

LEARNING UNIT 3

VALUE-ADDED TAX (VAT)

STUDY PROGRAMME AND TIME FRAME



Twenty-six (26) hours have been allocated to this learning unit.

Your time should be divided between two aspects:

- Obtaining the required knowledge
This entails working through this learning unit **and** the textbooks (SAICA Student Handbook and SILKE), underlining, making summaries and familiarising yourself with the donations tax.

- Application of knowledge

This entails the completion of the activities included in this learning unit.

Time allocation for learning unit 3:

Paragraph 3.1 to paragraph 3.8 of LU 3.	1 263 minutes
Activity 3.1	54 minutes
Beancounter scenario	15 minutes
Activities 3.2 to 3.7	228 minutes
Total	1 560 minutes



LEARNING OUTCOMES AND ASSESSMENT CRITERIA

The content of this learning unit is based on the following learning outcomes and assessment criteria of the module:

No	Specific outcomes	Assessment criteria
1	Assess the tax profile of a taxpayer to determine the various taxes payable by a taxpayer	<ul style="list-style-type: none"> • Conclude on the legal form, business structure and residence status of a taxpayer to determine the types of taxes payable (e.g. value-added tax, donations tax, estate duty, normal tax (including capital gains tax), prepaid taxes, dividends tax, withholding tax). • Assess information needed to determine the various tax liabilities , including <ul style="list-style-type: none"> ○ the role-players in the tax landscape, ○ The types of taxes and their interaction and ○ the underlying principles of a tax system. • Determine the various tax liabilities and provide reasons for the inclusion or exclusion of amounts. • Interpret the tax treatment of a transaction with reference to legislation, double tax agreements and case law.
2	Advise taxpayers on the tax effect of transactions, operations, schemes, agreements or events and calculate the tax consequences thereof, taking into account the various taxes payable.	<ul style="list-style-type: none"> • Advise the individual or corporate taxpayer of the value added-tax consequences of transactions. • Combine the relevant information to complete the Value-Added Tax and Income Tax returns for individuals or corporate taxpayers. • Detect the impact and amount of international expansion and international transactions.
3	Advise on specific tax and financial planning opportunities for individuals in their own name as well as for business entities	<ul style="list-style-type: none"> • Interpret a taxpayer's tax profile to give ethical advice and provide an opinion on tax planning options available within the legal framework of the different tax acts, including relevant anti-avoidance legislation, and applicable case law. • Detect the tax implications that can arise from a change in control of ownership structure. • Assess the normal tax and VAT consequences for the business and the investor of the investment and financial planning tactics being considered and advise the taxpayer on possible alternatives. • Critique the available options for a specific decision-making situation to establish the most suitable option and compose a suitable response of the information to the taxpayer if within the field of speciality or refer to an appropriate expert if necessary

3 VALUE-ADDED TAX (VAT)

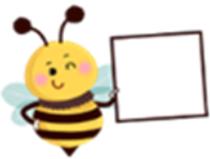
3.1 BACKGROUND

After having completed your undergraduate studies you should have a basic knowledge of VAT. In this learning unit, you should concentrate on those areas that were not covered in your previous studies and master complex topics. While studying, ensure that you can also **apply** the theory to a practical situation. When you plan your study time, bear in mind the sections that are examinable in terms of the syllabus and those sections that are excluded from the syllabus (reflected in the table of reference (below) in this learning unit).

3.1.1 UNGC Principle 10

The UNGC principles were introduced in Learning Unit 2. Compliance with the laws and regulations is the basis on which the taxation legislation is founded.

UNGC Principle 10 states that businesses should work against corruption in all its forms, including extortion and bribery. The definition of “corruption” includes dishonest or fraudulent conduct. Tax evasion would fall within the ambit of corruption. UNGC Principle 10 therefore encourages entities to find a balance between the social obligation to pay taxes and tax planning to minimise the cost of these taxes for an entity within the ambit of the law. It is important to take note of UNGC Principle 10, not only when studying but, more importantly, when applying the value-added tax legislation in practice.



Before you start studying the detailed provisions of the VAT Act, read the following scenario and/or watch the [video](#) relating to the Beancounter family. Then, as you study the different VAT provisions, identify areas of concern that should be brought to the attention of the Beancounter family.

3.2 BEANCOUNTER SCENARIO

[Beancounter Episode 3](#)

Bizzie Beancounter has decided to start her own business venture as a sole proprietor. She has located the perfect premises, which are currently available for letting. She will start a dry-cleaning business in her own name (recognised as a process of manufacture by the Commissioner) on 1 May 2023 (with a February year-end). She will employ four permanent staff members (non-connected persons) and she herself will take care of the day-to-day management of the business. Bizzie will import two dry-cleaning machines from Europe, which will arrive by 1 May 2023.

Bizzie has signed contracts with a few local restaurants to render dry-cleaning services to them with effect from May 2023. Her monthly turnover in terms of these agreements will be R85 000 for the first six months, increasing by 10% for every consecutive six-month-period.

However, Bizzie is uncertain about what (if any) VAT implications might arise from her business venture and she has asked you to identify all the VAT areas that may affect her business.

Six months have passed since your first meeting with Bizzie when she phones you to set a date for a second meeting. The dry-cleaning business is operating very successfully and Bizzie feels that it is time for one or two changes:

- The rented premises have become too small for Bizzie's business venture and she wants to buy a house in Justice Mahomed Street, Pretoria, from where she will operate the business. She will buy the house from Ancient Eve, a 72-year-old woman who can no longer manage the old residence on her own (Ancient Eve is not a VAT vendor). The house has a separate, one-bedroom flat, which Ancient Eve wants to rent from Bizzie after the sale. The flat occupies 10% of the floor space of the residence.
- Bizzie wants to incorporate a collect-and-deliver dry-cleaning service into the business and she will need to buy a delivery truck for this purpose. Peter, a current employee, will do all the driving for business purposes. He will also be able to use the vehicle for private purposes during evenings and over weekends. All expenses relating to the delivery truck will be paid by the business.



Before attempting to assist Barry with his value-added tax query, you should work through and master the applicable sections in the Income Tax Act relating to value-added tax.

3.3 CONTENTS OF LEARNING UNIT 3

3.3.1 Study approach

In this learning unit, we again provide you with a table of reference (below); however, we recommend that you study VAT in the sequence set out in SILKE. We therefore provide you with this table, which divides the content of the SILKE chapter into the time available, together with references to additional notes in this learning unit. You should use this table to guide you through the content of this learning unit. Also refer to the prescribed cases (indicated in the table) to be studied (refer to the Case Law Guide).

Par in SILKE	Topic	Additional notes in LU 3	Prior year learning	New not prior year learning
31.1	Overview of VAT	3.5.1	Yes	No
31.2	Calculation of VAT	3.5.1	Yes	No
31.3	The accounting basis (s 15)		Yes	No
31.4	Tax periods (s 27)		Yes	No
	Interpretation Note: No. 52. (Issue 3) Date: 10 March 2014 – Approval to end a tax period on a day other than the last day of a month (section 27(6); proviso (ii) and proviso (iii))			
31.5	Output tax: Supply of goods and services (s 7(1))	3.5.1, 3.5.2 & 3.5.3	Yes	No
31.6	Vendor (ss 23, 50, 50A, 51(2) and 22 of the TAA)		Yes	No
31.7	Output tax: In the course or furtherance of an enterprise (s 7(1)(a))		Yes	No
31.8	VAT levied – Importation of goods (ss 7(1)(b) and 13)	3.5.9	Yes	No
31.9	VAT levied – Imported services (ss 7(1)(c) and 14)		Yes	No
31.10	Output tax: Zero-rated supplies (s 11)		Yes	NO
	Interpretation Note: No. 30 (Issue 3). Date: 5 May 2014 – The supply of moveable goods as contemplated in section 11(1)(a)(i) read with paragraph (a) of the definition of “exported” and the corresponding documentary proof (section 1(1), par (a) of the definition of “exported”, section 11(a)(i) and 11(3))			
	Interpretation Note: No. 31. (Issue 4) Date: 9 March 2016 – Documentary proof required for the zero-rating of goods and services (section 11(3) read with section 11(1) and (2))			
	Interpretation note: No. 103 – The value-added tax treatment of supplies of international and ancillary transport services			
	Interpretation Note: No. 42. (Issue 2) – The supply of goods and services by the travel and tourism industry (sections 7(1)(a), 11(1)(a) and 11(2)(l))			
	Interpretation note: No. 85 – The <i>Master Currency</i> case and the zero-rating of supplies made to non-residents			
	Interpretation note: No. 57 – Sale of an enterprise or part thereof as a going concern			
31.11	Output tax: Exempt supplies (s 12)	3.5.4	Yes	No
31.12	Output tax: Deemed supplies (ss 8 and 18(3))	3.4, 3.5.5 & 3.5.6	Yes	No
	<i>CSARS v British Airways PLC [2005] JOL 14066 (SCA)</i>	Case Law guide		

