

SECTION 6
VAT PRACTICE NOTES

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VALUE-ADDED TAX ACT NO 10 OF 2000

2000

No 1

22 November 2000

DUE DATE FOR PAYMENT OR SUBMISSION OF A RETURN

Where the due date for any payment or submission of any return in terms of the Value Added Tax Act, 2000 (Act 10 of 2000) (As Amended) falls on a Saturday, Sunday or Public Holiday, the due date shall be the first following working day.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 2

22 November 2000

DEDUCTION FOR BAD DEBTS

Section 18(1A)

The input tax amount in terms of paragraph (a) and the output tax amount in terms of paragraph (b) shall be apportioned based on the tax rates applicable to the original supply, when declared on the Value Added Tax Return.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 3

22 November 2000

APPLICATION OF TAX FRACTION

Section 18(1)(d) and (f)

Section 18(1)(d):

The tax rate to be used in the "tax fraction" shall be determined based on the tax rate applicable to the item insured except where it was insured at a value, which indicates a different tax rate.

Section 18(1)(d) and (f):

Where the value of supply of the item, inclusive of value added tax:

- (i) does not exceed a consideration contemplated in tariff heading 87.03 or 87.11 of paragraph 2 of Schedule II plus 15% tax, the tax rate to be applied in the tax fraction shall be 15%, and
- (ii) does exceed a consideration contemplated in tariff heading 87.03 or 87.11 of paragraph 2 of Schedule II plus 30% tax, the tax rate to be applied in the tax fraction shall be 30%, and
- (iii) exceeds the value contemplated in (i) but is less than the value contemplated in (ii), the tax rate to be applied in the tax fraction shall be 15%.

This will result in the item being purchased for a deemed cost in excess of the of the consideration contemplated in tariff heading 87.03 or 87.11 of paragraph 2 of Schedule II, therefore the further supply of such an item, shall be made at the 30% tax rate.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

PRACTICE NOTES

No 4

22 November 2000

DEFINITION OF CONNECTED PERSONS

Section 1

In terms of paragraph (a) of the definition of "connected persons", any natural person and a relative of that natural person are connected persons.

Inland Revenue Directorate deems that a relative of a natural person includes the following natural persons:

- (a) the wife of, and
- (b) any estranged wife of, and
- (c) any divorced wife of

such natural person

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 5

22 November 2000

SALES TAX TO BE DECLARED ON LIVESTOCK OR FARM PRODUCE HELD ON
26 NOVEMBER 2000, IF REGISTERED FOR SALES TAX BUT NOT REGISTERABLE
FOR VAT AND NO APPLICATION WILL BE MADE FOR REGISTRATION UNDER
SECTION 15(4)

Section 87(13)

Farmers who:

1. are registered for Sales Tax, but
2. do not qualify to register for Value Added Tax, and
3. do not apply for voluntary registration, and
4. hold livestock on 26 November 2000, or
5. hold farm produce on 26 November 2000,

shall declare such livestock or farm produce on hand as taxable sales on the November 2000 Sales Tax return at a taxable amount equal to the amount paid or payable by such vendor for these goods, and pay Sales Tax at 10% on such amounts.

1. The value of farm produce is to be based on the amount paid or the values used in the vendor's Return of Income for the 2000 Year of Assessment.
2. The value used for livestock on hand is to be the standard value or any other value used in the vendor's Return of Income for the 2000 Year of Assessment or the price paid for such animal if purchased since the end of the vendor's 2000 Year of Assessment

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 6

22 November 2000

ARRANGING OF LIFE INSURANCE CONTRACTS

Par 2(a) of Sched IV

Sub-paragraphs (f) and (i) of the definition of "financial services" in Par 1 of Sched IV of the Act is included in the exemption conferred in Par 2(a)(ii). Thus, the arranging or provision of a life insurance contract is exempt from VAT. This means that any commission earned by a broker or agent for the arranging or provision of a life insurance contract is exempt from VAT.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 7

22 November 2000

MANAGEMENT OF A MEDICAL-AID FUND

Paragraph 2(a) of Schedule IV

Sub-paragraph (h) of the definition of "financial services" in par 1 of Sched IV of the Act is included in the exemption conferred in par 2(a)(ii). Thus, the consideration charged for the management of a medical-aid fund is exempt from VAT. Any other services supplied as part of the management service, such as IT services, shall be seen as part of the management services. However, should other services, such as IT services be obtained separately from the management services, the consideration for such services will not be exempt from VAT.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 8

22 November 2000

RETENTION MONIES

[Practice Note No. 8 of 2000 withdrawn and replaced by Practice Note No. 4 of 2001.]

Section 7(13)(b)

In construction, major reconstruction, manufacture or extension of a building or engineering work, development of IT systems and in many other cases, the consideration may become payable instalments based on certification of the work completed. The certification of the work completed serves as an invoice or an invoice is issued for the value of the work completed. The value of the work completed as reflected on the certificate and/or invoice constitutes the consideration due at that time.

Often contracts with regard to activities referred to in the preceding paragraph requires that part of any payment be retained for a period.

The value certified from time to time is the consideration on which VAT is to be declared and paid (if subject to VAT). The retention is regarded as a payment arrangement which, when paid, will not be subject to VAT.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 9

22 November 2000

PERSON APPROVED IN TERMS OF SECTION 4(1) OF THE STOCK EXCHANGES
CONTROL ACT, 1985, AND
PERSON REGISTERED AS CONTEMPLATED IN SECTION 3(1) OF THE UNIT TRUSTS
CONTROL ACT, 1981

Paragraphs (a) and (b) of the definition of "asset management services", Schedule IV

Both the Stock Exchanges Control Act, 1985 and the Unit Trusts Control Act, 1981 are Acts passed by the South African Parliament. However, both these Acts were made applicable in Namibia by an Act of the Namibian Parliament.

Therefore, any reference to these Acts in the Value Added Tax Act, 2000, is a reference is to these Acts made applicable to Namibia – thus, to the Namibian Acts and not the South African Acts.

It thus follows that any person approved in terms of section 4(1) of the Stock Exchanges Control Act, 1985 and any person registered as contemplated in section 3(1) of the Unit Trusts Control

PRACTICE NOTES

Act, 1981, in South Africa, does not constitute an approval or registration, as the case may be, in Namibia.

An approval in terms of section 4(1) of the Stock Exchanges Control Act, 1985 and a registration as contemplated in section 3(1) of the Unit Trusts Control Act, 1981, done in Namibia, are the only approvals and registrations that are recognised in the Value Added Tax Act, 2000.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 10

22 November 2000

COINAGE PROBLEMS

Section 83

As the smallest Namibian coin denomination in circulation is a 5 cent coin, where the value added tax calculated results in an amount with cents, the number of cents may be rounded down to the lower multiple of 5 cents.

The following are examples of rounding down as envisaged:

Amount calculated	Amount rounded down to lower multiple of 5 cents
N\$ 10,52	N\$ 10,50
N\$ 22,58	N\$ 22,55
N\$ 12,37	N\$ 12,35
N\$ 15,31	N\$ 15,30
N\$ 65,69	N\$ 65,65

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 11

22 November 2000

VALUE-ADDED TAX ON GAMING ACTIVITIES

[Practice Note No. 11 of 2000 withdrawn by Practice Note No. 3 of 2002.]

Sections 3(10), 8(16) and 18(1)(c)

In accordance with the agreement reached between the Directorate: Inland Revenue and the Parliamentary Standing Committee on Economics regarding value added tax on gaming, the following procedures apply:

15% Value added tax will be calculated on the same basis as the gambling levy and the gambling levy will be reduced to 5%. This method results in VAT being a charge similar to the gambling levy and that no input tax with regard to the prize monies may be claimed. Value added tax paid on all purchases may still be claimed as an input tax in the normal manner.

