

INTERPRETATION NOTE: NO. 81

DATE: 12 March 2015

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

Preamble

In this Note unless the context indicates otherwise –

- **“dip and pack”** means the initial treatment or raw preparation of the trophy as explained in the definition of the “Dip and Pack (Dip and Ship) Facility” in the Veterinary Procedural Notice¹ (the VPN) issued by the Director: Veterinary Services;
- **“export regulation”** means Regulation 316 published in *Government Gazette* No. 37580 dated 2 May 2014;
- **“foreign hunter”** means a hunter who is not a resident of the Republic and who physically resides in an export country. A foreign hunter is neither registered nor required to be registered as a vendor;
- **“hunting outfitter”** means –²
 - a resident of the Republic;
 - who is a registered vendor; and
 - who represents or organises the hunting of wild or exotic animals for payment or reward.
- **“hunting safari package”** means a tour package supplied to a foreign hunter, which may include the supply of a trophy, accommodation, meals, tracker, guide, professional hunter or transport;
- **“professional hunter”** means –
 - a resident of the Republic;
 - who is qualified to escort a foreign hunter for payment or reward in order to enable the latter to hunt a wild or exotic animal;
- **“section”** means a section of the VAT Act;
- **“taxidermist”** means a registered vendor supplying taxidermy services;

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

² Draft Norms and Standards for the Regulation of the Hunting Industry in South Africa published as Notice 1614 of 2009 in *Government Gazette* No. 32798 dated 11 December 2009.

- **“taxidermy services”** means the process whereby game trophies receive a complete taxidermy treatment. A complete taxidermy treatment, as set out in the VPN, includes either the –
 - mounting of an animal trophy in a life-like manner (for example, full mount, half mount or shoulder mount);
 - tanning and processing of skins for display purposes; or
 - processing and mounting of skulls, horns, hooves, claws or teeth in some manner for display.
- **“trophy”** means any part of a wild animal or exotic animal that is hunted and retained by a foreign hunter as a token or memento of the hunt;
- **“VAT”** means value-added tax;
- **“VAT Act”** means the Value-Added Tax No. 89 of 1991; and
- any other word or expression bears the meaning ascribed to it in the VAT Act.

1. Purpose

This Note explains the VAT treatment of various supplies made to foreign hunters which includes –

- hunting services;
- taxidermy services,
- the supply of a trophy; and
- the subsequent export of the trophy.

2. Description of the various supplies

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

2.1 Accommodation

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

2.2 Hunting services

Hunting services may include game viewing, tracking game, assistance with the hunt and other related services but exclude raw preparation and taxidermy services which are discussed in 4.4 and 4.5.

2.3 Trophy fee and raw trophy

Once the foreign hunter has hunted the animal, the foreign hunter becomes the owner of the raw trophy and is required to pay a trophy fee, irrespective of whether the animal (or any part of the animal) is retained by the hunter. Hunting outfitters may also require hunters to pay trophy fees for wounded animals.

2.4 Dip and pack services

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

2.5 Taxidermy services

Taxidermists supply both goods (for example, the mounting forms) and services to the foreign hunter at an all-inclusive price.

2.6 Other services consumed in the Republic

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

3. The law

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

4. Application of the law

The general rule is that the supply of goods or services in the Republic by a vendor (in the course or furtherance of its enterprise) to a foreign hunter is subject to VAT at the standard rate on the basis that the goods or services are consumed in the Republic. There are certain exceptions to this rule as is evident from the discussion below.

4.1 Accommodation

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

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

4.2 Hunting services

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

4.3 Trophy fee

The trophy fee is consideration for the supply of the hunted animal. This constitutes a supply of goods by the hunting outfitter which may be zero-rated provided that the goods are exported under any of the following circumstances:

- Direct export
- Indirect export: election to zero-rate
- Indirect export: further work

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

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

4.3.1 Direct export

The goods are supplied to the foreign hunter in terms of a sale or an instalment credit agreement and consigned or delivered⁵ by the hunting outfitter to the foreign hunter at an address in an export country,⁶ and the relevant documentary requirements are met.⁷ It is acknowledged that the goods supplied, being a hunted animal, is a trophy when exported.

4.3.2 Indirect export: Election to zero-rate

The hunting outfitter may elect to zero-rate the supply of the hunted animal to the foreign hunter where the hunting outfitter ensures that the animal is delivered to a designated harbour or airport and the requirements of the export regulation⁸ are met.⁹

The hunting outfitter may also elect to apply VAT at the standard rate instead of applying the zero rate. In this instance, the foreign hunter will be entitled to claim a VAT refund from the VAT Refund Administrator, provided the requirements of the export regulation are met.¹⁰

4.3.3 Indirect export: Further work

A hunting outfitter may, under paragraph 8(2)(d) of the export regulation, elect to zero-rate the supply of the hunted animal to a foreign hunter if the hunting outfitter ensures that the animal is delivered to a taxidermist who will export¹¹ the trophy after further processing (for example, after the trophy is mounted). In order to qualify for the zero rate, the trophy has to be exported within 90 days from the date of completion of the taxidermy process or such extended period provided for in the export regulation.¹² The hunting outfitter must also obtain and retain the documentary proof prescribed in paragraph 10(1)(g)(ii) of Part Two of the export regulation, including a substantiating statement from the taxidermist. The substantiating statement must contain 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 details of the export documentation pertaining to the export of that trophy.