Par in SILKE	Topic	Additional notes in LU 3	Prior year learning	New not prior year learning
31.13	Output tax: Non-supplies (ss 8(3), (4), (14), (25), 9(2)(b) and (c) and 10(11))		Yes	No
31.14	Output tax: No apportionment) (s 8(16)(a))		Yes	No
31.15	Time of supply (s 9)	3.5.6 & 3.5.11	Yes	No
31.16	Value of supply (s 10(2))	3.5.6 & 3.5.11	Yes	No
	Interpretation note: No. 70 - Supplies made for no consideration			
31.17	Basics of input tax (ss 16 and 17)	3.5.7 & 3.5.8	Yes	No
	Interpretation Note: No. 92. Date: 24 October 2016 – Documentary proof prescribed by the Commissioner (section 16(2)(f) and 16(3)(c) to (n))			
31.18	Tax invoices (ss 16(2) and 20)		Yes	No
	Interpretation Note: No. 56. (Issue 2) Date: 31 March 2014 – Recipient-created tax invoices; credit and debit notes (sections 20(2) and 21(4)). See BGR 15 (Issue 2)			
	Interpretation Note: No. 83. (Issue 2) Date 9 April 2015 – Application of sections 20(7) and 21(5) (sections 20(4), (5), (7), 21(1) and (5)). See BGR 27			
	Interpretation Note: No. 92. Date: 24 October 2016 – Documentary proof prescribed by the Commissioner (section 16(2)(f) and 16(3)(c) to (n))			
31.19	Debit notes, credit notes and errors on tax invoices (ss 20(1B) and 21)	3.4	Yes	No
31.20	The determination of input tax (s 17)	3.5.7	Yes	No
31.21	Input tax: Denial of input tax (s 17(2))	3.5.8	Yes	No
	Interpretation note: No. 82 – Input tax on motor cars			
31.22	Input tax: Deemed input tax on second-hand goods) (ss 1, 18(8) and 20(8) and proviso s 11(1) and s 10(12))	3.5.6	Yes	No
31.23	Special rules: Instalment credit agreements (including ss 10(6) and 9(3)(c).	3.5.8	Yes	No
31.24	Special rules: Fixed property	3.5.10	Yes	No
31.25 – 31.31	Adjustments – (ss 9(6), 10(7), 16(3)(h), 18(1), 9(13), 10(29), 16(3)(o) 18D, 18(4), 9(5), 18(2), 18(5), 18(6), 10(9), 8(14)(b), 8(14A), 9(10), 10(24), 18(9), 18A, 8(29), 9(12), 10(28), 18C, 16(2)(f) and 22)	3.5.11 & 3.4	Yes	No
31.32.1	Pre-incorporation expenses (s 19)		Yes	No
31.32.2	Agents (ss 8(20), 16(2) and 54)		No	Yes
31.33	Foreign electronic services (s 1(1) definition of “enterprise”, ss 23(1) and 54(2B))		Yes	No

Par in SILKE	Topic	Additional notes in LU 3	Prior year learning	New not prior year learning
31.34	The influence of VAT on income tax calculations		Yes	No
	Read through paragraphs 31.35 to 31.37. These paragraphs will be covered in TL 106.		No	No, LU 16

ACTIVITY 3.1 (20 marks / 54 minutes)

Work through the integrated examples in SILKE 31.38 (examples 31.60 & 31.61).

3.3.2 Table of reference

The table of reference contains the references to all the sections in the VAT Act and TAA that must be studied in this learning unit, as well as an indication of whether a specific section is examinable or not.

Reference to the VAT Act	Topics	Reference to SILKE	Examinable	Studied in prior years	Not covered in prior years
Sections of the VAT Act					
s 1	All definitions, except for the following: <i>(It will be stated if a service is an "electronic service" or a person is an "intermediary".)</i> "association not for gain", "Controller", "customs authority", "customs controlled area", "customs controlled area enterprise", "designated entity", par (b)(i) – (v) of the definition of "enterprise", proviso (vi), (viii) to (xv) & (xiv) to the definition of "enterprise", paragraph (d) of the definition of "exported", "foreign donor funded project", "grant", "inbound insurance policy", "international journey", "licenced customs and excise storage warehouse", "outbound insurance policy", "public authority", "SEZ operator", "share block companies", "share block central Act", "Special Economic Zones Act", "storage warehouse", "welfare organisation".	Various	Yes	Yes	
s 2	Financial services only: Debt security s 2(1)(c), issue, allotment or transfer of ownership of an equity security (d), provision of credit (f), provision of long-term insurance (i) and the issue, acquisition, collection, buying or selling or transfer of ownership of any cryptocurrency (o). <i>Rest of the section</i>	31.11.1	Yes	No	Yes
s 3	Determination of "open market value"		No		
s 4	<i>Administration of VAT Act</i>		Yes	Yes	
s 5	<i>Exercise of powers and performance of duties</i>		No		
s 6	<i>Secrecy</i>		No		
s 7	Imposition of VAT	31.5, 31.7, 31.8 & 31.9	No		
			Yes	Yes	

Reference to the VAT Act	Topics	Reference to SILKE	Examinable	Studied in prior years	Not covered in prior years
	<i>Subsection 7(3)</i>		No		
s 8	Certain supplies of goods or services deemed to be made or not made	31.12, 31.13 & 31.14	Yes	Yes	
	<i>Subsections 8(2A) – (2G), (5), (5A), (5B), (6), (13), (13A), 14(b), (14A), (17) – (20), (22) – (24), the further proviso to (25), (26) & (28)</i>		No		
s 8A	<i>Sharia-compliant financing arrangements</i>		No		
s 9	Time of supply	31.15	Yes	Yes	
	<i>Subsections 9(2)(d), 9(3)(e), 9(3)(f), 9(9), 9(10) & (11)</i>		No		
s 10	Value of supply of goods or services	31.16	Yes	Yes	
	<i>Subsections 10(4A), (8), (14), (17), (17A), (21A), (22B), (24), (25) & (27)</i>		No		
s 11	Zero-rating	31.22.131.10	Yes	Yes	
s 11(1)	Supply of exported goods	31.10.1	Yes	Yes	
	<i>Subsections 11(1)(a)(ii), (b) - (d), (f), (g), (hA), (m), (mA), (n), (p), (r) - (v)</i>		No		
s 11(2)	Supply of exported services	31.10.2, 31.10.3 & 31.10.4	Yes	Yes	
	<i>Subsections 11(2)(g), (h), (j), (m), (n), (q), (s), (t), (u), (v), (x), (y)</i>		No		
s 11(3)	Principle	31.10.2	Yes	No	
s 12	Exempt supplies	31.11	Yes	Yes	
	<i>Subsections 12(b), (d), (e), (f), (k), (l) & (m)</i>		No		
s 13	Collection of tax on importation of goods, determination of value thereof and exemptions from tax	31.8	Yes	Yes	
	<i>S 13(2B)</i>		No		
	<i>Subsections 13(5) & (6)</i>		No		
s 14	Collection of VAT on imported services, determination of value thereof and exemptions from tax	31.9	Yes	Yes	
	<i>Subsection 14(4)</i>		No		
s 15	Accounting basis	31.3	Yes	Yes	
	<i>Subsections 15(2)(a), (2A), (3) – (9)</i>		No		
s 16	Calculation of tax payable	31.2 & 31.17	Yes	Yes	
	<i>(excluding broad area exclusions, e.g. prizes and gambling)</i>		No		
s 17	Permissible deductions in respect of input tax	31.20 & 31.21	Yes	Yes	