The 15% value added tax is to be calculated as follows:

A charge of 20% is to be calculated on the same basis that the gambling levy is calculated. Of this amount, 75% is to be declared as the 15% value added tax for each VAT period and 25% as the 5% gambling levy.

WARNING: Although the Value added Tax Act has not yet been amended to give effect to the above, amendments will be effected early in 2001 with retrospective effect to 27 November 2000.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

VALUE-ADDED TAX ACT NO 10 OF 2000

No 12

22 November 2000

CLARIFICATION OF THE DEFINITION OF A 'TOUR OPERATOR'

Section 1, Definition of a "tour operator"

The definition of a tour operator is as follows:

"**tour operator**" means any person whose supply mainly consists of package holiday tours with all arrangements made at an inclusive package price."

The word "**mainly**" used in the definition, is interpreted to mean "**more than 50%**".

Thus, a "**tour operator**" means any person whose supply of holiday package tours with all arrangements made at an inclusive package price, represents more than 50% of all his supplies.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 13

22 November 2000

TAX INVOICES WITH REGARD TO RE-INSURANCE

Section 21

Re-insurance companies are required to issue tax invoices for their supplies to insurance companies.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 14

22 November 2000

POLICY SCHEDULES AND PREMIUMS WHICH DIFFER FROM
AMOUNTS QUOTED ON POLICY SCHEDULES

Section 83

Policy Schedules of Short-term insurers:

Short term insurance companies are granted an extension to 31 March 2001 to adjust their policies for purposes of Value added tax.

Short-term policy premiums paid or debited to bank accounts that differ from the amounts quoted on the policy schedules

Where any policy premium paid by or debited to the bank account of an insured differs from the premium quoted on the policy schedule, the amount debited to the bank account is deemed the correct amount.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 15

22 November 2000

CLARIFICATION OF THE DEFINITION OF USED GOODS

Section 1, Definition of "used goods"

The definition of "used goods" is as follows"

"**used goods**" means any inanimate goods (including vehicles) which were previously owned"

"Previously owned" in the context of the above definition excludes ownership by the supplier who supplies such good as new.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

PRACTICE NOTES

No 16

22 November 2000

INTERPRETATION AND APPLICATION OF SECTION 19(5)

Section 19(5)

Section 19(5) reads as follows:

“For purposes of the fraction “B/C” in subsection (3), for the remainder of the year of assessment for income tax during which a registered person is first registered for tax, the period referred to in ‘B’ and ‘C’ shall be the first tax period in which the registered person is registered and thereafter the total number of tax periods, including the current tax period, during which the registered person has been registered.”

To ensure a similar basis to the basis used in section 19(3), taxpayers are required to apply section 19(5) as if it read as follows:

“For purposes of the fraction “B/C” in subsection (3), *in the case where such person is registered for income tax*, for the remainder of the year of assessment for income tax, *and, in any other case, for the remainder of the financial year of such person*, during which a registered person is first registered for tax, the period referred to in ‘B’ and ‘C’ shall be the first tax period in which the registered person is registered and thereafter the total number of tax periods, including the current tax period, during which the registered person has been registered.”

The section will be amended as indicated above with retrospective effect to 27 November 2000.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 17

22 November 2000

ENTERTAINMENT AS DEFINED, PROVIDED TO EMPLOYEES ON DUTY BY AN EMPLOYER

Par 2(i) of Schedule IV

In terms of para 2(i) of Schedule IV to the Act, a supply of goods and services as a fringe benefit to employees is an exempt supply and the employer may not claim input tax credits regarding these goods and services.

However, a supplier of ‘entertainment’ as defined in section 19(1), is not required to declare any tax in respect of any food, beverages and accommodation incidentally utilised by employees when on duty.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 18

22 November 2000

AGENTS FOR FOREIGN SUPPLIERS

Section 1 – Definition of an importer, section 3(18) and section 19(8)

The effect of section 19(8) stipulates that input tax may only be claimed by a registered person who paid the input tax. This requirement is so restrictive that the definition of an importer cannot be applied in full. For the same reason, section 3(18) that states that the provision of goods on consignment shall not be deemed a supply can only be applied where the consignor and the consignee are registered persons in Namibia.

In view of the requirement of section 19(8) which is all important to prevent tax fraud related to imports, only the following situations can be accommodated by the Directorate: Inland Revenue:

VALUE-ADDED TAX ACT NO 10 OF 2000

1. A Namibian agent who receives orders on behalf of his foreign principal and the principal supplies the goods directly to the Namibia person who ordered the goods. In such cases the Namibian person is the importer and liable to pay the tax on import. Such importer may then claim the tax as an input credit.
2. Should the agent wish to pay the tax on import of the supplies as importer, the agent will only be allowed to claim the input tax credits if the goods are sold on his own invoices and the sales are declared as his own sales.
3. Should the agent receive supplies from the foreign supplier and supply the goods on issuing invoices of the foreign supplier, the foreign supplier will be required to register for VAT in Namibia, pay the tax on import and levy and declare tax on supplies and issue Namibian tax invoices. Such foreign supplier will then effectively be conducting a taxable activity in Namibia and the requirements regarding the keeping of records will apply to such supplier. Such foreign supplier will then also be liable for Income Tax in terms of the Income Tax Act, 1981.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 19

22 November 2000

**CREDIT NOTES AND DEBIT NOTES ISSUED, THE CLAIMING OF BAD DEBTS AND
THE DECLARATION OF BAD DEBTS RECOVERED RELATED TO TRANSACTIONS
ENTERED INTO UNDER THE SALES TAX ACT**

All debit notes and credit notes issued with regard to transactions entered into under the Sales Tax Act and any bad debt written off under the Sales Tax Act which is recovered, shall be declared on a Sales Tax return for the month in which these occur. Such Sales Tax returns are to be obtained from the Revenue Office where the taxpayer is registered. Any bad debts that may arise in respect of sales made under the Sales Tax Act, are to be claimed in writing from the Revenue Office where the taxpayer is registered.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 20

22 November 2000

TAX DEBIT AND TAX CREDIT NOTES

[Practice Note No. 20 of 2000 replaced by Practice Note No. 27 of 2000.]

Sections 22 and 83

The Value Added Tax Act requires that Tax Credit and Tax Debit notes be issued in certain instances.

Where adjustments are to be made to Tax invoices, as in the case of settlement discount, the registered person may issue one Tax Debit note or Tax Credit note, listing the Tax Invoices that are adjusted and the details that are required by the Act per line on the Tax Debit note or Tax Credit note.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

PRACTICE NOTES

No 21

22 November 2000

“ERECTION OF A BUILDING”

[Practice Note No. 21 of 2000 withdrawn by Practice Note No. 2 of 2002.]

Section 3(26)

The correct interpretation of the words “erection of a building” does not refer to the activities and supplies of any building and/or other contractor who is involved in the construction of a building. The registered or non-registered person desirous of having a building constructed or built is the person “erecting” such building. The various building, electrical, plumbing and carpenter contractors who actually build the building, construct the building.

Thus:

1. the “erection” of a building as described above, is deemed not to be a supply.
2. the supplies made by the various contractors involved in the construction of a building, should such contractors be registered persons, are subject to VAT.

WARNING: Various differing interpretations of the “erection of a building” have been brought to the attention of Inland Revenue. The interpretation above is the official interpretation and the Act will be amended as soon as possible to give effect to the official interpretation with retrospective effect to 27 November 2000.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 22

22 November 2000

ESTIMATED CHARGES FOR THE SUPPLY OF ELECTRICITY AND WATER BY ANY SUPPLIER THEREOF

Section 83

Local authorities and other suppliers of electricity and water currently may be charging an estimated fee for these utilities for one or more months until a reading is taken. Once a meter reading is taken, an accurate charge is levied for the supply and the estimates for the previous month or months reversed to adjust the consumer’s account.

