activities include the transportation of goods, e.g. a courier or a freight forwarder (but transportation of goods does not have to be its main activity);
- be engaged by and contractually liable to the vendor to deliver the goods; and
- invoice the vendor for the full cost of the delivery services rendered to the vendor.

5.3.3 To the recipient at an address in an export country

The 'recipient' is the person to whom the supply of goods under a sale is made. An RSA vendor and an RSA resident may also be the recipient of a zero-rated direct export sale.¹³

The address for the consignment or delivery does not have to be the recipient's own address. It can thus be the address of the recipient's customer or agent¹⁴ in an export country.

¹² Refer to the definition of 'consigned or delivered' in IN 30(3).

¹³ Refer to the definition of 'recipient' section 1(1) or in IN 30(3).

¹⁴ Refer to par. 4 of IN 30(3).

The fact that the goods must be consigned or delivered at an address in an export country, does not mean that the goods must be exported from the RSA.¹⁵ This could occur in the case of consecutive supplies. Refer to par 5.3.6.4 below.

5.3.4 Documentary proof for direct exports

5.3.4.1 General

The documentary proof acceptable to SARS in order to substantiate the zero-rating of a direct export sale includes both:¹⁶

- Official documentation, i.e. the export or removal documentation prescribed under the C&E Act, e.g. the Customs Declaration – refer to SAICA’s Value-Added Tax Export Compliance Guide [link on final document]; and
- Commercial documentation, i.e. the documentation issued by freight haulers or freight forwarders, businesses and other organisations that provides proof of the transaction and the transportation of the goods, e.g. a tax invoice, air waybill, bill of lading and the recipient’s order or contract.

The prescribed documentation must be retained for a period of 5 years.¹⁷

5.3.4.2 Standard documentary proof

[These refer to both official and commercial documentation]

The selling vendor must, in respect of all export scenarios, obtain and retain the following documentary proof:¹⁸

- a copy of the zero-rated tax invoice;
- the recipient’s order or the contract between the recipient and the vendor, including–
 - telephone and e-mail orders;
 - picking slips generated as a result of an order by telephone;
- the required transport documentation for the relevant mode of transport;
- the customs documentation, i.e. the export and acquittal documentation prescribed under the C&E Act, as set out in the Customs and Border Management – External Policy Number SC-EX-01-03 Exports, the Customs and Border Management – External Policy Number SC-TR-01-02 Acquittal of Customs Declarations read with the Customs and Border Management – Annexure Number SC-TR-01-03-A06 Acquittal Document Requirements as updated or amended;
- proof of payment for the goods supplied to the recipient, which can also be:
 - proof of the supply of goods, in the case of a barter transaction;
 - by way of the debiting or crediting of a loan account, depending on whose loan account it is;
 - where payment is made by foreign exchange, the Exchange Control declaration form from the SARB; or
 - proof of a bank deposit, details of a cheque payment or confirmation of an electronic bank transfer.

¹⁵ Refer to footnote 5 in par. 8.5 of IN 30(3).

¹⁶ Refer to par. 6.1 of IN 30(3).

¹⁷ Refer to section 55 of the VAT Act and section 29 of the TA Act, read with Government Notice 787 in Government Gazette 35733 of 1 October 2012.

¹⁸ Refer to par. 6 of, the definition of ‘customs documentation’ in, and annexure B to IN 30(3).

5.3.4.3 Physical delivery by vendor at address in export country

If the vendor itself physically delivers the goods to the recipient at an address in an export country, it must obtain and retain:

- the standard documentary proof (Refer to par. 5.5.3.4.2);
- proof that the movable goods have been received by the recipient in the export country, which includes a delivery note signed by the recipient and a goods received voucher issued by the recipient; and
- the required transport documentation for the relevant mode of transport (Refer to par.5.5.3.4.5).

5.3.4.4 Exportation by the vendor's cartage contractor

Where:

- the vendor delivers goods to an export depot, railway station, harbour, airport, postal service or a courier company in the RSA; or
- the vendor's cartage contractor takes possession of the goods at the premises of the vendor, from where the goods are exported by the cartage contractor for delivery to the recipient at an address in an export country, the vendor must obtain and retain the following documentary proof:
 - the standard documentary proof (Refer to par.5.5.3.4.2);
 - proof that the vendor paid the transport costs, which includes a receipt and charges payable to third parties necessary to achieve delivery from the point in the RSA where the vendor releases the goods for transportation, to the point where the vendor delivers the goods to the recipient, in the export country, as contractually agreed;
 - the required transport documentation for the relevant mode of transport (Refer to par. 5.5.3.4.5).

5.3.4.5 Transport documentation for relevant mode of transport

The following documentary proof must be obtained by the vendor, whether the vendor: ¹⁹

- itself physically delivers the goods in an export country; or
- uses a cartage contractor to consign and deliver the goods to/in an export country.

5.3.5 Documentary Proof for different modes of Transport²⁰

Documentation

Mode of transport

Road

- A copy of–
 - the relevant document to prove that the cartage contractor took possession of the goods from the vendor, which includes a goods received note issued by the cartage contractor, a delivery note and the vendor's tax invoice for the goods, being signed and stamped by the cartage contractor;
 - the road manifest issued by the cartage contractor; and
- A copy of the proof of delivery issued by the cartage contractor that the goods have been received by the recipient in the export country, which includes a proof of delivery and a delivery note, stamped and signed by the recipient.

¹⁹ Refer to Annexure B of IN 30(3).

²⁰ Refer to page 9 of IN 30(3).

5.3.5 Documentary Proof for different modes of Transport²⁰

Documentation

Mode of transport

Rail

- A copy of the rail consignment note; or
- if by wagon, a copy of the combined consignment note and wagon label issued by the rail operator; or
- if by container, a copy of the container terminal order or freight transit order issued by the container operator or the rail operator.

Sea

A copy of the sea freight transport document, e.g. a bill of lading or a waybill, which must:

- reflect (inter alia) the vessel's name, the date and the place of departure, and
- be duly stamped or endorsed that the goods have been shipped on board.

Air

A copy of the airfreight transport document which must reflect (inter alia) the flight number, the date and the place of departure, and includes an air waybill.

Post

Proof of receipt of the movable goods by the postal service.