Reference to the VAT Act	Topics	Reference to SILKE	Examinable	Studied in prior years	Not covered in prior years
	<i>Subsections 17(2)(a)(ix) & (2)(d)</i>		No		
s 18	Change in use adjustments	31.12.4, 31.25 – 31.28	Yes	Yes	
	<i>Excluding turnover tax provisions & subsections 18(4)(a) &, (9), & 18(10)</i>		No		
s 18A	Adjustments in consequence of acquisition of going concern wholly or partly for purposes other than making taxable supplies	31.10.3 & 31.29	Yes	Yes	
s 18B	<i>Temporary letting of residential fixed property</i>		No		
s 18C	Adjustments for leasehold improvements	31.30	Yes	Yes	
S 18D	Temporary letting of residential property	31.25.1	Yes	Yes	
s 19	Goods or services acquired before incorporation	31.32.1	Yes	Yes	
s 20	Tax invoices	31.18	Yes	Yes	
s 21	Credit and debit notes	31.19	Yes	Yes	
s 22	Irrecoverable debts	31.31	Yes	Yes	
s 23	Registration of persons making supplies in the course of an enterprise	31.6 & 31.33	Yes	Yes	
	<i>Subsections 23(3)(b)(ii)(AA), (3A) & (5)</i>		No		
s 24	Cancellation of registration	31.6	Yes	Yes	
s 25	<i>Vendor to notify change of status</i>		No		
s 26	<i>Liabilities not affected by person ceasing to be vendor</i>		No		
s 27	Tax period (<i>category will be given</i>)	31.4	Yes	Yes	
	<i>Subsections 27(2) – (5)</i>		No		
s 28	<i>Returns and payments of tax</i>		No		
s 29	<i>Special returns</i>		No		
s 31	<i>Assessments</i>		No		
s 32	Objections to certain decisions or assessments		Yes	No	Yes
s 38	<i>Manner in which tax shall be paid</i>		No		
s 39	<i>Penalty for failure to pay tax when due</i>		No		
s 40C	<i>Liability of bargaining councils or political parties for tax and limitations of refunds</i>		No		
s 40D	<i>Liability for tax and limitations of refunds in respect of National Housing Programmes</i>		No		
s 41	<i>Liability for tax in respect of certain past supplies or importations</i>		No		

Reference to the VAT Act	Topics	Reference to SILKE	Examinable	Studied in prior years	Not covered in prior years
s 41B	<i>VAT class rulings and VAT rulings</i>		No		
s 44	<i>Refunds</i>		No		
s 45	<i>Interest on delayed refunds</i>		No		
s 46	<i>Persons acting in a representative capacity</i>		No		
s 50	Separate enterprises, branches and divisions	31.6	Yes	No	Yes
	<i>Proviso to section 50(1)</i>		No		
s 50A	Separate persons carrying on same enterprise under certain circumstances deemed to be single person	31.6	Yes	No	Yes
s 51	Bodies of persons, corporate or unincorporated (other than companies)		No		
s 52	<i>Pooling arrangements</i>		No		
s 53	Death of vendor		Yes	No	Yes
	<i>Insolvency of vendor</i>		No		
s 54	Agents (excluding auctioneers) <i>(It will be clear from the information that there is an agent/principal relationship.)</i>	31.32.2	Yes	No	
	Intermediaries (s 54(2B))	31.33	Yes	No	
	<i>Subsections 54(2A)(b) and 54(2C)</i>		No		
s 55	<i>Records</i>		No		
s 58	<i>Offences</i>		No		
s 61	<i>Recovery of tax from recipient</i>		No		
s 64	Prices deemed to include tax		Yes	No	Yes
s 65	Prices advertised or quoted to include tax		Yes	No	Yes
s 66	<i>Rounding off of the tax</i>		No		
s 67	<i>Contract price or consideration may be varied according to rate of VAT</i>		No		
s 67A	<i>Application of increased or reduced tax rate</i>		No		
s 67B	<i>Registration of motor vehicles prohibited in certain circumstances</i>		No		
s 68	<i>Tax relief allowable to certain diplomats and diplomatic and consular missions</i>		No		
s 72	<i>Arrangements and directions to overcome difficulties, anomalies or incongruities</i>		No		
s 73	<i>Schemes for obtaining undue tax benefits</i>		No		

Reference to the VAT Act	Topics	Reference to SILKE	Examinable	Studied in prior years	Not covered in prior years
s 74	<i>Schedules and regulations</i>		No		
s 75	<i>Tax agreements</i>		No		
s 78	<i>Transitional matters</i>		No		
s 78A	<i>Transitional matters: Turnover tax</i>		No		
s 85	<i>Repeal of laws</i>		No		
s 86	<i>Act binding on State, and effect of certain exemptions from taxes</i>		No		
s 86A	<i>Provisions relating to special economic zones</i>		No		
s 87	<i>Short title</i>		No		
Schedules to the VAT Act					
1	<i>Exemption: Certain Goods Imported in the Republic</i>		No		
2	<i>Part A</i>		No		
2	Part B: Zero rate: Supply of goods consisting of certain foodstuffs	31.10.4	Yes	No	Yes
2	Part C: Section 11(1)(w) of this Act	31.10.4	Yes	No	Yes

Interpretation Notes will no longer be included in the SAICA Student Handbook, but to the extent that an Interpretation Note creates a practice generally prevailing (refer to section 5 of the Tax Administration Act), the relevant extract will be provided in the test or examination.



Interpretation Notes are available at: [Interpretation Notes | South African Revenue Service \(sars.gov.za\)](http://sars.gov.za)
 Binding General Rulings (BGR) are available at: [Binding General Rulings \(BGRs\) | South African Revenue Service \(sars.gov.za\)](http://sars.gov.za)

Interpretation Notes	Silke par
Interpretation Note: No. 30 (Issue 3). Date: 5 May 2014 – The supply of moveable goods as contemplated in section 11(1)(a)(i) read with paragraph (a) of the definition of “exported” and the corresponding documentary proof (section 1(1), par (a) of the definition of “exported”, section 11(a)(i) and 11(3))	31.10.1.1
Interpretation Note: No. 31. (Issue 4) Date: 9 March 2016 – Documentary proof required for the zero-rating of goods and services (section 11(3) read with section 11(1) and (2))	31.10.2 & 31.10.4
Interpretation Note: No. 42. (Issue 2) Date: 12 December 2016 – The supply of goods and services by the travel and tourism industry (sections 7(1)(a), 11(1)(a) and 11(2)(l))	31.10.2.3 & 31.21.3
Interpretation Note: No. 52. (Issue 3) Date: 10 March 2014 – Approval to end a tax period on a day other than the last day of a month (section 27(6); proviso (ii) and proviso (iii))	31.4