To ensure that value added tax is not charged once in two or more months only, the estimated charges are deemed the correct consideration for the supplies in the months that it is charged and value added tax is to be levied on these charges. In the months that these estimates are reversed and the final meter reading-based charge is levied, the value added tax on the estimated charges are to be credited as well and value added tax charged on the meter reading-based charge.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 23

22 November 2000

BASIS OF APPORTIONMENT OF INPUT VAT

[Practice Note No. 23 of 2000 replaced by Practice Note No. 1 of 2006.]

Section 19(3)

1. Value added tax is payable on most purchases. These purchases could be utilised for any one or more than one of the following purposes:
to make supplies which are:
 1. taxable
 2. not taxable
 3. exempt; and
 4. deemed not to be supplies in terms of the VAT Act.

VALUE-ADDED TAX ACT NO 10 OF 2000

VAT paid on purchases directly allocable to any category is directly allocated to that category. Where VAT paid on purchases which are applied to categories 3 and 4 arise and which is also applied to categories 1 or 2, it becomes necessary to deal with VAT paid on all purchases when applying section 19(3).

To ensure accurate apportionment of input VAT, all supplies – that is taxable supplies, non-taxable supplies, exempt supplies and supplies which are deemed not to be supplies – are to be taken into account for the purposes of section 19(3)(c).

WARNING: Take note that section 19(3)(c) will be amended shortly with retrospective effect to 27 November 2000, to give effect to the requirements stated above.

2. Approval is granted to local authorities in terms of section 83 to use their June 2000 Financial Statement or their 2001 Budget as basis for establishing a provisional basis for the apportionment of input VAT, provided that an adjustment be made on 30 June 2001 to adjust this basis to the correct basis in terms of the June 2001 Financial Statement.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 24

22 November 2000

RECORD KEEPING

Section 48

Records that are to be retained in terms of section 48, are to be retained in a 'hard-copy' format. Additional copies may also be retained in an electronic format.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 25

22 November 2000

TAXIDERMISTS AND TROPHY HUNTERS

Schedule 111, paragraph 2 (o)

1. Where a foreign hunter instructs a local taxidermist either direct or through an intermediate, that is the owner of a lodge, hunting farm or professional hunter, to supply a service of raw preparation and or mount the animal, as the case may be, and subsequently leaves Namibia (with the intention to export the trophy) the transaction will be zero-rated.
2. "Raw preparation" means all work which may be required to ensure that the trophy does not undergo decay before it is properly preserved and/or mounted by a taxidermist. Such work may include, but is not necessarily limited to, the salting, drying and disinfecting of the trophy.
3. The taxidermist must be in possession of copies of the following documents before the supply can be zero rated:
 - (a) a copy of passport issued by a foreign country to the foreign hunter and;
 - (b) a tax invoice issued by the seller;
 - (c) NA 500 – bill of export;
 - (d) airwaybill;
 - (e) a register containing the name, address of the foreign hunter and the number and date of the order received from the hunting safari operators, and the original of this order.
4. The direct attributable consideration received by the hunting safari operators in respect of the trophy, will be zero rated only if the following documents are in his possession:
 - (a) copy of the tax invoice issued;
 - (b) a copy of passport issued by a foreign country to the foreign hunter and;

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- (c) a copy of an order to the taxidermist requesting the service for the trophy to be preserved and or mounted with a description of the trophy and the name and address of the foreign hunter, and
- (d) obtain possession of documentary proof to the effect that the trophy has been consigned to the recipient at an address in a foreign country by the taxidermist.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 26

22 November 2000

EXAMPLE OF CALCULATION OF THE VALUE OF IMPORTS OF MOTOR VEHICLES

Section 1 – Definition of “consideration”, 12(1) & (2), Par 2 of Schedule II and tariff Heading 87.03

Assume the value of a vehicle imported from outside the Southern African Customs Union (the Customs Union) is N\$1 90 000 and the customs and excise duties payable is N\$50 000.

For completeness sake also assume another vehicle is imported from within the Customs Union and the value thereof is N\$1 90 000.

Scenario 1: Imported from outside the Southern African Customs Union:

Consideration of goods imported – N\$240 000 (190 000 + 50 000), therefore a 30% VAT will apply because the consideration is in excess of N\$200 000 as specified in Schedule II

Free-on-board value – N\$209 000 (190 000 + (10% of 190 000))

VAT payable on import – 30% 209 000 – N\$62 700

Scenario 2: Imported from within the Southern African Customs Union:

Consideration of goods imported – N\$190 000, therefore a 15% VAT rate will apply because the consideration is less than N\$200 00 as specified in Schedule II

Free-on-board value = N\$209 000 (190 000 + (10% of 190 000))

VAT payable on import = 15% · 209 000 = N\$31 350”

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 27

25 November 2000

NOTE: REPLACES VAT PRACTICE NOTE 20 SETTLEMENT DISCOUNTS, BULK DISCOUNTS, SWELL ALLOWANCES AND REBATES AND OTHER SIMILAR DISCOUNTS OR ALLOWANCES

Section 83

The discounts referred to above are discounts that are determined after supplies have been invoices, and therefore were not or cannot be deducted from the invoice value.

From requests received to allow treatment of these discounts in a manner different to the requirement of paras 2(e) and (g) of Schedule VI to the Value Added Tax Act, 2000, it appears that the prescribed requirements are impractical.

Therefore, the following information will be accepted as compliance with paras 2(e) and (g):

1. In the case of settlement discounts, the date of the statement on which discount is granted and in respect of the other discounts contemplated above, an appropriate reference to the basis on which the discount is determined,

VALUE-ADDED TAX ACT NO 10 OF 2000

2. The total VAT inclusive value of the invoices on which discount is granted,
3. The amount of the discount granted,
4. The net amount paid, and
5. The tax fraction on the amount of the discount
6. Calculated as 15/115, irrespective whether 15% or 30% VAT may have been charged.

Registered suppliers may continue to issue tax credit notes prepared strictly in accordance with the requirements of the Act for the month of December 2000 or may comply with the requirements set out above, but shall comply with the requirements set out above as from 1 January 2001.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 28

11 December 2000

APPORTIONMENT OF VAT ON SALE OR CHANGE OF USE OF
FIXED ASSETS

[Practice Note No. 28 of 2000 replaced by Practice Notes Nos. 33 of 2000 and 3 of 2001.]

Under Section 19(3) of the VAT Act 2000 (as amended), VAT registered persons who make both taxable and exempt supplies (partly exempt enterprises) are obliged to apportion their claims to input tax on purchases and imports according to the rules in that section.

Section 3(6)(b) of the VAT Act (as amended) states that "The application by a registered person of goods or services acquired for the making of an exempt supply to the making of a taxable supply shall be deemed to be a taxable supply of those goods or services to the registered person . . ."

On the sale of fixed assets by a registered person, output tax must be accounted for, "unless the input tax paid on the acquisition of such goods was denied" [Section 3(19)]. Although this section is intended to provide for the sale of non-deductible inputs, such as passenger vehicles, it has been decided that it would be inequitable not to allow a similar provision on the change in use or sale of fixed assets by partly exempt enterprises.