5.3.6 Exceptions to documentary proof required for direct exports

5.3.6.1 Temporary export changed to permanent export

If a vendor temporarily exports goods from the RSA, e.g. for purposes of exhibition, demonstration or display in an export country, and the goods are sold by the vendor whilst still located in the export country, the temporary export changes to a permanent export and the vendor may zero-rate the supply of the goods. In addition to the standard documentary requirements, the vendor must obtain a substitute bill of entry. The recipient's order or the contract between the recipient and the vendor is not required.²¹

5.3.6.2 Sale of movable goods situated outside the RSA

If a vendor sells goods situated outside the RSA, e.g. a sale on the high seas, and consigns or delivers the goods to the recipient at an address on board the ship while on the high seas outside the RSA territorial waters, the supply may be zero-rated. Documentary requirements:²²

- Standard documentary requirements; and
- proof that the goods were situated outside the RSA at the time of supply, including:
 - the applicable customs documentation proving the export;
 - a transport document, e.g. a document indicating, amongst others, the country of dispatch and the country of receipt.

5.3.6.3 Sale of consignment stock in an export country

If the goods are situated in an export country at, e.g. a distributor's or third party's premises as consignment stock (while the RSA vendor is still the owner of the goods), the supply of the goods in that export country may be zero-rated. Documentary requirements:²³

²¹ Par. 8.3.1 of IN 30(3).

²² Par. 8.3.2 and Annexure B of IN 30(3).

²³ Par. 8.3.3 in IN 30(3).



- Normal documentary requirements; but
- the recipient's order or a contract between the recipient and the vendor is not required.

5.3.6.4 Consecutive supplies

The zero rate may be applied to a supply by a vendor (A) to a recipient (B), who is also a registered vendor, of goods which are delivered directly to that recipient's customer (C) at an address in an export country. The two separate supplies may both be zero-rated, if the documentary requirements are met:

²⁴

- Sale by A to B:
 - Normal documentary proof;
 - the delivery address is the address in the export country (thus not B's RSA address).
- Sale by B to C:
 - A copy of the zero-rated tax invoice for the supply of the goods by B to C;
 - the order or the contract between B and C;
 - proof that the goods are to be exported or are situated outside the RSA (e.g. copies of the documentary proof used by A to zero-rate the supply to B);
 - proof that the goods have been received by C;
 - proof of payment for the supply of the goods to C.

The zero rate may not be applied if the goods are supplied to more than one recipient in the RSA before being exported to the final recipient in an export country. However, this limitation does not apply to supplies made by a vendor on a flash title basis, namely where vendor (D) supplies goods to recipient (E), and recipient (E) subsequently supplies the goods to another recipient (F) and ownership of the goods vests in recipient (E) only for a moment before the goods are sold to recipient (F).²⁵

5.4 Indirect exports

5.4.1 Overview

An indirect export takes place where the goods are:

- not consigned or delivered by the selling vendor to the recipient at an address in an export country; but
- instead, removed from the RSA by the recipient or its agent for conveyance to an export country.

The Incoterms® 2020 which will usually indicate that the goods are exported by the recipient under an indirect export are:²⁶

- **EXW** – Ex Works
- **FCA** – Free Carrier
- **FAS** – Free Alongside Ship
- **FOB** – Free On Board

The selling vendor may elect to zero-rate such an indirect export sale if:²⁷

²⁴ Par. 8.5 of IN 30(3).

²⁵ Refer to par. 8.5 and the definition of 'flash title' in IN 30(3).

²⁶ Refer to <https://iccwbo.org/business-solutions/incoterms-rules/incoterms-2020/> and par. 5.3.2.1 above,

²⁷ Refer to section 11(1)(a)(ii), read with par. (d) of the definition of 'exported' in section 1(1).



- the recipient is a qualifying purchaser; and
- the supplier delivers the goods at:
 - a designated harbour or airport, from where the qualifying purchaser will export the goods in accordance with Parts 2A and 3 of the Export Regulations; or
 - the qualifying purchaser's agent (who is a licensed remover of goods in bond), from where the qualifying purchaser will export the goods by road or rail under Part 2B and 3 of the Export Regulations;
- the goods will be exported within the prescribed time period (Refer to par. 5.5.5); and
- the prescribed documentary proof will be required within the prescribed time period (Refer to par. 5.5.6).

If the selling vendor does not want to bear the risk of compliance with all the procedural and documentary requirements of the Export Regulations, the vendor does not have to zero-rate the supply. The vendor must then charge VAT at the standard rate and the recipient who removes the goods from the RSA may claim a refund of the VAT paid by him, if the requirements of Parts 1 and 3 of the Export Regulations are met.²⁸

5.4.2 Qualifying purchaser

A 'qualifying purchaser' is a person who is not a registered vendor (except in the case of a flash title purchaser) and who/which is, in the context of Part 2 of the Export Regulations:²⁹

- a foreign enterprise, i.e. an enterprise or business which is carried on continuously or regularly by any person (including an RSA passport holder) in an export country and in the course or furtherance of which goods or services are supplied to any other person for a consideration;
- a non-resident of the Republic, i.e. a natural person who is not in the RSA at the time of the supply and is a non-RSA passport holder, or a permanent resident of an export country;
- an international organisation formally established for the purposes of promoting peace and security, human and people's rights and political and socio-economic development or any similar purpose, and established in an export country and not conducting any activity in the RSA;
- an organisation which is similar to an association not for gain or a welfare organisation which is registered as such in an export country, and established in an export country and not conducting any activity in the RSA; or
- a flash title purchaser, i.e. (for purposes of Part 2A of the Export Regulations), 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.

5.4.3 Harbour or airport

The vendor may only elect to zero-rate the supply in the following circumstances:³⁰

- (a) the vendor ensures that the goods are delivered (in any manner) to a designated harbour or airport, from where the goods are to be exported by the qualifying purchaser; or
- (b) the 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, namely where the vendor supplies goods:

²⁸ Refer to the proviso to section 11(2)(a)(ii) and regulation 8(3) of the Export Regulations.

²⁹ Refer to the full definition of 'qualifying purchaser' in the Export Regulations.

³⁰ Regulation 8 of the Export Regulations.

- to a qualifying purchaser (QP1) who is not a resident of the Republic and who acquires goods from an RSA vendor with the sole purpose of selling those goods to another person who is not a resident of the Republic;³¹
 - and QP1 subsequently supplies the movable goods to another qualifying purchaser (QP2) and ownership of the goods vests in QP1 only for a moment before the goods are sold to QP2;
- (d) the vendor supplies the goods to a qualifying purchaser, but the goods will first be sent to a third party for purposes of a process of repair, improvement, manufacture, assembly or alteration in the RSA (refer to par.5.5); or
- (e) the vendor supplies goods to a qualifying purchaser or registered vendor and the goods are—
- situated at the designated harbour or airport;
 - 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
 - destined to be exported from the RSA.