Interpretation Note: No. 56. (Issue 2) Date: 31 March 2014 – Recipient-created tax invoices; credit and debit notes (sections 20(2) and 21(4)). See BGR 15 (Issue 2)	31.18
Interpretation Note: No. 57. Date: 31 March 2010 – Sale of an enterprise or part thereof as a going concern (sections 8(7), 8(16), 11(1)(e) & 18A)	31.10.3.1 & 31.10.3.2
Interpretation Note: No. 70 (issue 2). Date: 14 March 2013 – Supplies made for no consideration (section 1(1) definition of “enterprise”, “taxable supply”, “input tax” and “consideration”, (section 10(4), 10(23))	31.16.7
Interpretation Note: No. 82. Date: 26 March 2015 – Input tax on motor cars (sections 1(1), 17(2)(c) & 18)	31.21.3
Interpretation Note: No. 83. (Issue 2) Date 9 April 2015 – Application of sections 20(7) and 21(5) (sections 20(4), (5), (7), 21(1) and (5)). See BGR 27	31.18
Interpretation Note: No. 85. Date: 27 March 2015 – The <i>Master Currency</i> case and the zero-rating of supplies made to non-residents (section 11(2)(l))	31.10.2.4
Interpretation Note: No. 92. Date: 24 October 2016 – Documentary proof prescribed by the Commissioner (section 16(2)(f) and 16(3)(c) to (n))	31.17 & 31.18
Interpretation Note: No. 103. Date: 14 September 2018 – The value-added tax treatment of supplies of international and ancillary transport services (section 11(2)(a), (b), (c), (d) & (e))	31.10.2.1
Interpretation Note: No. 118. Date April 2021 – Value-added-tax consequences of points-based loyalty programmes (section 1(1) definition of “consideration”, “input tax” and “supply”, sections 7 and 10)	

3.3.3 Sections in SILKE you may ignore

When working through chapter 31 in SILKE, you may IGNORE all paragraphs of the text with shaded headings.

The following broad-area exclusions from the SAICA syllabus relate to VAT:

- special economic zones
- customs controlled areas
- municipalities, municipal entities, welfare organisations and organisations not for gain
- donor-funded projects

3.4 LAW AMENDMENTS

The important proposed amendments that are applicable to this LU are summarised below. In some instances, we repeat – for your convenience – amendments from previous years, which were enacted.

Relevant proposed amendments to the VAT Act contained in the Taxation Laws Amendment Act 17 of 2023 are as follows:

Section 8(8)

Section 8(8) relates to a deemed supply in respect of indemnity payments.

- There will be no deemed supply if the payment relates to goods or services for which an input tax deduction was denied (for example a motor car). Before 1 January 2024 this exclusion required the total replacement of goods for which an input tax deduction was denied. Total replacement is usually required if such goods are damaged beyond repair. If goods for which an input tax was denied were only damaged, the exclusion did not apply, and vendors had to account for output tax on the indemnity payment. From 1 January 2024 onwards payments received from an insurer to repair a motor car that was damaged in an accident will not attract output tax.
- There will also be no deemed supplies where payments are made to a third party to replace damaged or stolen goods as no indemnity payment was received by the insured vendor. He is not receiving money that would put him in the position he would put him in the position he would have been in if he had sold (supplied) the goods

These amendments are effective from 1 January 2024

Section 18D(6)

Sub-paragraph 6 was added to section 18D to make it clear that if fixed property that was developed by a developer is temporarily (12 months or less) applied for the letting thereof the property will be deemed to be supplied in terms of section 18(1) if it is



Relevant proposed amendments to the VAT Act contained in the Taxation Laws Amendment Act 17 of 2023 are as follows:

supplied for a period exceeding the 12-months or if the developer decides to let the property on a permanent basis. The time of supply will be the earlier of the expiry of the 12-months or at the time that the property is permanently applied for the making of non-taxable supplies (the letting thereof). The value of the supply will be the open market value. As the vendor had already accounted for output tax on the adjusted cost of the property in terms of section 18D the vendor will be allowed to claim input tax in terms of section 16(3)(o), calculated as the tax fraction of the amount determined in terms of section 10(29).

Section 10(29) reads as follows:

In terms of section 10(29) the consideration for a supply in terms of section 18D(2) will be the adjusted cost to the vendor of the construction, extension or improvement of such fixed property (dwelling) or portion of such fixed property (dwelling).

Section 18D (6) will not apply if during the period that the property is temporarily applied a written agreement for the taxable supply of the property has been concluded and the transfer of the property only occurs after the expiry date of the temporarily period. In this case the sale of the property will be a taxable supply at the time contemplated in section 9(3)(d), which is the earlier of the date of registration of the property in the name of the buyer or the date that any payment is made towards the consideration of the property.

These amendments will be effective from 1 April 2024.

Section 21(1)

The VAT Act provides for the issuing of debit and credit notes if a tax invoice was issued in relation to the original supply. Section 21(1) then provides a list of when a debit or credit note can be issued, paragraph (f) was added to the list.

Section 21(1)(f) allows a credit or debit note to be issued if a prepaid voucher (refer to section 10(19)) was issued by a telecommunications vendor and the nature of the supply specified on such voucher has been fundamentally altered.

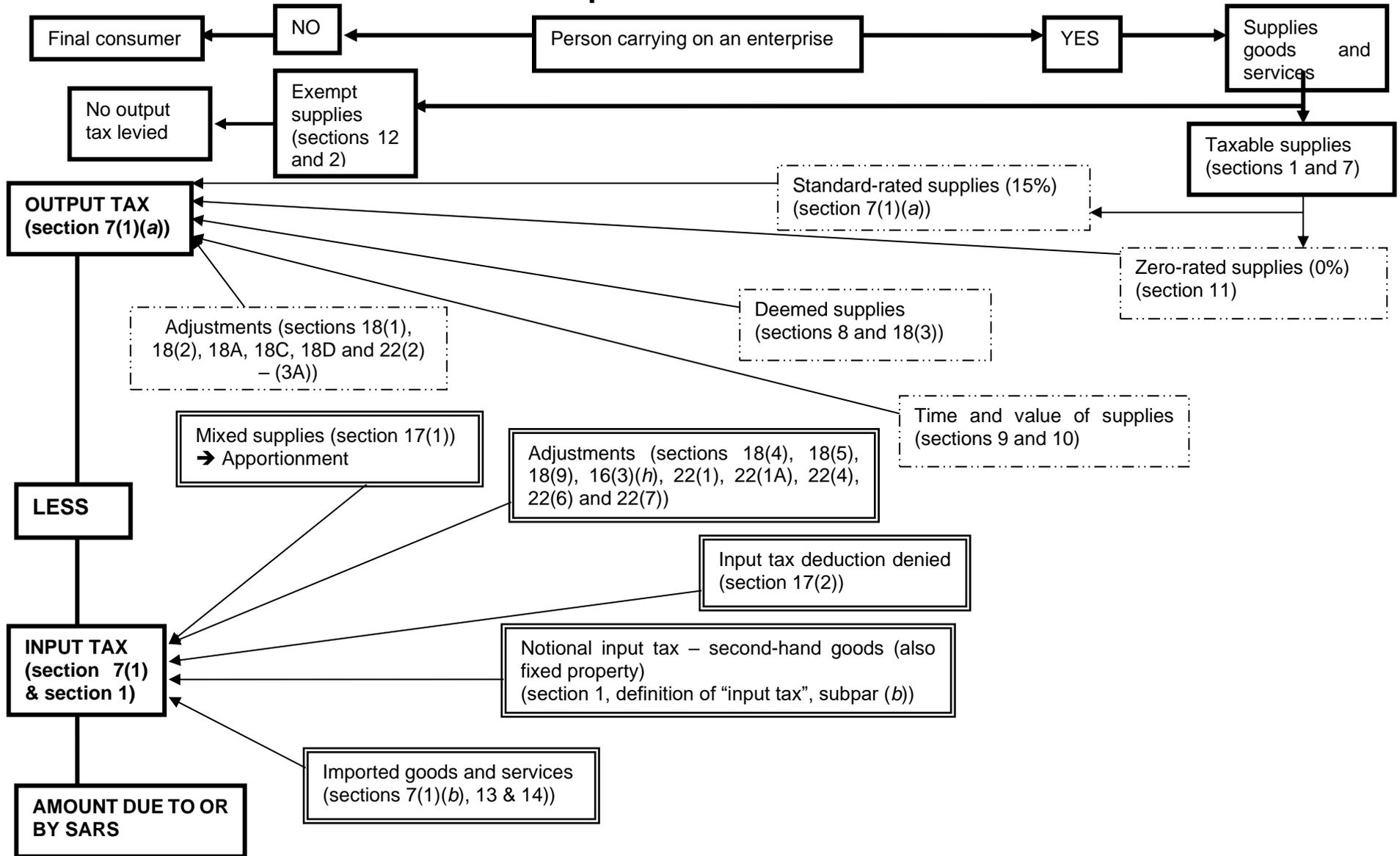
This amendment will be effective from 1 April 2024.