Accordingly, it is ruled that on the change in use or sale of a fixed asset, a registered person who was ineligible to claim the full amount of input tax on the acquisition of the asset may offset the amount of input tax denied against the output tax on the full consideration of the change in use or sale.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 29

25 November 2000

VAT PRACTICE NOTES AND VAT RULINGS

VAT Practice Notes:

The Directorate: Inland Revenue have issued a number of VAT Practice Notes to date. No doubt, further Practice Notes will be required in the future as well. Practice Notes serve to clarify the application of the VAT Act, 2000, to set out arrangements made in terms of section 83 of the VAT Act, 2000, as amended and to record and/or amplify the directorate's policy in the application of the Act. In exceptional instances, arrangements have been made where the Act does not adequately provide for a situation. In such instances it was clearly indicated that the arrangements set out in the practice notes would be followed by amendments to the Act with retrospective effect to the date indicated.

Practice Notes are not issued on the directorate's letterhead, as they will be published in the Government Gazette, The practice notes were circulated to various parties as advance notice to aid in the implementation of the Act. This practice will be continued.

PRACTICE NOTES

VAT Rulings:

VAT Rulings are only issued if it affects one taxpayer or group of taxpayers only. In such cases, other taxpayers are not affected.

As from 1 January 2001, VAT Rulings will only be issued by the Head Office on the letterhead: Ministry of Finance: Inland Revenue – Head Office. Rulings are also numbered consecutively per annum.

No other rulings will be considered binding and valid by the directorate.

This procedure is instituted to ensure the validity of and consistency in rulings issued.

Any rulings that do not meet the requirements set out above are to be brought to the attention of the Deputy Commissioner of Inland Revenue.

NB: As from the date of this practice note rulings will only be issued if the name of the taxpayer(s) is supplied to Inland Revenue. This is necessary as rulings apply to specific taxpayers.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 30

17 December 2000

DIFFERENTIATION BETWEEN TOUR OPERATORS, TOUR BROKERS AND TRAVEL AGENTS

To eliminate any confusion as to the treatment for Value Added Tax purposes it has become necessary to clearly indicate how the Directorate: Inland Revenue perceives a tour operator, a travel broker and a travel agent.

Tour operator:

A tour operator is seen as defined in the Act, subject to the practice note which rules that more than 50% of his activities is to be that of a tour operator.

It is further accepted that a tour operator does not only compile and supply holiday packages as stated in the definition of a tour operator, but actually executes the packages by conducting his clients on such tours.

Travel broker:

In the Directorate: Inland Revenue's view, a travel broker plans holiday packages by adding various appropriate services together to constitute a holiday package, but does not execute that actual package, but sells it to travel agents who in turn sells it to tourists or holidaymakers.

Travel agents:

In the Directorate: Inland Revenue's view, travel agents sell holiday packages compiled by themselves and others and do all the reservations and other arrangements for the client tourist. The travel agent also does not execute the actual package.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 31

17 December 2000

GUIDELINES FOR COMPLETION OF VAT RETURNS

The following guidelines are to be followed when completing a VAT Return. Should you still have any doubts, kindly consult with the Directorate: Inland Revenue – Head Office: telephones (061) 2092514 or 2092515.

VALUE-ADDED TAX ACT NO 10 OF 2000

General:

The VAT Return is to be completed in Namibian dollars only – no cents are to be reflected.

Sales figures:

Sales/fees/commissions or any other taxable income is required in this part. These figures should NOT include VAT.

- Line 9: Sales/fees/commissions *etc* are to include adjustments to these figures by way of debit and credit notes.
- Line 10: Capital goods sold should only be included if an input deduction was claimed and granted at the time of purchase. Passenger vehicles and other items on which input was denied (not paid or claimable) should be reflected in the exempt column when sold.
- Line 11: Any adjustments to outputs or output tax (*eg* VAT previously underpaid) including bad debts recovered if previously claimed on line 18.

Purchase figures:

Purchases of trading stock and overhead costs (*eg* telephone, water and electricity, stationery, and any other business expenses) are required in this part. These figures should NOT include VAT.

- Line 14: Domestic or local purchases (purchases from Namibian suppliers), including any of the following:
- (i) adjustments to these figures by way of debit and credit notes;
 - (ii) overhead costs (*eg* telephone, water and electricity, stationery, and any other business expenses – until further notice by way of an amended return form) including overhead costs subject to apportionment – the taxable portion to be shown under the appropriate rate and the balance on which no input credit may be claimed, in the exempt column;
 - (iv) exempt purchases – purchases on which no VAT was levied.
- Line 15: Capital goods purchased locally (from Namibian suppliers) including such capital goods subject to apportionment – the taxable portion to be shown under the appropriate rate and the balance, on which no input credit may be claimed, in the exempt column. Passenger vehicles and other items on which input is denied (not claimable) should be reflected in the exempt column;
- Line 16: Imported purchases, including any of the following:
- (i) adjustments to these figures by way of debit and credit notes;
 - (ii) overhead costs (*eg* stationery, and any other business expenses – until further notice by way of an amended return form) including overhead costs subject to apportionment – the taxable portion to be shown under the appropriate rate and the balance on which no input credit may be claimed, in the exempt column;
 - (iv) exempt purchases – purchases on which no VAT was levied.
- Line 17: Capital goods imported including such capital goods subject to apportionment – the taxable portion to be shown under the appropriate rate and the balance on which no input credit may be claimed, in the exempt column. Passenger vehicles and other items on which input is denied (not claimable) should be reflected in the exempt column;
- Line 18: Any adjustments to inputs or input tax (*eg* VAT previously overclaimed) including bad debts claimed.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

**FOREIGN REGISTERED VEHICLES – PAYMENT OF VALUE ADDED
TAX, SALES TAX, AND ADDITIONAL SALES LEVY**

Introduction

Value Added Tax (VAT) replaced Sales Tax (ST) and Additional Sales Levy (ASL) on 27th November 2000. As from that date, VAT will be chargeable at 15% or 30% on the importation of vehicles by any person, or the sale of vehicles by a dealer who has registered for the purposes of VAT. No VAT will be chargeable on the temporary importation of a vehicle (by a tourist for example), or on the sale of a vehicle by a private person.

Registration of vehicles by private persons

As from 27th November 2000, any application by a private person to register a motor vehicle which does not already have a Namibian registration should be treated as follows:

- (a) if the vehicle was imported prior to 27/11/2000, the applicant is required to produce proof that import ST and ASL was paid to the Ministry of Finance either on the importation or subsequently. If the vehicle changed hands after importation but before 27/11/2000, ST is also payable on that transfer.
- (b) If the vehicle was imported on or after 27/11/2000, the applicant is required to produce proof that import VAT was paid to the Ministry of Finance on importation or subsequently. No VAT is due on any subsequent transfers between private persons.
- (c) If the applicant is unable to produce proof under (a) or (b) above, the vehicle may not be registered, and details of the vehicle and the applicant should be advised to the Ministry of Finance for further enquiry.

Registration of vehicles by VAT registered dealers

VAT must be charged by a VAT registered dealer on the sale of any vehicle, but there is no requirement for dealers to produce proof of this for the purpose of registration of a vehicle, as this will be verified by auditors from Inland Revenue. If the dealer has not imported the vehicle himself, he must obtain proof from the seller that ST and ASL, or VAT (as applicable) has been paid to the ministry of finance. this proof of payment of tax must be retained by the dealer for production to officials from inland revenue if required.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

DISBURSEMENTS ON BEHALF OF CLIENTS

Section 83

(This practice note replaces the duplication of practice note 28-2000 that deals with apportionment of vat on sale or change of use of fixed assets).

The Value Added Tax Act, 2000, as amended does not contain any provision for the treatment of disbursements by a registered person on behalf of clients. The lack of such provisions could lead to certain disbursements being subjected to VAT twice.

The following arrangements are made in terms of section 83 of the VAT Act, 2000, as amended, and will be followed by suitable amendments to the Act for this purpose:

1. The acquisition of the “disbursements” by a registered person on behalf of his clients should be invoiced to the client of the registered person and not to the registered person. Where tax invoices are required, these are to be issued to the client of the registered person.