⁵ Also see Interpretation Note No. 31 (Issue 3) dated 22 March 2013 "Documentary Proof Required for the Zero-Rating of Goods or Services" (or as updated), for the meaning of the term "consigned or delivered".

⁶ In terms of paragraph 5.2(c)(ii) of Interpretation Note No. 30 (Issue 3) dated 5 May 2014 "The Supply of Movable Goods as Contemplated in Section 11(1)(a)(i) Read with Paragraph (a) of the Definition of 'Exported' in Section 1 and the Corresponding Documentary Proof" (or as updated), 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 in respect of that supply where the trophy is subject to a subsequent process of preservation or mounting.

⁷ As required under paragraph (a) of the definition of "exported" in section 1(1) and section 11(3), read with Interpretation Note No. 30.

⁸ Paragraph 15(2)(d).

⁹ Refer to Part Two of the export regulation.

¹⁰ Refer to Part One of the export regulation.

¹¹ The taxidermist must ensure that the trophy is delivered to a designated harbour or airport.

¹² Refer to Part Three of the export regulation.

Generally, the hunting outfitter retains all other parts of the hunted animal that are not used by the taxidermist in rendering the agreed upon taxidermy services to the foreign hunter. The hunting outfitter is liable for VAT at the standard rate on the subsequent sale of these parts to persons in South Africa, unless such supply is specifically zero-rated.

4.3 Dip and pack and taxidermy services

The supply of dip and pack and taxidermy services may be zero-rated under section 11(2)(l)(ii)(aa). The zero rate can only apply if the trophy is exported to the foreign hunter after the supply of the services, provided the supplier obtains and retains the required documentary proof as contemplated in section 11(3).¹³ If the foreign hunter collects and subsequently removes the trophy from the Republic, the trophy is not exported to the foreign hunter and the dip and pack and taxidermy services are therefore subject to VAT at the standard rate of 14%.

4.4 Other services consumed in the Republic

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

In this regard, services may include the supply of transport services to fare-paying passengers by road or rail (for example, shuttle services) which is exempt from VAT under section 12(g). This particular exemption is not applicable to transport provided in a game viewing vehicle which is subject to VAT at the standard rate. For further information, refer to Interpretation Note No. 42 dated 2 April 2007 "The Supply of Goods and/or Services by the Travel and Tourism Industry" (or as updated).

4.5 Single charge for a hunting safari package

In many instances, the hunting outfitter or another person assembles a hunting safari package consisting of various goods and services (including the trophy) to be marketed to foreign hunters. Even though a single charge may be paid for a hunting safari package, multiple goods and services may be supplied as part of the hunting safari package. The supply of these goods and services cannot be regarded as being merely incidental to the supply of the trophy. The hunting package must therefore be separated into the various supplies provided such as accommodation, food, refreshments, trophy fee, professional hunting services and taxidermy services.

The vendor will then be obliged to allocate a reasonable portion¹⁴ of the all-inclusive charge to each of the supplies of goods and services incorporated in the package and charge VAT at either the zero or standard rate depending on the nature of the particular goods or services supplied.

¹³ Interpretation Note No. 31.

¹⁴ With reference to the market value of the various goods and services supplied as part of the hunting safari package.

5. Conclusion

Accommodation, hunting services and other goods or services supplied or rendered while the foreign hunter is present in the Republic are subject to VAT at the standard rate, unless the supply is exempt under section 12. The supply of the trophy by the hunting outfitter to the foreign hunter qualifies for zero-rating if the trophy is subsequently exported to the foreign hunter. The supply of dip and pack and taxidermy services qualifies for zero-rating if the trophy is exported to the foreign hunter. The zero-rating of the abovementioned supplies are subject to the relevant supplier retaining supporting documentary evidence as is acceptable to the Commissioner.

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

Legal and Policy Division
SOUTH AFRICAN REVENUE SERVICE

Annexure – The law

Section 1(1) – Definitions

“**commercial accommodation**” means—

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

...

“**export country**” means any country other than the Republic and includes any place which is not situated in the Republic: Provided that the President may by notice in the *Gazette* determine that a specific country or territory shall from a date and to the extent indicated in the notice, be deemed not to be an export country;

“**exported**” in relation to any movable goods supplied by any vendor under a sale or an instalment credit agreement, means—

- (a) consigned or delivered by the vendor to the recipient at an address in an export country as evidenced by documentary proof acceptable to the Commissioner; or

...

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

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

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

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

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

Section 7 – Imposition of value-added tax

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

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

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

Section 9 – Time of supply

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

Section 11 – Zero-rating

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

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

...

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

(k) ...

(l) the services are supplied to a person who is not a resident of the Republic, not being services which are supplied directly—

(i) in connection with land or any improvement thereto situated inside the Republic;
or

(ii) in connection with movable property (excluding debt securities, equity securities or participatory securities) situated inside the Republic at the time the services are rendered, except movable property which—

(aa) is exported to the said person subsequent to the supply of such services;
or

(bb) forms part of a supply by the said person to a registered vendor and such services are supplied to the said person for purposes of such supply to the registered vendor; or

(iii) to the said person or any other person, other than in circumstances contemplated in subparagraph (ii)(bb), if the said person or such other person is in the Republic at the time the services are rendered,

and not being services which are the acceptance by any person of an obligation to refrain from carrying on any enterprise, to the extent that the carrying on of that enterprise would have occurred within the Republic; or

...

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