3.5 ADDITIONAL NOTES

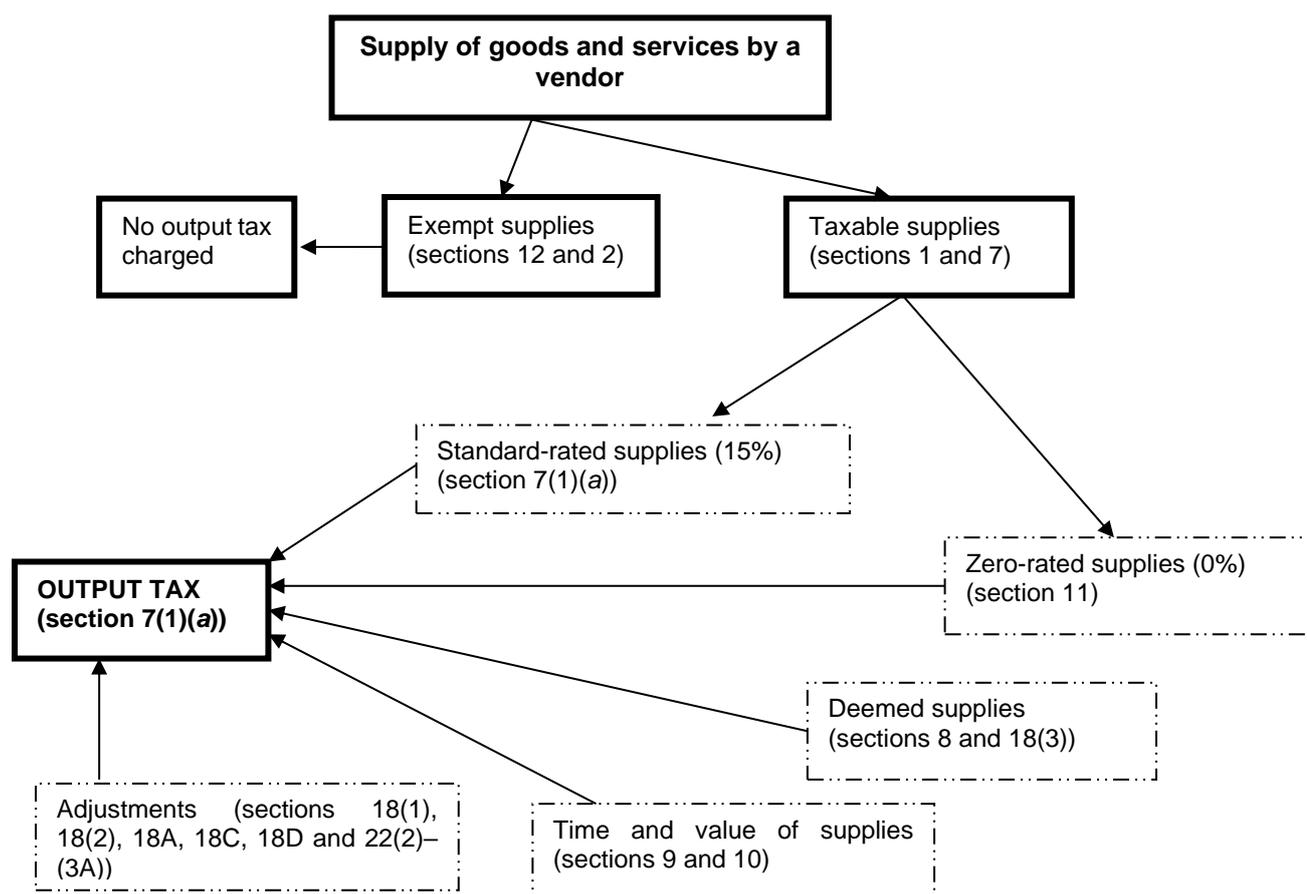
3.5.1 Mind map representing an overview of VAT

To provide you with an overview of VAT and as a useful study tool, we include a mind map of the output and input tax provisions in the VAT Act on the following page.

Mind map with overview of VAT



3.5.2 Mind map of the supply of goods and services – OUTPUT TAX



3.5.3 Services - SILKE par 31.5.3

The definition of “services” is broad and the supply of services typically includes (without being limited to) the following:

- royalties – granting the right to use intellectual property, that is, patents, trademarks and copyrights
- sale of intellectual property
- assignment, waiver or abandonment of a right to someone else, including the right of legal action
- acceptance of a restraint, including agreeing not to act or to act in a particular way
- acceptance of damages or compensation, including the cancellation of agreements
- provision of professional services, including construction, legal, accounting and other similar services
- provision of facilities by clubs, churches, charities and other non-profit organisations

Please note that this does not mean that all of the above services are taxable supplies; it merely means that they will constitute services for the purposes of the VAT Act.

The exclusion of “money” from the definitions of “goods” and “services” means that no VAT implications will arise in respect of its supply. This is important because it means that when goods are purchased from a vendor, the initial supply of the item will attract VAT, whereas the subsequent payment will not attract VAT.

3.5.4 Exempt supplies: Other (including transport of fare-paying passengers and their personal effects by road or rail) - SILKE par 31.11.4

Study section 12(g). Note that where transport services were taxed at 0% (in terms of section 11(2)(a)), this will take preference over the exemption (if it is transport by road or rail; transport by aircraft or boat is in any case a taxable supply). The information below is summarised from VAT Practice Note 7/1992.



Practice Notes are available at:

[Practice Notes | South African Revenue Service \(sars.gov.za\)](http://www.sars.gov.za)

For the exemption to apply, the following criteria must be met:

- Passengers (travelling by road or rail) must pay a fare.
- The supplier of the transport service must operate the vehicle himself/herself (not a courier).

These two requirements will be discussed in more detail.

Fare-paying passengers

Where the operator of the vehicle (in which passengers are transported) charges a consideration for the service, the passengers will be regarded as fare-paying. The passengers themselves, or a third party, may pay a specified fare either on boarding the vehicle or on purchasing a ticket prior to travel.

The exemption does not apply where passengers are not charged a fare. If, for example, a mine was to provide transport by road for its miners from their lodgings to the mine, the mine would be entitled to claim the input tax paid in connection with the supply. This is because it would not constitute an exempt supply, as the miners would not pay a fee.

Operation of a transport business

To qualify for the exemption, the supplier of the transport service must be the operator of the vehicle in which the passengers are transported. The supplier need not necessarily be the owner of the vehicle – or even the employer of the driver – but must be commercially responsible for the transporting of the passengers.

Where the supplier of the vehicle does not operate it himself/herself but rents or hires it to a third party who uses it for the transport of passengers, the exemption does not apply. The reason for this is that the supply constitutes the hire of the vehicle and not that of a transport service; it is therefore standard-rated. Should the supplier also provide the services of a driver, however, the supply would constitute an exempt supply in most cases and not a standard-rated supply. Each situation must be judged on its own facts and the use of the word “hire” or “charter” in an agreement is not conclusive as to the nature of the transaction. The decisive factor in determining whether an exempt transport service or a taxable rental transaction is supplied will usually be to whom the driver is ultimately accountable.

If the driver were accountable to the owner of the vehicle, an exempt transport service would be supplied in the absence of factors to the contrary. By contrast, if the driver were accountable to the recipient, the supply would be taxable in most instances. In practice, SARS interprets this provision in a broad manner.