VALUE-ADDED TAX ACT NO 10 OF 2000

2. The registered person settles the acquisition of the “disbursements” on behalf of his client and not on his own behalf.
3. Where “disbursements” are acquired for the registered person’s account, the registered person claims any VAT paid as input credits and charges VAT on the charge levied against his client.
4. Where “disbursements” are acquired for the account of a client, the registered person shall not claim any VAT paid as input credits and shall not levy any VAT against his client. His charge to the client shall be the full amount, including any VAT, charged by the supplier of the “disbursement”.

Examples of “disbursements” incurred on behalf of a client are:

transport costs, advertisements, photographs, arranging of pastors and organists at funerals, payment of grave, church and cremation fees, payment for any documentation, telephone call costs incurred on behalf of a client and any other expenses incurred on behalf of a client.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

2001

No 1

5 January 2001

“EXPORTED FROM NAMIBIA”

Section 1

Various interpretations of the definition: “exported from Namibia” has come to the attention of the Directorate: Inland Revenue (IRD).

The definition as it appears in the Value Added Tax Act, 2000, is quoted below:

“‘exported from Namibia’, in relation to any movable goods supplied by any registered person under a sale or a credit agreement, means—

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

The official IRD interpretation of the definition of “exported from Namibia” is as follows:

It means that the goods have either to be:

- (a) consigned to the recipient; or
- (b) delivered to the recipient

at an address in an export country by the registered person.

(a) “consigned to the recipient”

In IRD’s view, where goods are consigned to a recipient, somebody is entrusted to transport and deliver the goods to the recipient. It is thus clear that the “somebody”, of necessity, has to be a third party and cannot be the recipient.

If the recipient receives and transports the goods, the goods are not “consigned” to the recipient but “delivered” to the recipient for transport to his address in an export country. This clearly means that the delivery of the goods takes place Namibia and not in the export country. It also means that the registered person does not export the goods. The exporter is then the recipient.

Thus, delivery of goods to the recipient in Namibia does not qualify as “exported from Namibia”. The recipient is thus liable for the payment of VAT and after exporting such goods may claim a refund of the VAT paid from IRD.

PRACTICE NOTES

(b) "delivered to the recipient"

The "delivery of goods to the recipient at an address in an export country by the registered person" appears to be clear and thus requires no further clarification.

(c) "documentary proof acceptable to the Commissioner"

In respect of goods exported, the following documentary proof will be required to prove that the goods were exported:

(i) where the goods were delivered to the recipient by the registered person at an address in the export country:

The registered person who delivered the goods to an address in the export country is required to have a copy of the zero-rated tax invoice for the goods supplied (exported) and have a certified copy of the NA500, stamped by Customs & Excise that certifies that the goods were exported from Namibia. The goods listed on the NA 500 are to be the goods that were sold on the relevant tax invoice(s). A copy of the import documentation used by the export country that corresponds with the NA500 and the tax invoice(s) may be required if the Commissioner considers it necessary.

Where the registered person cannot produce the documents referred to above for inspection by IRD officials, the registered person will be held liable for the VAT on the transaction and will also be liable for a penalty.

(ii) where the goods were consigned to the recipient by the registered person at an address in the export country:

The registered person who consigns goods to a recipient at an address in the export country is required to obtain documentation from a transport contractor that indicates that the contractor has received the goods specified on the tax invoice(s) from the registered person for delivery to the recipient at an address in the export country. The transport contractor is required to have the tax invoice(s) and the NA500 stamped by Customs and Excise that certifies that the goods were exported from Namibia. The goods listed on the NA500 are to be the goods that were sold on the relevant tax invoice(s). A copy of the import documentation used by the export country that corresponds with the NA500 and the tax invoice(s) may be required if the Commissioner considers it necessary. These documents or certified copies are to be returned to the registered person by the transport contractor.

Where the registered person cannot produce the documents referred to above for inspection by IRD officials, the registered person will be held liable for the VAT on the transaction and will also be liable for a penalty.

(iii) where the goods were delivered to the recipient in Namibia and exported by the recipient from Namibia:

The registered person is not required to hold any proof that the goods were exported as VAT would have been levied and received on the sale of the goods.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 2

5 January 2001
Effective date: 21 November 2000

SALES AT AUCTIONS

Sellers at auctions:

The sellers at auctions are the owners of the goods, who could either be registered persons in terms of the VAT Act or not registered at all.

Buyers at auctions:

The buyers at auctions are any one of the following:

- (i) Namibian buyers either registered for VAT or not registered;
- (ii) Namibian agents acting on behalf of foreign buyers;
- (iii) Foreign agents acting on behalf of foreign buyers;
- (iv) Foreign buyers.

Sales by the auctioneer on behalf of sellers:

- (i) Registered sellers:

The auctioneer is to notify buyers that the goods (ie. livestock) are sold by a registered person and that VAT will be levied. If required by the buyer, a tax invoice is to be issued by the seller or by the auctioneer on behalf of the seller if so authorised by Directorate: Inland Revenue. VAT collected is to be paid to the seller by the auctioneer. The seller has to declare this VAT in his VAT Return and pay any amount due on declaration date.

- (ii) Sellers who are not registered:

The auctioneer is to notify the buyers that the goods (ie. livestock) are sold by a non-registered person and that no VAT will be levied. No tax invoices will be issued.

Buyers of goods sold by registered persons at auctions:

- (i) Registered Namibian buyer:

The Namibian registered buyer is to pay VAT on the goods (ie. livestock) purchased. The registered buyer is entitled to a tax invoice on request.

- (ii) Non-registered buyer:

The Namibian non-registered buyer is to pay VAT on the goods (ie. livestock) purchased. No tax invoice needs to be issued to such buyer.

- (iii) Namibian agents buying on behalf of foreign buyers:

All sales to Namibian agents on behalf of foreign buyers are subject to VAT. The foreign buyer may claim the VAT paid from the Directorate: Inland Revenue, once the goods are exported and subject to the necessary documentary proof being supplied with the claim.

- (iv) Foreign agents buying on behalf of foreign buyers:

All sales to foreign agents on behalf of foreign buyers are subject to VAT. The foreign buyer may claim the VAT paid from the Directorate: Inland Revenue, once the goods are exported and subject to the necessary documentary proof being supplied with the claim.

- (v) Foreign buyers buying on their own behalf:

All sales to foreign buyers are subject to VAT. The foreign buyer may claim the VAT paid from the Directorate: Inland Revenue, once the goods are exported and subject to the necessary documentary proof being supplied with the claim.

Buyers of goods sold by registered persons at auctions where the seller consigns or delivers the goods to the recipient (buyer) at an address in an export country in terms of para (a) of the definition "exported from Namibia":

The sale to buyers referred to in (iii), (iv) and (v) above will be zero-rated if the goods are exported from Namibia in terms of the definition of "exported from Namibia". *These are the only instances where goods may be supplied at the zero-rate.*

PRACTICE NOTES

Buyers of goods sold by non-registered persons at auctions:

In the case of all buyers purchasing goods from non-registered persons, no VAT will be levied. Also, the question of zero-rating on export of such goods does not arise.

With regard to Namibian agents buying on behalf of foreign buyers, it is necessary to note that such purchases on behalf of their foreign principals does not constitute purchases for their own account and such purchases on an agency basis should not be declared as own purchases on such agents' VAT returns for the claiming of VAT paid. The declaration of purchases on behalf of principals, local or foreign, on VAT returns will lead to severe problems for such agents when the VAT declarations are reconciled to income tax returns. Only the fees or commissions earned are to be declared if such agents are registrable:

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 3

27 December 2000
Effective date: 27 December 2000

DISBURSEMENTS ON BEHALF OF CLIENTS

Section 83

(This practice note replaces the duplication of Practice Note 28-2000 that deals with apportionment of VAT on sale or change of use of fixed assets).