5.4.4 Road or rail

Requirements for zero-rating

A vendor may, under Part 2B of the Export Regulations, elect to zero-rate:

- the supply of goods to a qualifying purchaser, if the goods are to be exported from the RSA via road or rail by the qualifying purchaser's agent; or
- the supply and exportation of specific lubricants by manufacturers in the oil and gas industry.

5.4.4.1 The qualifying purchaser

The qualifying purchaser will order goods from a vendor or enter into an agreement with a vendor for the supply of goods to be exported from the RSA to an export country. The qualifying purchaser must:

- register as an 'exporter' under the C&E Act;
- appoint an agent as its RSA representative for Customs purposes;
- enter into an agreement with its agent in the RSA to meet the requirements of Part 2B; and
- make payment to the vendor for the supply of the goods, which payment must be:
 - in compliance with the SARB's foreign exchange regulations;
 - reported on the Electronic Export Monitoring System and to SARB via the Cross Border Foreign Exchange Transaction Reporting System; and
 - reported on the relevant Customs Declaration with the correct mandatory Exporter Code (CCN) and Unique Consignment Reference (UCR) prescribed in terms of the C&E Act.

5.4.4.2 Selling vendor

The selling vendor must:

- accept an order from, or enter into an agreement with, a qualifying purchaser; and
- obtain confirmation of the appointment of an agent by the qualifying purchaser, and that the agent is a registered customs client;
- issue a tax invoice to the qualifying purchaser or its agent for the goods supplied;

³¹ Refer to the definition of 'flash title' and par. (f) of the definition of 'qualifying purchaser' in the Export Regulations.
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- receive payment for the supply of goods from the qualifying purchaser;
- consign or deliver (in any manner) the goods to the agent's premises, or ensure that the goods are delivered to the agent's premises;
- obtain and retain:
 - proof of delivery of the goods to the agent;
 - confirmation of proof of export from the agent; and
 - an inventory reconciliation statement from the agent of all the 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;
- ensure that the goods are exported and documentary proof obtained within the prescribed period of time.

5.4.4.3 The agent

The seller can only zero-rate the supply made to the qualifying purchaser if the goods are delivered to the agent, who is appointed by the qualifying purchaser for the exportation of goods supplied by one or more suppliers to the qualifying purchaser. After collection, the goods must be stored and consolidated by the agent in a warehouse until the consolidated consignment of goods is exported to the qualifying purchaser in the export country.³²

The agent must be:

- a registered vendor and located in the RSA;
- the nominated agent of a qualifying purchaser and registered as an 'exporter' under the C&E Act;
- appointed by a qualifying purchaser to collect, consolidate and deliver goods to such qualifying purchaser at an address in an export country; and
- licensed as a remover of goods in bond under the C&E Act.

The agent must—

- conclude an agreement with the qualifying purchaser to be appointed as its RSA representative for customs purposes as well as its agent in respect of all supplies made to that qualifying purchaser by vendors in terms of Part 2B of the Export Regulations;
- receive the goods, issue a 'goods received note' to the vendor or its cartage contractor and enter it into a warehouse;
- receive the tax invoice (or a certified copy) from the vendor;
- declare the goods for export on behalf of the qualifying purchaser prior to removal from the warehouse;
- obtain and retain the 'proceed to port' notice, the 'proof of export' and proof of import into the export country or proof of delivery to the qualifying purchaser or the qualifying purchaser's agent in the export country;
- provide a statement to the vendor containing the details of the proof of export;
- maintain proper inventory control and reconciliation of goods received and exported per vendor;
- provide an inventory reconciliation statement to the vendor within 21 days from the date that the goods were exported or required to be exported;
- export the goods and obtain the required documentation within the prescribed time period.

³² Refer to also par. 12.1.2 of Guide VAT 404.



5.4.4.4 The cartage contractor

The cartage contractor, which may be the agent, may be contractually bound either to:

- 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, in which case the cartage contractor must—
 - deliver the goods to the warehouse;
 - be licensed as a remover of goods in bond; and
 - obtain and retain proof of delivery of the goods to the warehouse; or
- the qualifying purchaser or its agent for the exportation of the goods from the agent's premises to the qualifying purchaser in an export country, in which case the cartage contractor must—
 - deliver the goods to the qualifying purchaser via one of the designated border posts;
 - be licensed as a remover of goods in bond;
 - obtain proof of export from the RSA to the export country; and
 - obtain proof of import of the goods into the export country or proof of delivery of the goods to the qualifying purchaser or the qualifying purchaser's agent in the export country.

5.4.4.5 Oil and gas industry

In the case of the oil and gas industry, the zero-rating will only apply to the sale of 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 C&E Act.³³ The zero-rating does not extend to the export of fuel levy goods.

5.4.5 Documentary proof for indirect exports

5.4.5.1 General

The vendor must, in respect of exports via harbour or airport, and via road or rail obtain and retain:

- a copy of the zero-rated tax invoice issued to the qualifying purchaser.
- a copy of the qualifying purchaser's:
 - passport, showing his name, passport number and country of residence, or where the qualifying purchaser, or the person duly authorised to represent the qualifying purchaser. which is not a natural person, was in the RSA at the time of purchase, the pages in the passport with an endorsement for entry into the RSA and exit from the RSA;
 - trading licence or any other equivalent document acceptable to SARS 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
- the qualifying purchaser's order or the contract between the vendor and the qualifying purchaser;
- proof of payment (in compliance with SARB requirements, where applicable);
- proof of delivery to a designated harbour or airport, or in the case of exports via road or rail, to the agent's premises;
- the export documentation prescribed under the C&E Act.

³³ This qualifies as an indirect export under Part 2B of the Export Regulations. Refer to regulations 11(1)(b) and 12(9) of the Export Regulations.



5.4.5.2 Exports by road or rail

In addition to the above documentary requirements, the selling vendor must obtain and retain:

- an inventory reconciliation statement from the agent; and
- confirmation of the proof of export from the agent.

The agent must obtain and retain:

- a copy of the agreement between the agent and the qualifying purchaser, appointing the agent as its RSA representative for customs purposes, or confirmation of such agreement and appointment;
- proof of registration as a licenced remover of goods in bond;
- proof of import into the export country, or proof of delivery to the qualifying purchaser or its customer in the export country;
- a copy of the inventory reconciliation statement; and
- the proof of export.

5.4.5.3 Manufacturers of lubricating oils and greases

The manufacturers of lubricating oils and greases must obtain and retain:

- a copy of the zero-rated tax invoice issued to the qualifying purchaser;
- a copy of the qualifying purchaser's trading licence or any other equivalent document acceptable to SARS 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;
- the qualifying purchaser's order or the contract between the vendor and the qualifying purchaser;
- proof of payment (in compliance with SARB requirements, where applicable);
- the proof of export.