Examples of exempt transport services

- *Scheduled commuter bus services, intercity bus services and tourist bus transport* – The distance covered or the duration of the service is irrelevant.
- *Ambulance services* – This is transport of patients in an ambulance for a consideration.
- *Tour buses or trains* – This is transport of passengers by a tour operator, irrespective of whether a specific fee is charged for transport or whether it is incorporated into the total fee for the tour. In the latter case, the total fee will have to be apportioned between the taxable supplies and the exempt passenger transport service. If the fee is not apportioned, the full amount of the fee is subject to VAT at the standard rate.
- *Airport/hotel transfers* – This involves the transport of patrons to and from an airport by a hotel or equivalent supplier, provided a specific fee is charged for the service. Where, however, the service is provided as a courtesy to patrons without a specific amount being charged, the hotel will not be regarded as supplying exempt passenger transport.
- *Transport of employees or pupils* – This is the transport of employees or pupils on behalf of an employer or school, irrespective of whether the consideration charged by the operator is a fixed or variable amount based on the number of employees/pupils actually transported. This, however, does not include the case where the employer hires the vehicle and undertakes the transport of the employees himself/herself for no consideration.

Examples of **taxable** transport services (not exempt)

- *Passenger transport by air or sea*
- *Courier services and the transportation of parcels by road, rail or sea*
- *Game-viewing excursions*
- *Passenger transport, where no fare is charged, for example where an employer provides transportation to and from the place of work to employees and no consideration is charged*
- *Passenger transport, where the transport fee is incorporated into the total charge for a composite supply and the total charge is not apportioned between taxable and exempt supplies*
- *Transport rental and hiring services, if the services of a driver are not included*
- *Zero-rated transport services, for example passenger transport by road or rail to an export country*

3.5.5 Deemed supplies: Ceasing to be a vendor - SILKE par 31.12.1

If the delivery vehicle in the SILKE example 31.16 (Mr Filemon Balewa) were used to make **40% taxable supplies**, Filemon would have claimed only input tax on the purchase of the delivery vehicle (assume purchase was on/after 1 April 2018) of $R180\,000 \times 15/115 \times 40\% = R9\,391$. Filemon would still have to account for output tax, however, when ceasing to be a vendor, on **100%** of the lesser of the cost (including VAT) (R180 000) or the open market value (R118 000), although the asset was used only 40% for taxable purposes because of section 8(16). Section 8(16) provides that, if a vendor acquires goods only partly for the making of taxable supplies and then subsequently supplies the goods, the vendor will be deemed to make a 100% taxable supply of the goods. In the SILKE example, the output tax payable would thus be $(R118\,000 - R3\,000) \times 15/115 = R15\,000$, but the vendor would be able to make an input tax adjustment for the exempt portion under section 16(3)(h). Therefore, $R118\,000$ (lower of adjusted cost and open market value) $\times 15/115 \times 60\% = R9\,235$ input tax will be claimable.

If a person (who ceases to be a vendor) disposes of any goods or rights after the cancellation of his/her registration (and thus after the deemed supply has been accounted for), the person will not carry on an enterprise for VAT purposes and no VAT will be due on the supply of the goods or rights.

Where the assets forming part of a vendor's enterprise are, prior to cessation of registration, distributed to shareholders as a dividend *in specie*, no VAT will be payable, as the supply will be made for no consideration. Should the recipient, however, be a connected person in respect of the vendor and not be entitled to a full input tax credit had VAT been payable, VAT would have to be levied on the open market value of the dividend *in specie* (i.e. the value of supply rule for connected persons). The distribution of assets by a person in the form of a dividend *in specie* after the cessation of registration has no VAT implication, as the supply has not been made in the course or furtherance of an enterprise, the enterprise having ceased. The supply will therefore not be a taxable supply.

The general rules for deregistration (for VAT purposes) will not apply where a person ceases to be a vendor because of death or insolvency, provided the enterprise is thereafter continued by or on behalf of his/her executor or trustee.



A deemed disposal for VAT purposes arises when a person ceases to be a VAT vendor (section 8(2)). Output tax is calculated by multiplying the lesser of the cost (including VAT) or the open market value by the tax fraction. However, section 8(2)(v) provides that this will not apply to assets where output tax has already been accounted for in terms of section 22(3).

In terms of section 22(3), when ceasing to be a vendor, outstanding creditor balances – on which input tax were claimed – are treated as follows:

- Outstanding for longer than 12 months: No adjustment for VAT on these balances is made when ceasing to be a vendor, since section 22(3) stipulates that a VAT vendor is required to account for output tax if he/she has not paid the full consideration for a supply within 12 months. This liability for output tax is therefore due to the non-payment of the creditor for 12 months and not because of the cessation of the enterprise. However, if the vendor has not yet accounted for the output tax on cessation, the adjustment should be made at that time.
- Outstanding for less than 12 months: At the date of the cessation of the enterprise, output tax is payable on outstanding creditor balances that are not older than 12 months. The value of these supplies is the outstanding balance of the creditor (section 22(3) (proviso (ii)(bb))).

3.5.6 Time and value of supply - SILKE par 31.15 and 31.16

The word “value” used in section 10 is confusing, as the amount actually described in section 10 is “consideration”. It is important to understand the difference between **value** and **consideration**. **Value** excludes VAT; **consideration** includes VAT. As the amount described in section 10 is actually **consideration**, the amount given in the table below should be multiplied by 15/115 in order to obtain the VAT amount.

We provide you with a concise summary of the time and value of supply rules below. Note that a separate table is provided later in this learning unit for the time and value of supply of adjustments (sections 18, 18A, 18C and 18D).

Supply	Time	Amount of the consideration
General rule	<u>Invoice basis</u> The earlier of <ul style="list-style-type: none"> • the date an invoice is issued, or • the time of payment / consideration received by the supplier (section 9(1)) <u>Payment basis</u> The time of payment / consideration received by the supplier (To claim an input tax deduction, the vendor must be in possession of a valid tax invoice – see SILKE 31.18.)	Consideration = Value + VAT, or Value = Consideration – VAT Consideration will be <ul style="list-style-type: none"> • consideration in money = money value • consideration not in money = open market value (section 10(2) & (3))

Supply	Time	Amount of the consideration
<p>Connected persons</p>	<p>Goods removed – time of removal Goods not removed – time made available to recipient Services – time services performed If payment is received or an invoice is issued before the day on which a return is submitted for the tax period in which goods were removed, made available or services performed, the general rule (section 9(1)) will apply. <i>(section 9(2)(a))</i> If the recipient vendor would have been entitled to make a deduction of the full input tax in respect of that supply and the consideration cannot be determined at the time the supply is deemed to be made, the general rule (section 9(1)) will apply and not section 9(2)(a).</p>	<p>Open market value if a supply were made by a vendor for no consideration or for a consideration less than open market value, or if the whole of the consideration could not be determined at the time of the supply and the recipient would not have been able to claim the full input tax deduction (fringe benefits excluded). <i>(section 10(4))</i> (The recipient would not be able to claim a full input tax deduction if he/she were not a vendor or if he/she were a vendor but does not make 100% taxable supplies.)</p>
<p>Fringe benefits (included in gross income (par (i) of the definition), read with the Seventh Schedule, excluding - exempt supplies - zero-rated supplies - entertainment</p>	<p>The time at which the benefits become liable to employees' tax in terms of the Income Tax Act (It is the month in which employees' tax is payable on the benefit or the month that it is included as part of remuneration.) <i>(section 9(7))</i></p>	<p>The cash equivalent (which excludes finance charges and VAT) of the benefit, for normal tax purposes, except where the benefit is the right of use of a motor vehicle. Then: if input tax deduction was denied: 0.3% of determined value (excluding VAT) of motor vehicle per month if input tax deduction was not denied: 0.6% of determined value (excluding VAT) of motor vehicle per month (Refer to SILKE 31.12.4.2 for additional information.) (section 10(13) and Government Gazette 22 Nov 1991)</p>
<p>Game-viewing vehicle or hearse, where input was claimed on conversion and then supplied or used for another purpose (section 8(14)(b) or 8(14A))</p>	<p>When supplied or utilised for another purpose <i>(section 9(10))</i></p>	<p>Consideration in money equal to the open market value <i>(section 10(24))</i></p>