The Value Added Tax Act, 2000, as amended does not contain any provision for the treatment of disbursements by a registered person on behalf of clients. The lack of such provisions could lead to certain disbursements being subjected to VAT twice.

The following arrangements are made in terms of section 83 of the VAT Act, 2000, as amended, and will be followed by suitable amendments to the Act for this purpose:

1. The acquisition of the "disbursements" by a registered person on behalf of his clients should be invoiced to the client of the registered person and not to the registered person. Where tax invoices are required, these are to be issued to the client of the registered person.
2. The registered person settles the acquisition of the "disbursements" on behalf of his client and not on his own behalf.
3. Where "disbursements" are acquired for the registered person's account, the registered person claims any VAT paid as input credits and charges VAT on the charge levied against his client.
4. Where "disbursements" are acquired for the account of a client, the registered person shall not claim any VAT paid as input credits and shall not levy any VAT against his client. His charge to the client shall be the full amount, including any VAT, charged by the supplier of the "disbursement".

Examples of "disbursements" incurred on behalf of a client are:

transport costs, advertisements, photographs, arranging of pastors and organists at funerals, payment of grave, church and cremation fees, payment for any documentation, telephone call costs incurred on behalf of a client and any other expenses incurred on behalf of a client.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 4

12 March 2001
Effective date: 27 November 2000

RETENTION MONIES

Section 7(13)(b)

Practice 8-2000 issued on 27 November 2000 is herewith withdrawn and replaced by the following:

In construction, major reconstruction, manufacture or extension of a building or engineering work, development of IT systems and in many other cases, the consideration may become payable in installments based on certification of the work completed. The certification of the work completed serves as an invoice or an invoice is issued for the value of the work completed. The value of the work completed as reflected on the certificate and/or invoice constitutes the consideration due at that time.

Often contracts with regard to activities referred to in the preceding paragraph require that part of any payment be retained for a period.

Value-added tax is to be applied as follows:

- (i) VAT is payable on the work certified on progress certificates, less the amount held back as retention on the amount payable per the certificate.
- (ii) VAT payable on the retention amount will only be payable once the retention is paid out.

Where any work of the nature envisaged in the second paragraph was carried out before 27 November 2000 and the retention amount relating to this work became payable after 27 November 2000, no VAT is payable on the amount of retention monies paid.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 5

20 July 2001
Effective date: 27 November 2000

VAT IMPLICATIONS WHERE BUSINESS IS CARRIED ON FROM
RESIDENTIAL ERVEN

Paragraph 2(w) of Schedule III read with section 83 of the Value-Added Tax Act, 2000

A supply of electricity, water, refuse removal and sewerage, to a residential account, constitutes a zero rated supply in terms of paragraph 2(w) of Schedule III to the Value-Added Tax Act.

Inland Revenue Directorate is aware of the fact that certain businessmen are granted approval to carry on a business from a residential erf.

It does not necessarily mean that the residential account held by the businessman is changed to a business account.

In such cases VAT will still be charged on the amounts payable but the businessman will be allowed to deduct the total input tax, if registered.

If a businessman, who conducts business from a residential erf, is not registered for VAT, the person may apply for a refund on VAT paid on the residential portion.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

PRACTICE NOTES

No 6

9 October 2001
Effective date: 27 November 2000

IMPORTATION AND EXPORT OF GOODS – BONDED WAREHOUSES

Paragraph 2 of Schedule III read with sections 1, 11, 14 and 83 of the Value-Added Tax Act, 2000

Inland Revenue Directorate became aware that there are various interpretations in this regard. The correct interpretation and application is set out below:

“Exported from Namibia”

For the purposes of this practice note it shall have the meaning as defined in the VAT Act read with the contents of an earlier practice note, No 1 of 2001.

“Import”

It shall have the meaning as defined in the VAT Act.

“Importer”

It shall have the meaning as defined in the VAT Act.

Where goods have been imported into Namibia, entered into a licensed Customs and Excise warehouse (bonded warehouse), but not entered for home consumption, the supply of the goods will not be subject to value-added tax.

Goods imported under the trade agreement, concluded between Namibia and Zimbabwe, (the NamZim Agreement), may only be entered into the customs and excise duty paid section of a bonded warehouse if the parties involved, (Namibian importer and Zimbabwean exporter), are registered in terms of the trade agreement. If the parties involved are not registered in terms of the trade agreement the importer may elect to enter it into either the customs and excise duty paid or duty free section. Value-added tax must be levied if the goods are imported for home consumption, irrespective whether the importer is registered or not in terms of the trade agreement. Cognisance should be taken that the NamZim agreement only provides for exemption from customs duties and not value-added tax.

If the necessary documentation is available in respect of goods that are imported and entered into either the “duty paid” or “duty free” section of a bonded warehouse for the sole purpose to be exported from Namibia no value-added tax will be payable as the export of such goods are zero rated.

Necessary documents include any import documentation, stamped NA 500’s, invoices from the supplier and when exported, tax invoices, stamped NA 500’s and where applicable, documents from transport contractors that indicate that the contractor received the goods specified on the tax invoice(s) from the registered person for delivery to a recipient at an address outside Namibia.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 7

30 August 2001
Effective date: 27 November 2000

DOCUMENTATION REQUIRED IN RESPECT OF THE EXPORT OF
LIVESTOCK AND THE SUBSEQUENT CLAIM FOR A REFUND

The following documentation is required at the border for the export of livestock from Namibia and the claim for a refund of the value-added tax paid on such livestock:

VALUE-ADDED TAX ACT NO 10 OF 2000

- (i) a tax invoice or tax invoices issued by the seller(s) of the livestock or issued by the auctioneers, in respect of the livestock that is to be exported; or
- (ii) where the livestock is exported in smaller numbers than purchased, certified copies of the tax invoices; and
- (iii) a NA 500, properly completed, clearly describing the livestock in the same manner as described on the tax invoices and reflecting the price paid (excluding the VAT paid) for the livestock exported in each consignment.
- (iv) Livestock purchased from non-registered seller, is to be exported on separate NA 500's.

The foreign buyer claiming a refund of VAT paid, is to submit the following documentation with the claim:

- (i) a duly completed claim form;
- (ii) tax invoices, or where applicable, copies of tax invoices, stamped by Customs and Excise at the time of export; and
- (iii) NA 500(s), stamped by Customs and Excise at the time of export – the details regarding the livestock exported is to agree with the details on the tax invoice(s).

Where a claim for a refund is lodged, the claim is to include the tax invoice or tax invoices and all the related NA 500's on which the total number of livestock purchased per the tax invoice or tax invoices, were exported.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 8

1 November 2001
Effective date: 27 November 2000

DECLARATION OF IMPORTS

1. Date on which imports are declared where goods are imported on a VAT import account:

VAT import account holders are required to declare imports and the VAT on such imports on a monthly basis.

It has come to the attention of IRD that declarations are made based on the date the goods were received by the importer and not based on the date the goods were imported, ie. – the date the goods were assessed for VAT by Customs and Excise.

Example:

Goods assessed for VAT by Customs and Excise on 30 September (say at the time it crossed the border) have to be declared as an import for September and not as an import for October, even though the good were only received (say in Windhoek) by the importer in October.

Section 14(1)(c) requires that the VAT on imports be paid not later than the 20th day of the month following the month of import – in other words, the date of import determines the month of import and finally when the VAT on import is payable. Please also note the penalty in section 68 which may be imposed in these circumstances.