5.5 Time period allowed to export the goods

5.5.1 General rule

In the case of direct and indirect exports, the goods must be exported from the RSA 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.³⁴

5.5.2 Exceptions

5.5.2.1 Advance payments

Goods for which an advance payment is required, must be exported within 30 days from the date(s) of export agreed upon in the contract entered into between the vendor and:³⁵

- the recipient (in the case of a direct export); or
- the qualifying purchaser (in the case of an indirect export).

5.5.2.2 Processing in the RSA prior to export

Where a selling vendor supplies goods:

³⁴ Par. 5.1 of IN 30(3).

³⁵ Refer to par. 5.2(a) of IN 30(3) and regulation 15(2)(a) of the Export Regulations.



- for which the time of supply is regulated by the general time of supply rule or the time of supply rules for progressive or periodic payments; and
- which are subject to a process of repair, improvement, erection, manufacture, assembly or alteration,

the supply qualifies for zero-rating if the goods are exported from the RSA within a period of 90 days calculated from the date of completion of the said process.³⁶

Specific rules which apply depending on whether it is a direct or an indirect export:

Requirement	Direct export	Indirect export
<i>Recipient</i>	Recipient in an export country	Qualifying purchaser
<i>Third party responsible for processing</i>	Any third party in the RSA	Third party must be a vendor
<i>Delivery</i>	At third party's premises in the RSA	Selling vendor must ensure that the goods are delivered to the premises of the third party
<i>Procedure after processing</i>	Third party must deliver the goods back to the selling vendor	
<i>Exporter</i>	Selling vendor must consign or deliver the goods at an address in an export country	Third party must ensure that goods are subsequently delivered to a designated harbour or airport
<i>Selling vendor's documentary proof</i>	Standard proof PLUS statement by third party	Standard proof PLUS <ul style="list-style-type: none"> - proof of delivery to third party; - statement by third party
<i>Third party statement</i>	Third party must provide to selling vendor within 21 days from (required) date of export	
<i>Contents of third-party statement</i>	<ul style="list-style-type: none"> • Invoice number and date of issue of tax invoice issued by third party to recipient for services rendered; or • contract between third party and recipient for services rendered; and • confirmation that goods supplied by vendor and exported to recipient have been used in the course of the process; • Indirect exports: Also details of the export documentation prescribed under the C&E Act. 	

5.5.2.3 Precious metals

Precious metals exported from the RSA via air must be exported within 30 days from the date of the export release as per the release instruction received from the recipient (under a direct export) or the qualifying purchaser (under an indirect export) of the precious metals, to export the precious metals.³⁷

5.5.2.4 Tank containers

³⁶ Refer to par. 5.2(c)(i) of IN 30(3) and regulations 8(2)(d), 9(2), 10(1)(g) and 15(2)(c) of the Export Regulations.

³⁷ Refer to the definition of 'release instruction' and par. 5.2(b) of IN 30(3) and regulation 15(2)(b) of the Export Regulations.

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 RSA within a period of 6 months calculated from the date of completion of the manufacturing or reconditioning of the tank container.³⁸

5.5.2.5 Hunted animals

The supply by a vendor of any part of a hunted animal to a recipient (in the case of a direct export), or a qualifying purchaser (in the case of an indirect export), that is subsequently subject to a process of preservation or mounting of that animal as a trophy, must be exported within a period of seven months calculated from the earlier of the time an invoice is issued or the time any payment of consideration is received by the vendor.³⁹

5.5.3 Extension of time period for export

5.5.3.1 Circumstances beyond the vendor's control

SARS may extend the period within which the goods must be exported if the goods have not been exported within the prescribed periods (under the general rule or the exceptions) to a recipient under a direct export, or to a qualifying purchaser under an indirect export, due to any of the following circumstances beyond the vendor's control:⁴⁰

- exceptional commercial delays or difficulties, due to—
 - the vendor (or qualifying purchaser) not being able to secure transport for the export of the goods (but not if this is due to financial difficulties experienced by that person); or
 - the alteration of the terms of an order or contract by the recipient; or
 - specific requirements imposed by the export country pertaining to a specific type of good (e.g. registrable goods), that prevent the vendor from exporting the goods within the prescribed time period;
- a natural or human-made disaster;
- a civil disturbance or disruption in services; or
- a serious illness of or accident concerning:
 - in the case of a direct export, the vendor or the person responsible for arranging the export (in the case of a juristic person); or
 - in the case of an indirect export, the qualifying purchaser or its representative.

5.5.3.2 Application for extension

The vendor⁴¹ must submit its request to SARS for a binding private or class ruling approving an extension of the time period allowed for export before the expiry of prescribed time period. A written application, setting out the relevant circumstances, must be submitted by e-mail to VATRulings@sars.gov.za or by facsimile to 086 540 9390.

³⁸ Refer to par. 5.2(c)(iii) of IN 30(3) and regulation 15(2)(e) of the Export Regulations

³⁹ Refer to par. 5.2(c)(ii) of IN 30(3) and regulation 15(2)(d) and (3) of the Export Regulations.

⁴⁰ Refer to the definition of 'exceptional commercial delays or difficulties' and par. 5.2(d) and (e) in IN 30(3), as well as the definition of 'circumstances beyond the control' and regulation 15(2)(f) in the Export Regulations.

⁴¹ It is not clear in regulation 15(2)(f)(i) and (ii) whether the vendor or the qualifying purchaser must submit the application in the case of an indirect export. A solution might be that the vendor and the qualifying purchaser submit the application together.

If the vendor is unable to submit such an application before the expiry of the prescribed period, the vendor must submit the application within a period of 30 days from the expiry of the period within which the application should have been submitted and set out:

- the circumstances that would be regarded as being beyond the vendor's control; and
- the reasons why the application could not have been submitted timeously.

5.5.3.3 COVID-19

SARS has accepted that the COVID-19 pandemic and the lockdown measures have made it difficult for vendors to meet the prescribed time periods set out in IN 30(3) for direct exports and in the Export Regulations for indirect exports, and that this situation is beyond the control of the vendor, qualifying purchaser, or its representative.

Any time periods prescribed for the exportation of goods under a direct or an indirect export have thus been extended by an additional three months (Refer to BGR 52). This applies only to supplies of goods in respect of which the original prescribed timelines have not yet been exceeded by 26 March 2020. BGR 52 applies from 26 March 2020 until 1 March 2022 when it was withdrawn.

5.6 Time allowed to obtain the prescribed documents

5.6.1 General rule

The vendor (or the qualifying purchaser's agent) must obtain the required documentary proof within a period of 90 days from the date by which the goods must be exported from the RSA and retain the documentation as prescribed.⁴² This applies to direct and indirect exports.