Supply	Time	Amount of the consideration
Credit agreements	The day after the last day on which the recipient may exercise his/her right to terminate the agreement (after cool-off period of 5 days) (<i>section 9(2)(b)</i>)	General rule (<i>section 10(2) & (3)</i>)
Instalment credit agreement (suspensive sale agreement and a lease)	The earlier of <ul style="list-style-type: none"> • time of delivery, or • time of payment received (<i>section 9(3)(c)</i>)	“Cash value” , as defined in section 1 (including VAT and excluding finance cost) (<i>section 10(6)</i>)
Rental agreement or services supplied under any agreement that provides for periodic payments	Deemed successive supplies Each successive supply deemed to take place at the earlier of when <ul style="list-style-type: none"> • payment becomes due, or • payment is received (<i>section 9(3)(a)</i>)	General rule (<i>section 10(2) & (3)</i>)
Goods supplied progressively, periodically or directly in the construction, repair, improvement, erection or manufacture under any agreement where consideration is paid in instalments or periodically	Deemed successive supplies Each successive supply deemed to take place at the earlier of whenever <ul style="list-style-type: none"> • any payment in respect of any supply becomes due and is received, or • any invoice relating only to that payment is issued (<i>section 9(3)(b)</i>)	General rule (<i>section 10(2) & (3)</i>)
Instalment credit agreements, reposessions and surrender of goods	Day on which goods are reposessed or surrendered (<i>section 9(8)</i>)	Cash value of outstanding debts on goods reposessed or surrendered (excluding finance cost) (<i>section 10(16)</i>)
Goods supplied under an agreement other than an instalment credit agreement or rental agreement and consideration is contingent on a future event	Deemed successive supplies – Each successive supply is deemed to take place at the earlier of when <ul style="list-style-type: none"> • any payment in respect of the supply is due or received and claim to the extent that any payment has been made, or • an invoice relating to the supply is issued (<i>section 9(4)(a)</i>)	General rule (<i>section 10(2) & (3)</i>)

Supply	Time	Amount of the consideration
Services supplied under an agreement and the consideration is contingent on a future event	Deemed successive supplies – Each successive supply deemed to take place at the earlier of when <ul style="list-style-type: none"> • any payment in respect of the supply is due or received and claim to the extent that any payment has been made, or • an invoice relating to the supply is issued <i>(section 9(4)(b))</i>	General rule <i>(section 10(2) & (3))</i>
Supplies to foreign branches	Date at which goods are delivered to independent branch or service is performed <i>(section 9(2)(e))</i>	Lesser of <ul style="list-style-type: none"> • cost to vendor (including VAT) of acquisition, manufacture, assembly, construction or production, or • open market value of supply <i>(section 10(5))</i>
Ceases to be a vendor	Immediately before the person ceased to be a vendor <i>(sections 8(2) and 9(5))</i>	Lesser of <ul style="list-style-type: none"> • cost to vendor (including VAT) of acquisition, manufacture, assembly, construction or production of goods or services, or • open market value of supply <i>(section 10(5))</i>
Indemnity payments	The date of receipt of payment by the vendor or date paid to another person <i>(section 8(8))</i>	Apply the tax fraction to consideration received in money <i>(section 8(8))</i>
Second-hand goods acquired from a vendor (excluding fixed property)	General rule <i>(section 9(1))</i>	General rule <i>(section 10(2) & (3))</i>
Notional input tax in respect of second-hand goods (excluding fixed property) situated in the Republic of South Africa and acquired from a non-vendor	Claim to the extent that payment has been made <i>(section 16(3)(a)(ii)(aa) & 16(3)(b)(i))</i>	The lesser of <ul style="list-style-type: none"> • consideration in money, or • open market value (irrespective of whether the supply takes place at arm's length or between connected persons) <i>(section 1 – definition of “input tax”, subparagraph b(i))</i>
Export of second-hand goods where a notional input tax had been claimed	General rule <i>(section 9(1))</i>	Consideration limited to the purchase price of the goods to the exporter . Note that the purchase price is not reduced by the notional input tax that has been claimed. <i>(section 10(12))</i>

Supply	Time	Amount of the consideration
<p>Imports of goods</p>	<p>Vendors registered on the invoice or payment basis can claim the input tax only once the imported goods are released in terms of the Customs and Excise Act (thus, no longer at the date of payment). (<i>section 16(3)(a)(iv) and 16(3)(b)(ii)</i>)</p> <p>VAT charged and collected by Customs and Excise at designated border post (point of entry into the RSA). (<i>section 13(1)</i>)</p>	<p>Imports of goods from BLNS countries for home consumption Value for customs duty purposes</p> <p>Imports from other countries for local consumption Value for customs duty purposes <u>Plus:</u> 10% of value for customs duty purposes <u>Plus:</u> Any duty levied in terms of the Customs and Excise Act</p> <p>These amounts are the only ones in this table that represent "VALUE" and not "CONSIDERATION" and they should therefore be multiplied by 15% to get the VAT amount. (<i>section 13(2)</i>)</p>
<p>Imported services (Services supplied by a director are excluded, as they entail remuneration and are not a supply.)</p>	<p>The imported service is deemed to take place at the earlier of</p> <ul style="list-style-type: none"> • the date at which an invoice is issued, or • when payment is made <p>The recipient must declare the imported service and pay the VAT to the Commissioner within 30 days of the receipt of the imported service. (<i>section 14(2)</i>)</p> <p>Note that VAT is payable on imported services only if the imported service is made to a resident of the RSA and only to the extent that such services are utilised or consumed other than for the making of taxable supplies. No VAT is payable on exempt or zero-rated supplies or supplies where the value does not exceed R100 per invoice.</p>	<p>The greater of</p> <ul style="list-style-type: none"> • the value of the consideration, or • open market value <p>(<i>section 14(3)</i>)</p>