2. Name in which goods are declared at import:

Section 19(8) requires that input tax may only be claimed as a deduction under section 18(1) by a registered person who paid or is liable to pay the input tax.

In respect of imports, this means that the VAT payable at the time of import has to be paid by the importer or has to be paid in his name or, if the importer is a holder of a VAT import account, the goods has to be recorded on the importer's VAT import account number by Customs and Excise.

PRACTICE NOTES

Import documentation which does not clearly reflect that the VAT was paid by the importer, or was paid on his behalf, or recorded on his VAT import account number, will not qualify for VAT input tax claims by the importer.

3. Imports at borders, Nampost and other points without computer links to the Customs and Excise system in Windhoek

Importers holding VAT import accounts are to note that the VAT import account facility is only available at border posts and other points which are equipped with computer links to the Customs and Excise computer system as this facility is totally computer based.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 9

1 November 2001
Effective date: 1 March 2002

CASH REGISTER SLIPS

Section 21 & Schedule VI

The Commissioner of Inland Revenue granted permission to certain registered persons on request, to issue cash register slips as tax invoices provided that the requirements for tax invoices were met.

This concession is now withdrawn from the effective date reflected below as:

1. registered persons are not reflecting the name of the client on all the "tax invoice" cash register slips issued by them,
2. copies of the cash register slips bearing the name of the client are not kept as prescribed.
3. as the non-compliance mentioned in 1 and 2 leads to abuse which cannot easily be detected and proven.

The effect of the withdrawal of the concession is that NO cash register slip may bear the words "tax invoice".

A registered person who fails to comply with all the requirements for a tax invoice set out in Schedule VI of the VAT Act and section 48 with regard to record keeping, shall be guilty of an offence in terms of section 55(1)(c) and be liable for the payment of a penalty under section 58 of the Act.

Registered persons' attention is drawn to the requirement of section 21(1) requiring that such person shall issue a tax invoice when requested to do so.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 10

1 November 2001
Effective date: 27 November 2000

VAT RETURNS

Sections 23 and 24

Return periods:

Various registered persons submitted returns for periods which differ from the return periods allocated to them on registration for VAT. In some instances registered persons have submitted returns for a month period.

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Registered persons are required to compile the VAT returns for the periods as indicated in the letter advising them of their VAT registration number. Returns that do not meet this requirement will be returned to the registered person, which may cause delays and thus lead to penalties for the late submission of the corrected return.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 11

26 October 2001
Effective date: 26 October 2001

**SUPPLY OF GOODS AND SERVICES TO EXPORT PROCESSING
ZONE ENTERPRISES OR EXPORT PROCESSING ZONE
MANAGEMENT COMPANIES FOR USE BY THE ENTERPRISES OR
COMPANIES IN AN EXPORT PROCESSING ZONE**

Paragraph 2(g) of Schedule III of the Value-Added Tax Act, 2000

Due to practical problems encountered regarding the above, Directorate Inland Revenue makes the following arrangements in terms of a mutual agreement between the respective parties:

- Goods procured from local suppliers and delivered by the supplier to the premises of an EPZ enterprise or collected by the EPZ enterprise will be zero-rated.
- EPZ enterprises are required to include an affirmation that the goods or services ordered is solely acquired for use by the enterprise or company in an export-processing zone on their order form and to attach a copy of its EPZ registration certificate.

Suppliers will be required to show these affirmations and copies of registration certificates in support of their zero-rated sales as part of their VAT records.

- EPZ enterprises are required to keep receipts for all zero rated local supplies/services readily available in cases where the Directorate Customs and Excise need to verify sales by a local supplier as was mutually agreed.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

2002

No 1

20 March 2002
Effective date: 1 April 2002

**REVISION OF THE AMOUNTS QUOTED IN TARIFF HEADINGS 87.03
AND 87.11 OF PARAGRAPH 2 OF SCHEDULE II TO THE VALUE-
ADDED TAX ACT, 2000**

Paragraph 3 of Schedule II to the Value-Added Tax Act, 2000, requires the Minister of Finance to review, with reference to the Consumer Price Index, the amounts specified under tariff headings 87.03 and 87.11 of paragraph 2 of the schedule.

It is hereby made known that the amount referred to under tariff heading 87.03 is adjusted upwards to N\$ 221 500 and the amount referred to under tariff heading 87.11 is adjusted upwards to N\$ 110 750 as from 1 April 2002.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

PRACTICE NOTES

No 2

17 September 2002
Effective date: 1 October 2002

VAT ON PROPERTY TRANSACTIONS / ERECTION, EXTENSION AND IMPROVEMENTS TO BUILDINGS

Repealed section 3(26) and paragraph 2(y) Schedule III

The purpose of this practice note is to clarify the impact of the amendments to the above provisions.

Section 3(26) of the VAT Act prior to the amendment thereof had the effect that the erection or any extension of a building or any improvements thereto or a sale of land or buildings or both was not a supply for VAT purposes. The deletion of section 3(26) now renders the erection or any extension of a building or any improvements thereto or a sale of land or buildings or both to be a supply.

Time of supply – fixed property

There is no specific time of supply rule for the sale of immovable property (as defined in section 1). The supply of immovable property shall be deemed to take place at the time any payment in respect of such property has been received or the date of registration at the Deeds office, whichever is the earlier. This means that part payment will also trigger this time of supply. This time of supply rule will be provided for in a next round of amendments with retrospective effect as from 1 October 2002.

Time of supply – erection, extension and improvement

For the time of supply in respect of the erection, extension and improvements to immovable property please refer to section 7(13).

Transitional measures – immovable property

Section 78(1) will apply where an agreement for the sale of land or buildings (commercial or residential) has been entered into before 1 October 2002 and the time of supply (see above) is after 1 October 2002.

Further, the sale of land and buildings was not a supply for the purposes of the VAT Act prior to 1 October 2002. Section 3(19) (ordinary rule) provides that VAT has to be charged on a subsequent sale of goods where inputs were allowed as a deduction. However, section 3(19) will not be applicable on land and buildings acquired prior to 1 October 2002 because the sale of land and buildings were deemed not to be a supply for VAT purposes and the input tax was therefore not levied. Section 3(19) will thus be applicable only to land and buildings acquired and sold after 1 October 2002. On disposal of property after 1 October 2002 VAT has to be charged even though VAT was not levied on acquisition prior to 1 October 2002.

Transitional measures – erection, extension and improvement

In terms of section 79(3) an apportionment will have to be made between supplies made prior to 1 October 2002 and after 1 October 2002 with regard to the erection, extension and improvement of a building for residential purposes. The part of the erection, extension or improvement of a building for residential purposes that took place before 1 October 2002 is subject to VAT at 15% whilst the part of the erection, extension or improvement that will take place after 1 October 2002 will be zero rated.

VALUE-ADDED TAX ACT NO 10 OF 2000

To determine the extent of the supplies made before 1 October 2002 and the extent of the supplies made after 1 October 2002, Inland Revenue will require progress certificates.

Tax invoices

A tax invoice is defined in Schedule VI. Inland Revenue will accept contracts and progress certificates as tax invoices for the purposes of claiming VAT input paid.

Amendment

Paragraph 2(y) of Schedule III provides that the supply of goods and services for residential purposes comprising of—

- (i) the erection or extension of, or improvements to, a building; or
- (ii) the sale of land or buildings;

shall be a zero-rate supply.

The term “residential purposes” is not defined in the Act. Any building together with any appurtenances erected to be used predominantly as a place of residence or abode of any natural person shall fall within the scope of paragraph 2(y) of Schedule III. In determining whether the property is used for residential purposes one should look at the actual use of the property. The person acquiring the property will not be a determining factor.

The following will be excluded from this paragraph:

- Commercial rental establishments;
- hostels;
- old-age homes; and
- staff accommodation, whether on business or similar premises.