In the case of a direct export of goods by a vendor prior to an invoice being issued or payment being received for the supply, the time of supply is only triggered when an invoice is issued, or any payment is received. As the 90-day period for obtaining documentary proof is calculated from the time of supply, the documentary proof will pre-date the tax invoice and/or proof of payment.⁴³

5.6.2 Circumstances beyond the control of the vendor

In the case of indirect exports, SARS may extend the period within which the required documentary proof must be obtained where the proof has not been obtained within the prescribed period due to circumstances beyond the control of the vendor.⁴⁴ The vendor must, before the expiry of the 90-day period submit a written application to SARS, requesting a binding private or binding class ruling for confirmation of the extension, and setting out which of the following circumstances prevented the vendor from obtaining the documentation timeously:

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

⁴² Refer to par. 7(a) of IN 30(3) and regulation 16(1) of the Export Regulations.

⁴³ Par. 8.2 of IN 30(3)

⁴⁴ Refer to regulation 16(5) of the Export Regulations.

5.6.3 Extension allowed for proof of payment

5.6.3.1 Circumstances

If the vendor has not obtained the required documentary proof within the 90-day period (or the extended period allowed in the case of indirect exports), the vendor must make an output tax adjustment at the standard rate.

However, if all the other required documentary proof has been obtained in time, extension is allowed in the following instances for obtaining proof of payment:⁴⁵

- (i) the vendor has entered into a written contract with the recipient (or the qualifying purchaser in the case of an indirect export) for the payment of the consideration to be made after or over a period exceeding–
 - the said 90 days, but not exceeding six months; or
 - six months, but not exceeding 12 months and has the relevant approval from a dealer in foreign exchange authorised by the SARB; or
 - 12 months, and has the relevant approval from the SARB;
- (ii) due to the nature of the goods, a written contract provides for a retention amount to be withheld for a period exceeding five years and proof of payment of the retention amount has not been obtained;
- (iii) the recipient (or the qualifying purchaser in the case of an indirect export) is unable to affect the payment due to foreign exchange restrictions imposed by its country;
- (iv) the vendor has the relevant approval from the SARB or a foreign exchange dealer authorised by the SARB not to repatriate any foreign currency for that supply;
- (v) 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 RSA. This exception is limited to a period of six months from the time of export; or
- (vi) the vendor has written off the said consideration as irrecoverable.

5.6.3.2 Foreign exchange approval

The vendor must obtain and retain a copy of the relevant approval from the SARB or the said foreign exchange dealer. Such approval does not have to be obtained if the goods are exported to a country falling within the common monetary area.⁴⁶

5.7 Specific industries, transactions or issues

5.7.1 Second-hand goods

Where a deduction of notional input tax was made on the purchase of second-hand goods under a non-taxable supply by:

- the seller of the second-hand goods; or
 - a connected person in relation to the seller,
- the export sale of such second-hand goods may not be zero-rated (refer to par. 5.5.2.3). However, if all the requirements for a direct or indirect export are met, VAT does not have to be charged and accounted for to SARS at the standard rate on the full selling price of the second-hand goods, but only on the

⁴⁵ Refer to par. 7(d) and (e) of IN 30(3) and regulations 16(6) and (7) of the Export Regulations.

⁴⁶ As defined in the SARB's Exchange Control Manual. Refer to par. 7(e) of IN 30(3) and regulation 16(7) of the Export Regulations.

purchase price that was paid for the goods by the seller, or by such connected person, whichever is the greater.

For example, if Mr D, a vendor who is a dealer in second-hand goods, buys a bicycle from a non-vendor for R10 000 and makes a deduction of notional input tax calculated as $(15/115 \times R10\ 000 = R1\ 304.35)$, he may not zero-rate the direct export sale of the bicycle to Mr N, from Namibia. Therefore, if the VAT-inclusive selling price of the bicycle is R23 000 (including VAT of R3 000), Mr D may not charge only R20 000 to Mr N and account for VAT to SARS at 0%, even if the sale qualifies as a direct export. However, if Mr D meets all the requirements of IN 30(3) for zero-rating a direct export, he does not have to charge VAT at the standard rate on R20 000, but on only R10 000, i.e. the purchase price that Mr D paid to the non-vendor.

The purchase price of the second-hand goods for which notional input tax was deducted (i.e. R10 000) must be inserted in block 10 of the VAT201 return. The amount of VAT payable by Mr D (i.e. the tax fraction \times the purchase price = $15/115 \times R10\ 000 = R1\ 304.35$) will automatically be calculated in block 11 of the VAT201 return. Effectively, the zero rate applies only to the difference between the purchase and selling prices of the second-hand goods.

In addition to all the normal procedural and documentary requirements for a direct or indirect export, the vendor must ensure that the tax invoice issued to the recipient meets all requirements for a valid tax invoice and, in particular, that it states that the goods are second-hand goods.

However, if the requirements for zero-rating a direct or an indirect export sale are not met, the full selling price of the second-hand goods must be inserted in block 1 of the VAT201 return. In the above example, VAT of R3 000 would be payable by Mr D.

5.7.2 Export of goods via pipeline or electrical transmission line

5.7.2.1 Direct exports

Where a vendor who sells and exports continuous transmission commodities, e.g. electricity, water, fuel and gas, by way of a pipeline or electrical transmission line, and is the owner of the mode of transport or is liable for the full cost of use thereof, the supply will qualify as a zero-rated direct export sale if the following documentary proof is obtained and retained:⁴⁷

- a copy of the zero-rated tax invoice;
- the export and acquittal documentation prescribed under the C&E Act as set out in the relevant Customs policy for Continuous Transmission Commodities, the Customs and Border Management – External Policy Number SC-TR-01-02 Acquittal of Customs Declarations read with the Customs and Border Management – Annexure Number SC-TR-01-03-A06 Acquittal Document Requirements;
- proof of payment; and
- the further documentary proof prescribed by SARS to the vendor in respect of the specific circumstances.

5.7.2.2 Indirect exports

⁴⁷ Refer to par. 6.4 of IN 30(3).

Where the goods are exported by means of a pipeline or electrical transmission line which does not belong to the vendor, and the vendor is not contractually liable for the full cost of use thereof, the supply will qualify as an indirect export which may be zero-rated under Part 2A of the Export Regulations if the vendor obtains and retains the following documentary proof:⁴⁸

- the export documentation prescribed under the C&E Act;
- a tax invoice; and
- proof of payment which must, where applicable, be in compliance with the SARB requirements; and
- the further documentary proof prescribed by SARS to the vendor in respect of the specific circumstances.

5.7.3 Foreign main business or branch

A business which is carried on continuously or regularly, wholly or partly in the RSA, in the course or furtherance of which goods or services are supplied for a consideration, may qualify as a VAT enterprise. This means that if the person carrying on such VAT enterprise must be registered as a vendor (or applies for voluntary registration) the worldwide business activities are regarded as being a VAT enterprise. To prevent the difficulties which would follow if the vendor had to account for its worldwide transactions in its VAT201 return, a branch or main business of an enterprise is deemed to be carried on by a person separate from the vendor, if:

- the branch or main business is permanently situated at premises outside the RSA;
- the branch or main business can be separately identified; and
- an independent system of accounting is maintained for the branch or main business.⁴⁹

Where a vendor transfers goods to such a separate branch or main business⁵⁰ outside the RSA and consigns or delivers the goods to an address outside the RSA, the vendor is deemed to make a taxable supply of goods, as the RSA part and the foreign part of the business are deemed to be separate persons. Such supply may be zero-rated if the documentary requirements of IN 30(3) are met (Refer to par. 5.5.3.4).⁵¹

5.7.4 Sale of goods situated outside the RSA

Temporary export changed to permanent export

If a vendor temporarily exports goods from the RSA, e.g. for purposes of exhibition, demonstration or display in an export country, and those goods are subsequently sold by the vendor whilst still located in that export country, the vendor may zero-rate the supply of the goods. As the 90-day period for obtaining the documentary proof is calculated from the time of supply, the documentary proof will pre-date the tax invoice and proof of payment.⁵²

Sale of consignment stock in an export country

If the goods are situated in an export country at, e.g. a distributor's or third party's premises as consignment stock (while the RSA vendor is still the owner of the goods), the supply of the goods in the

⁴⁸ Refer to regulation 8(2)(b) and the proviso to regulation 10 of the Export Regulations.

⁴⁹ Refer to par. (ii) of the proviso to the definition of 'enterprise' in section 1(1).

⁵⁰ This branch or main business will generally not be a registered Vat vendor as it does not form part of the South African Vat enterprise of the vendor supplying the goods.

⁵¹ Refer to section 11(1)(i), read with section 8(9) and par. 5.1, table A, item L of IN 31(4).

⁵² Refer to par. 8.3.1 of IN 30(3).

export country may be zero-rated.⁵³ As the 90-day period for obtaining the documentary proof is calculated from the time of supply, the documentary proof will pre-date the tax invoice and proof of payment.

5.7.5 Professional hunters and taxidermists

The specific VAT consequences which apply to professional hunters and taxidermists in respect of the hunting of wild or exotic animals for payment or reward are set out in IN 81(2).

5.7.5.1 Trophy fee

The trophy fee which is paid:

- by a foreign hunter, i.e. a hunter who is not a resident of the Republic, who physically resides in an export country and who is neither registered nor required to be registered as a vendor,
- for hunting (or wounding) and becoming the owner of the raw trophy, irrespective of whether the animal (or any part thereof) is retained by the hunter,

is consideration for the supply of the hunted animal. This constitutes a supply of goods by the hunting outfitter (i.e. a registered vendor, who is a resident of the Republic and who represents or organises the hunting of wild or exotic animals for payment or reward), which may be zero-rated if it meets the requirements for a direct export or an indirect export.

5.7.5.2 Direct export

The zero rate may be applied if the goods are sold to the foreign hunter and consigned or delivered by the hunting outfitter to the foreign hunter at an address in an export country, and the relevant documentary requirements are met. The trophy has to be exported within seven months from the earlier of the time an invoice is issued, or payment of consideration is received by the hunting outfitter for that supply where the trophy is subject to a subsequent process of preservation or mounting.⁵⁴

5.7.5.3 Indirect export

The hunting outfitter may elect to zero-rate the supply of the hunted animal to the foreign hunter if the hunting outfitter ensures that the animal is delivered to a designated harbour or airport and the requirements of Part 2A of the Export Regulations are met.

A hunting outfitter may also elect to zero-rate the supply of the hunted animal to the foreign hunter if the hunting outfitter ensures that the animal is delivered to a taxidermist who will export the trophy after further processing (e.g. after the trophy is mounted). The taxidermist must ensure that the trophy is delivered to a designated harbour or airport and the trophy must be exported within 90 days from the date of completion of the taxidermy process (Refer to par 5.5.2.2). The hunting outfitter must also obtain and retain the prescribed documentary proof, including a substantiating statement from the taxidermist, containing:⁵⁵

- the taxidermist's invoice number and date of the invoice or the contract for the services rendered;
- confirmation that the animal was used in the taxidermy process; and

⁵³ Refer to par. 8.3.3 in IN 30(3).

⁵⁴ Refer to par. 5.2(c)(ii) of IN 30(3).

⁵⁵ Refer to para. 8(2)(d) and 10(1)(g)(ii) of the Export Regulations and par. 4.3.3 of IN 81(2).

- details of the export documentation relating to the export of the trophy.

5.7.6 Motor industry

The export sale of:

- new goods, e.g. a new motor vehicle or new motor vehicle spares; and
- second-hand goods, e.g. a second-hand motor vehicle or second-hand motor vehicle spares, for which a deduction of notional input tax was not made by the vendor or a connected person in relation to the vendor, may be zero-rated in accordance with the general rules for direct and indirect exports.⁵⁶

If a deduction of notional input tax was made on the purchase of second-hand goods by either the vendor itself, or by a connected person in relation to the vendor, the export sale may not be zero-rated. If all requirements for a direct or an indirect export are met, VAT may be charged at the standard rate on the purchase price of the second-hand goods paid by the vendor or by such a connected person. However, if the procedural and documentary requirements of IN 30(3) or the Export Regulations are not met, VAT at the standard rate must be charged on the full selling price of the second-hand goods. Refer to also par. 5.5.7.1.

In the case of a direct export sale, the vendor, e.g. motor dealer, is responsible for the delivery of the goods to the recipient, the recipient's duly appointed agent or the recipient's customer at an address in an export country by either using the motor dealer's own driver (being an employee of the motor dealer), the motor dealer's own delivery vehicle or by the motor dealer engaging a cartage contractor.⁵⁷

5.7.7 Foreign-going ships and aircraft

5.7.7.1 Overview

A supply of goods under a sale or an instalment credit agreement, which would normally be standard-rated, may in certain circumstances be zero-rated where the vendor supplies the goods to a foreign-going ship or aircraft. The goods may be exported by way of either a direct export (Refer to par.5.5.3) or an indirect export (Refer to par. 5.5.4). However, in order to qualify for zero-rating, specific additional requirements must be met.