Retention monies

An earlier practice note, (Practice Note 4 of 2001), was issued in this regard. All the arrangements contained therein are still valid.

Apportionment

Apportionment has to be applied when a contract for instance makes provision to erect an office complex and a building to be used for residential purposes other than those listed under the exclusion above.

Related services

Related services rendered by architects, attorneys, quantity surveyors, etc, shall attract VAT at 15%. Where a subcontractor renders services to a main contractor, who in turn provides the services to the owner of the house, the services by the subcontractor will attract VAT at 15%. If contractors and sub contractors render services to developers, such services will also attract VAT at 15%.

Contractors, if registered, supplying services in the form of erection, extension or improvements to residential property directly to the home-owner, may zero rate these services. Contractors, if registered, will be in a position to claim the input tax on their acquisitions, ie. building material.

Developers, if registered, will be in a position to claim the input tax and charge VAT at a zero rate to the owner of the house.

PRACTICE NOTES

Important note:

It was not the intention of the legislator to zero rate supplies made by suppliers of building material to owner builders.

Practice Note 21-2000

Practice Note 21-2000 is herewith withdrawn.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 3

24 September 2002
Effective date: 1 October 2002

VALUE-ADDED TAX ON GAMING ACTIVITIES

Sections 3(10), 8(16) and 18(1)(c)

Introduction:

In terms of the amended section 8(16) of the Value-Added Tax Act, the value of a supply shall be the amount received in respect of a bet less the amount of any levy payable thereon in terms of section 41 of the Casinos and Gambling Houses Act, 1994, reduced by an amount equal to the tax fraction multiplied by the amount received in respect of a bet.

Future amendment:

Section 8(16) will be amended with retrospective effect. The value of supply shall be the net income derived by the license holder less the amount of any levy payable thereon in terms of the Casinos and Gambling Houses Act, 1994, reduced by an amount equal to the tax fraction.

Calculation of VAT:

VAT should therefore be calculated as follows:

Nett income (gross income less winnings paid out) less the levy payable, reduced by an amount equal to the tax fraction multiplied by the standard VAT rate.

Practice Note 11-2000 issued 22 November 2000 is herewith withdrawn.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 4

21 October 2002
Effective date: 28 November 2002

RECORD KEEPING

Section 48

Concession expires on 27 November 2002

The concession, in terms of the amended section 48(3) of the VAT Act, allowing registered persons to keep accounting records outside Namibia, expires on 27 November 2002.

Proposed amendment

Notice is hereby given that section 48(3) of the VAT Act will be amended so as to make it applicable as from 28 November 2002.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

INTERPRETATION OF "IMPROVEMENTS TO A BUILDING"

Schedule III paragraph 2(y)

This practice note serves to clarify the meaning of "improvements to a building" because it is not defined in the VAT Act.

The Directorate Inland Revenue is of the opinion that to constitute an improvement such improvement must be physically attached to, connected or integrated with the building.

The following will qualify as improvements:

- Installation of an alarm system;
- Installation of an airconditioner;
- Installation of burglar proofing;
- Security gates attached to the building;
- Installation of intercom systems;
- Built-in kitchen cupboards; and
- Built-in wardrobes.

It should also be noted that a distinction should be made between an improvement to the *building* for residential purposes and an improvement to the *property* for residential purposes. The latter will thus not be a zero rate supply.

The following are examples of improvements to a property and are therefore not zero rate supplies:

- Erection of lapas;
- Erection of car and shadeports;
- Erection of outside barbecues;
- Erection of fences and walls on a residential property or surrounding a residential property;
- Installation and construction of outdoor swimming pools;
- Installation of electrical fences, installation of electrical fences on boundary walls and other walls and structures which do not form part of a building;
- Installation of gates and gate-motors;
- Any paving laid surrounding the buildings and paving of driveways

The above list is not conclusive but aims to provide examples.

This practice note withdraws any rulings given to the contrary.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

PRACTICE NOTES

2003

No 1

17 February 2003

VAT ON PROPERTIES – EXCLUSION OF TRANSFER AND STAMP DUTY FOR PURPOSES OF CALCULATING VAT

For the purposes of the VAT Act, the value of any supply of goods shall, except as otherwise provided, be the amount of the *consideration* in terms of section 8 of the VAT Act.

The definition of consideration in section 1 of the VAT Act means the total amount in money or kind paid or payable (including any deposit on any returnable container) for the supply or import by any person, directly or indirectly, including any duties, levies, fees and charges (other than tax) payable on, or by reason of, the supply or import, reduced by any price discounts or rebates allowed and accounted for at the time of the supply or import, (The above underlined for emphasis)

In terms of section 7(a) of the Transfer Duty Act, 1993, VAT must be excluded to determine the value for transfer duty purposes.

It has been decided to regard transfer and stamp duty to fall within the ambit of the words “other than tax” and therefore to exclude transfer and stamp duty from the definition of consideration as defined.

It follows that for the purposes of calculating VAT, transfer duty and stamp duty paid on the acquisition of a property does not need to be included in “consideration”.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

No 2

PRESCRIPTIVE PERIOD TO CLAIM INPUT TAX

Section 18

This practice note serves to make an arrangement with regard to the prescriptive period to claim input tax.

Section 18(1) of the VAT Act (“the Act”) merely serves to determine the amount of tax payable/refundable per tax period. It prescribes rules with regards to what categories of input and output tax should be reflected in each VAT return for each tax period. It further does not have the effect of “closing” the tax period once the relevant return has been submitted. The registered person thus retains the right to re-open the return if it subsequently transpires that the return was incorrect or incomplete.

Section 18 will be amended shortly to provide for a prescriptive period to claim input tax within a period of three years which would also bring that in line with the three year period provided for in the Act with regard to refunds. It should be noted that the prescription period only commences from the end of the tax period during which a registered person for the first time became entitled to such deduction.

Inland Revenue Directorate has decided to allow registered persons to claim input tax as described above in the mean time. Any credit that arise as a result of a revised return may be refunded, but interest payable by the Directorate will only be calculated 60 days after such credit has been determined (day when revised return was captured).

ISSUED BY THE COMMISSIONER OF INLAND REVENUE

VALUE-ADDED TAX ACT NO 10 OF 2000

2006

No 1

25 April 2006
Effective date: 25 April 2006

BASIS OF APPORTIONMENT OF INPUT VAT

Section 19(3)

(This practice note replaces VAT Practice Note 23 – 2000).

Value-Added Tax (“VAT”) is payable on most purchases of goods and/or services. These purchases could be utilised for any one or more than one of the following purposes:

1. Supplies that are taxable;
2. supplies that are exempt; and
3. supplies that are neither taxable nor exempt, which also include the following, namely:
 - supplies that are deemed not to be supplies in terms of section 3 of the VAT Act; and
 - supplies that are made in an activity, which is not a taxable activity as defined in section 4 of the VAT Act.

VAT paid on purchases directly allocable to category (3), as outlined above, may not be claimed as an input tax deduction in terms of section 18(1) of the VAT Act. The total amount of supplies allocated to this category should also be excluded to calculate the apportionment ratio in terms of the formula as contemplated in section 19(3)(c) of the VAT Act. In other words, to calculate the apportionment ratio the total amount of all supplies made by the registered person should not include the supplies allocated to category (3).

A registered person, who is making taxable and exempt supplies, should therefore only include the total amount of exempt and taxable supplies in ‘C’, of the formula, to calculate the apportionment ratio.

VAT paid on goods and services, which are not utilised in the furtherance of a supply (e.g. private expenditure), may not be claimed as an Input Tax at all.

ISSUED BY THE COMMISSIONER OF INLAND REVENUE