5.7.7.2 Foreign-going ships

Ships used for transportation of passengers or goods for reward

The sale of goods may qualify for zero-rating if the vendor delivers the goods to the owner or charterer of a ship or other vessel engaged in the transportation for reward of passengers or goods wholly or mainly on voyages between:

- ports in the RSA and ports in export countries; or
- ports in export countries,

when the ship is going to a destination in an export country and the goods are for use or consumption in the ship.⁵⁸

⁵⁶ Refer to chapter 4 of Guide VAT 420.

⁵⁷ Refer to par. 4.2 of Guide VAT 420.

⁵⁸ Refer to section 11(1)(a)(i), par. (b) of the definition of 'exported' and par. (a) of the definition of 'foreign-going ship' in section 1(1).

Foreign naval ships

The sale of goods may qualify for zero-rating if the vendor delivers the goods to the owner or charterer of a foreign naval ship, when:

- the foreign naval ship is going to a destination in an export country; and
- the goods are for use or consumption in such ship.⁵⁹

Ships used for foreign commercial or fishing concern

The sale of goods may qualify for zero-rating if the vendor delivers the goods to the owner or charterer of a ship or other vessel registered in an export country where:⁶⁰

- such ship or vessel is utilized for the purposes of a commercial, fishing or other concern conducted outside the RSA,
- by a person who is not a vendor and not a resident of the Republic.

5.7.7.3 Foreign-going aircraft

The sale of goods may qualify for zero-rating if the vendor delivers the goods to an:

- aircraft engaged in the transportation for reward of passengers or goods wholly or mainly on flights:
 - between airports in the RSA and airports in export countries; or
 - between airports in export countries; or
- foreign military aircraft, when the aircraft is going to a destination in an export country and the goods are for use or consumption in the aircraft.⁶¹

5.7.7.4 Documentary proof

In order to zero-rate the sale of goods to a foreign-going ship or foreign-going aircraft, the vendor must obtain and retain the following documentary proof:⁶²

- The tax invoice;
- proof that the vendor delivered the goods to the foreign-going ship or foreign-going aircraft, i.e. a copy of the dispatch or delivery note, with acknowledgement of receipt of the goods by the ship's captain, the aircraft's pilot, or a responsible person appointed by the captain or pilot;
- proof of export, namely:
 - the documentary proof required by IN 30(3) for direct exports (Refer to par. 5.5.3.4) or by the Export Regulations for indirect exports (Refer to par. 5.5.4.5); and
 - the export and acquittal documentation prescribed under the C&E Act, as set out in the Customs External Standard Export – External Policy Number SC-EX-01-03, the Customs and Border Management – External Policy Number SC-TR-01-02 Acquittal of Customs Declarations read with the Customs and Border Management – Annexure Number SC-TR-01-03-A06 Acquittal Document Requirements. Refer also to SAICA's Value-Added Tax Export Compliance Guide [link on final document];
- proof of payment, which includes:
 - in the case of, the Exchange Control declaration form from the SARB;

⁵⁹ Refer to section 11(1)(a)(i), par. (b) of the definition of 'exported' and par. (c) of the definition of 'foreign-going ship' in section 1(1).

⁶⁰ Refer to section 11(1)(a)(i), par. (c) of the definition of 'exported' and par. (b) of the definition of 'foreign-going ship' in section 1(1).

⁶¹ Refer to section 11(1)(a)(i), par. (b) of the definition of 'exported' and the definition of 'foreign-going aircraft' in section 1(1).

⁶² Refer to section 11(3), read with par. 5.1, table A, item B of IN 31(4).



- proof of a bank deposit, details of a cheque payment or confirmation of an electronic funds transfer;
- the crediting or debiting (as the case may be) of a loan account; or
- in the case of a barter transaction, a supply of goods or services.

6. COMPLIANCE

6.1 VAT201 returns

6.1.1 Output tax

Zero-rated export supplies

The vendor making the export sale must insert the consideration for the zero-rated supply in block 2A of its VAT201 return in the tax period during which the time of the supply occurred. The vendor must also furnish its Customs code in the 'Vendor details' part of the VAT201 return.

In terms of the general time of supply rule, a supply of goods or services is deemed to take place at the time an invoice (notifying an obligation to make payment) is issued or the time any payment (but not a deposit) is received by the supplier, whichever is the earlier.

Export of second-hand goods which may not be zero-rated

Where the exportation of second-hand goods may not be zero-rated, but VAT must be accounted for on the purchase price on which notional input tax was deducted on the acquisition of the second-hand goods by either the vendor or a connected person in relation to the vendor (Refer to par. 5.5.7.1), the vendor must account for that purchase price in block 10 of its VAT201 return. The VAT calculated as (the tax fraction x purchase price) will be automatically calculated in block 11 of the VAT201 return.

6.1.2 Input tax

The vendor making the export sale may deduct VAT incurred on the acquisition of goods or services in order to make the export sale as input tax (provided all input tax requirements are met), even though VAT is accounted for at the zero rate on the export sale.

6.1.3 Adjustments when requirements for zero-rating not met

Goods not exported within time period allowed for exportation

If the vendor does not export the goods (whether under a direct export or an indirect export) within a period of 90 days from the earlier of the time an invoice is issued or the time any payment of consideration is received by the vendor (or any approved extended time period), the vendor must account for output tax on the supply made under the export sale.

The output tax is calculated as (the tax fraction x consideration for the supply). This amount must be included in block 12 of the VAT201 return for the tax period in which the said prescribed period ends.⁶³

⁶³ Refer to par. 5.3 of IN 30(3) and regulation 12(3)(c) and 12(4)(c) of the Export Regulations.

As the consideration charged to the recipient included VAT at 0%, it means that the vendor will incur a VAT loss.

6.1.4 Documentary proof not obtained within prescribed period of time

6.1.4.1 Output tax

If the vendor (or the agent in the case of indirect exports) does not obtain all the required documentation (except proof of payment which may be obtained within an extended period of time – Refer to par 5.6.3) within:

- in the case of direct exports, the prescribed period of 90 days calculated from the date the goods must be exported;
- in the case of indirect exports, the said period of 90 days, or any extended period of time allowed by SARS,

the vendor may not have zero-rated the export sale and must make an output tax adjustment.

The vendor must account for output tax at the standard rate, (calculated as the tax fraction x consideration for the supply) in block 12 of the VAT201 return for the tax period in which the said period of 90 days, or the extended period, ends.⁶⁴

6.1.4.2 Deduction

Should the vendor (or the said agent) receive the prescribed documentation within five years from the end of the tax period during which the original tax invoice for the supply was or should have been issued, the output tax that was so included in block 12 may be deducted as an adjustment in block 18 of the VAT201 return for the tax period in which this documentation is received. This deduction may be made only if the vendor can prove to SARS that it:⁶⁵

- initially accounted for VAT at 0% (this must be proved for direct exports);
- has made the taxable supply for a consideration in money (this must be proved for indirect exports);
- has furnished a VAT201 return for the tax period for which the said output tax was payable; and
- has properly accounted for the output tax on that supply.

6.1.5 Proof of payment

6.1.5.1 Output tax

If an extended period of time was allowed to obtain proof of payment (Refer to par 5.6.3 above), but the vendor does not obtain the required proof of payment for the total or full consideration within the extended proof of payment period, the vendor may not have zero-rated the export sale. The vendor must make an output tax adjustment, unless:⁶⁶

- the vendor has the relevant approval from the SARB or an authorised foreign exchange dealer not to repatriate any foreign currency for that supply; or
- the vendor has written off the said consideration as irrecoverable.

⁶⁴ Refer to par. 7(b) of IN 30(3) and regulation 16(2) and (3) of the Export Regulations.

⁶⁵ Refer to par. 7(b) and (c) of IN 30(3) and regulation 16(3) and (4) of the Export Regulations.

⁶⁶ Refer to par. 7(f) of IN 30(3) and regulation 16(8) of the Export Regulations.

The vendor must then account for output tax on the supply to the extent of payment not received. The output tax is calculated as (the tax fraction x the outstanding consideration). This amount must be included in block 12 of the VAT201 return for the tax period in which the said period ends.⁶⁷

6.1.5.2 Deduction

Should the vendor receive the proof of payment, in respect of which output tax was so calculated, within the approved extended period, limited to a period of five years from the end of the tax period during which the original tax invoice should have been issued, the output tax that was so included in block 12 may be deducted as an adjustment in block 18 of the VAT201 return for the tax period in which the proof of payment is received. The vendor must be able to provide proof to SARS that it:⁶⁸

- initially accounted for VAT at 0% (this must be proved for direct exports);
- has made the taxable supply for a consideration in money (this must be proved for indirect exports);
- has furnished a VAT201 return for the tax period for which the said output tax was payable; and
- has properly accounted for the output tax on that supply.

6.2 VAT registration

6.2.1 Compulsory registration

VAT registration is compulsory if the R1 million registration threshold is exceeded under either:⁶⁹

- the retrospective test, i.e. if the total taxable supply turnover has exceeded R1 million in the past 12 months, or
- the prospective test, i.e. if the total taxable supply turnover will exceed R1 million in the next 12 months, as a result of a written contractual obligation.

When calculating a person's taxable supply turnover, its zero-rated sales (whether under direct or indirect exports) must also be taken into account. For example, if Mr X manufactures leather purses and his total taxable turnover for the past 12 months has been R1,5 million, he is liable for VAT registration. If 50% of that turnover relates to the exportation of purses to the USA, he is still liable for VAT registration, even though the total value of his taxable supplies for the 12-month period, on which he must pay VAT at the standard rate, is below R1 million. Similarly, he must apply for VAT registration even if he exports all his purses, resulting in no output tax being payable.

6.2.2 Voluntary registration

A person who is not obliged to be registered as a vendor may in certain instances apply to SARS for voluntary registration, generally subject to the minimum registration threshold of R50 000.⁷⁰ As in the case of compulsory registration, the value of zero-rated supplies must also be taken into account when calculating the person's total taxable turnover.

6.2.3 Tax periods

A vendor whose total annual taxable supplies do not exceed R30 million will normally have two-month tax periods. The vendor must then submit its VAT201 return to SARS every two months, account for

⁶⁷ Refer to par. 7(g) of IN 30(3) and regulation 16(9) of the Export Regulations.

⁶⁸ Refer to par. 7(h) of IN 30(3) and regulation 16(10) of the Export Regulations.

⁶⁹ For the full details on compulsory VAT registration, refer to section 23(1).

⁷⁰ For full details on voluntary registration, refer to section 23(3).

VAT (calculated as total output tax less total input tax and other deductions), and pay the difference to SARS.

An exporter might incur cash flow difficulties if it makes only zero-rated supplies, as it collects no VAT from its purchasers but must pay VAT on its own purchases. Unlike other vendors who can offset their input tax against the output tax collected on standard-rated supplies, an exporter must wait for a VAT refund from SARS, after submitting its VAT201 return. To alleviate such cash flow difficulties, an exporter (or any other vendor) may apply to SARS for its tax periods to be on a monthly basis, known as a Category C tax period.⁷¹ The vendor will then submit its VAT201 returns and claim VAT refunds on a monthly basis.

7. GENERAL

7.1 Risks for vendors

If the prescribed export procedures are not met or the prescribed documentary proof is not obtained within the period of time allowed, the vendor is at risk:

- The vendor will have to account for output tax at the standard rate, even though no VAT was collected from the purchaser;
- If the output tax adjustment is not made in the VAT201 return for the correct tax period, SARS will raise assessments and interest, penalty (for late payment) and understatement penalty may become payable.

7.2 Disputes

In the case of a dispute regarding the zero-rating of an export sale, the vendor bears the burden of proof that all the requirements of section 11(1)(a), read with the definition of 'exported' in section 1(1) have been met.⁷²

For indirect exports, the procedural and documentary requirements of the Export Regulations must be met. In the case of direct exports, however, the procedural and documentary requirements set out in IN 30(3), which will satisfy SARS that the goods have been exported, do not constitute law. Therefore, if the vendor can satisfy SARS that the goods have been exported, even though the vendor has not met all requirements of IN 30(3), SARS has a discretion to allow the zero-rating of the export sale.

If a vendor is aggrieved by an assessment in which the application of the zero rate is denied, it may object to the assessment and, if applicable, lodge an appeal against the disallowance of his objection to the tax court.⁷³

8. CONCLUSION

The entitlement to apply the zero rate to the exportation of goods constitutes a benefit to vendors conducting business in international markets, as it ensures that VAT charges and trapped VAT costs do not affect their competitiveness.

⁷¹ Refer to section 27(1) and (3).

⁷² Refer to section 102(1) of the TA Act.

⁷³ In terms of chapter 9 of the TA Act.

In view of the high level of VAT fraud, the procedural and documentary procedures which must be met in order to qualify for the zero-rating dispensation may create administrative and compliance difficulties and thus additional costs to vendors. However, the risk and cost of non-compliance with these requirements is much higher. It is thus essential that exporters ensure that the provisions of the VAT Act, the Export Regulations and IN 30(3) are adhered to in all circumstances.

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