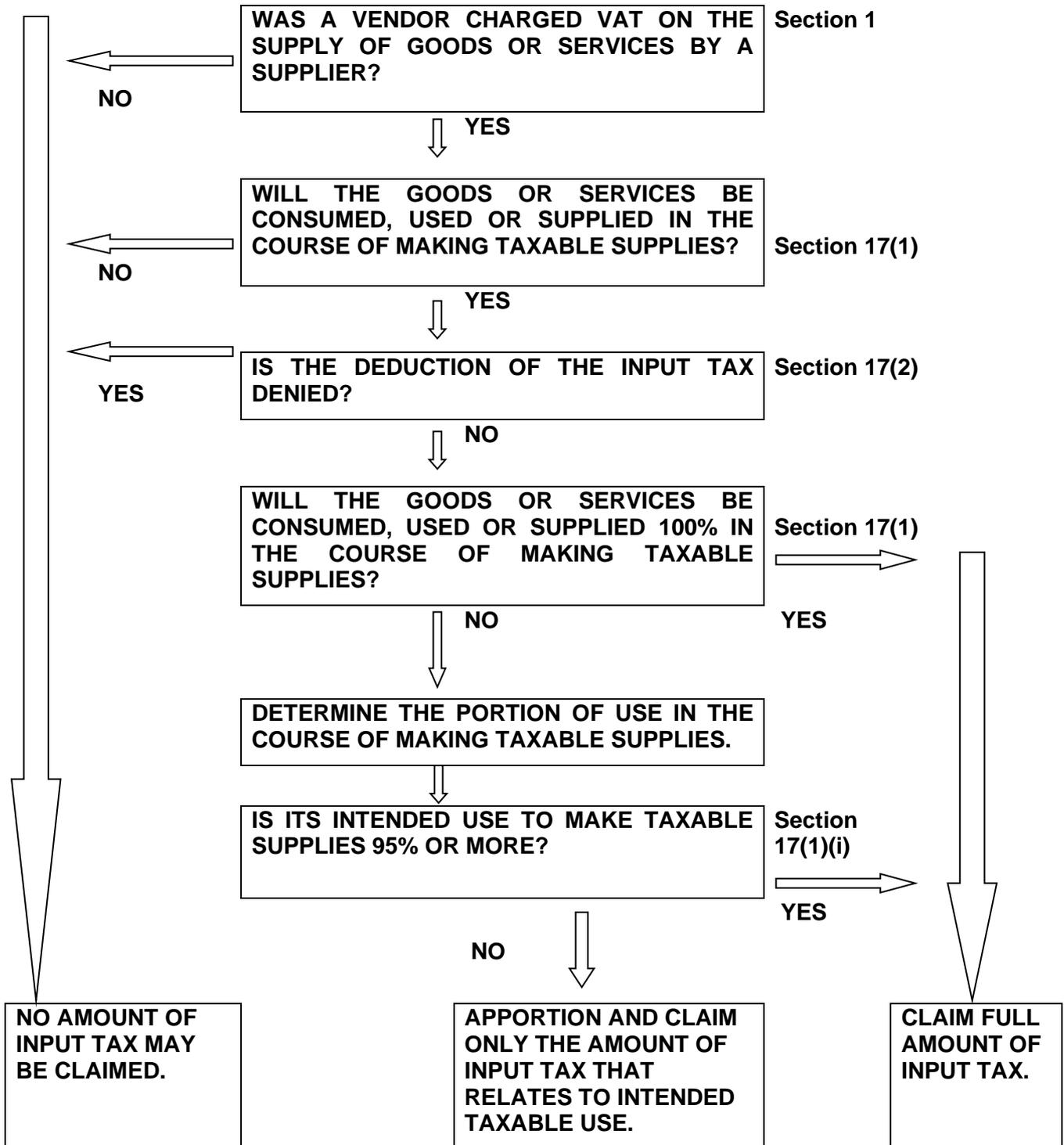
Supply	Time	Amount of the consideration
Fixed property acquired from a vendor	The earlier of the <ul style="list-style-type: none"> • date of registration in the deeds office, or • date of any payment for supply <i>(section 9(3)(d))</i>	General rule <i>(section 10(2) & (3))</i> Input tax should be accounted for only to the extent that payment of the consideration has been made or received. <i>(section 16(3)(a)(iiA))</i> <i>(Note: Output tax of the seller will also be limited to the extent of payment received (section 16(4)(a)(ii).))</i>
Fixed property (second-hand goods) acquired from a non-vendor	The earlier of the <ul style="list-style-type: none"> • date of registration in the deeds office, or • date of any payment for supply <i>(section 9(3)(d))</i>	Claim notional input tax by applying a tax fraction to the lesser of <ul style="list-style-type: none"> • consideration given in money, or • open market value x % taxable supplies <i>(section 1 – definition of “input tax”, subparagraph (b))</i> However, notional input tax may be claimed only once the fixed property has been registered in the name of the vendor and it is then limited to the extent of payment of the purchase consideration. <i>(section 16(3)(a)(ii)(aa), read with section 16(3)(a)(ii)(bb)(A))</i>
Commercial accommodation (Refer to SILKE par 31.11.3)	General rule <i>(section 9(1))</i>	Domestic goods and services supplied at an all-inclusive charge for an unbroken period exceeding 28 days attract VAT at 15% on 60% of the value of the supply. If the period is not more than 28 days, VAT is payable at 15% on the full value (100%) . Domestic goods and services or other goods and services not included in the all-inclusive charge will attract VAT at 15% on the full value (100%) of the supply <i>(section 10(10))</i> .
Entertainment	General rule <i>(section 9(1))</i>	Where a vendor supplies any entertainment and an input tax deduction was denied in terms of section 17(2), the value of such supply will be deemed to be nil. <i>(section 10(21))</i>
Nil-value supplies	General rule <i>(section 9(1))</i>	Where any supply is made for no consideration , the value of that supply will be deemed to be nil. <i>(section 10(23))</i>

Supply	Time	Amount of the consideration
Excess payments received and not refunded within four months of receipt (section 8(27))	Deemed to be the last day of the tax period during which the four-month period ends. (section 8(27))	<i>Output tax payable:</i> Excess portion x 15/115 (section 10(26)) Note: If the excess payment is refunded at a date after the output tax has been accounted for, the vendor will become entitled to claim an additional <i>input tax</i> credit in the tax period refunded. (section 16(3)(m))
Leasehold improvements (section 8(29))	On the date of completion of the leasehold improvements (section 9(12))	The value is deemed to be nil. (section 10(28))
Temporary letting of residential property (section 18D)	the date within the tax period in which the agreement for the letting and hiring in a dwelling comes into effect, or in which the dwelling is occupied, whichever comes first. (section 9(13))	The consideration for a supply in terms of section 18D(2) will be the adjusted cost to the vendor of the construction, erection, extension or improvement of such fixed property (dwelling) or portion of such fixed property (dwelling). (section 10(29))
Prizes or winnings on betting transactions	The tax period in which the prize or winnings are paid out	The input tax claimable will be an amount equal to 15/115 x any amount paid as a prize or winnings. Note: If, however, the prize or winnings constitute goods or services, the input tax must be limited to the tax initially incurred when acquiring the goods or services. (section 16(3)(d) and 10(17))

3.5.7 Basics of input tax - SILKE par 31.17

Framework for input tax

References to the VAT Act



3.5.8 Input tax: Denial of input tax - SILKE par 31.21

Goods or services acquired by a vendor for purposes of entertainment

The following is a list of goods or services that would be classified as being acquired for the purposes of entertainment (and, therefore, an input tax deduction would be denied), provided the vendor is not in the business of supplying entertainment (e.g. a restaurant):

- staff refreshments such as tea, coffee, other beverages and snacks and the utensils related thereto (e.g. cups, teapots & water coolers)
- food and other ingredients purchased in order to provide meals to staff, clients and business associates
- catering services acquired for staff canteens and dining rooms
- equipment and utensils used in the kitchen
- furniture and other equipment and utensils used in the canteen, staff room and dining rooms
- year-end lunches and parties, including the hire of venues
- golf days for customers and clients
- entertainment of customers and clients in restaurants, theatres and night clubs



An input tax deduction is allowed for all entertainment (as opposed to only meals or refreshments) supplied by a vendor on board a ship or an aircraft (input tax will not be denied) if it is ancillary to the travel, supplied at no additional charge and the supply of the transport service is a taxable supply (refer to section 17(2)(a)(iii)).

Motor cars (section 17(2)(c))



The following Interpretation Note is available and provides more detailed guidance and examples with regard to the input tax on motor cars:

- Interpretation Note: No. 82 - Input tax on motor cars.

When a motor car is rented, it will constitute the supply of a motor car to the vendor and the vendor will be denied an input tax deduction in respect of the rental of the motor car. Therefore, if a vehicle is rented at an airport for a short period for business travel purposes, it is still regarded as the supply of a motor car and input tax will be denied, even though the motor car is used for enterprise purposes.

Medical or dental schemes (section 17(2)(d))

This is an additional category, not mentioned in the prescribed textbook, where an input tax deduction will be denied.

Medical-aid societies may not charge VAT on any medical or dental goods or services supplied by them and they will not be entitled to claim any input tax in respect of any medical or dental goods or services acquired by them.



Usually, if an input tax deduction in respect of the acquisition by the vendor of goods was denied in terms of section 17(2), the vendor will not have to account for output tax on a subsequent supply of these goods. The one exception to this rule is the supply of the right of use of an asset, as contemplated in paragraph (2)(b) of the Seventh Schedule to the

Income Tax Act, which will constitute a supply for VAT purposes (e.g. the right of use of a motor car).

3.5.9 Input tax: Importation of goods - SILKE par 31.8



Take note that although these sections are treated under output tax in SILKE, **the tax on the importation of goods is a tax charged on the products, which is payable by the vendor**. Therefore, it is regarded as **part of input tax** (being paid and claimed back by the vendor) and **not** as output tax.

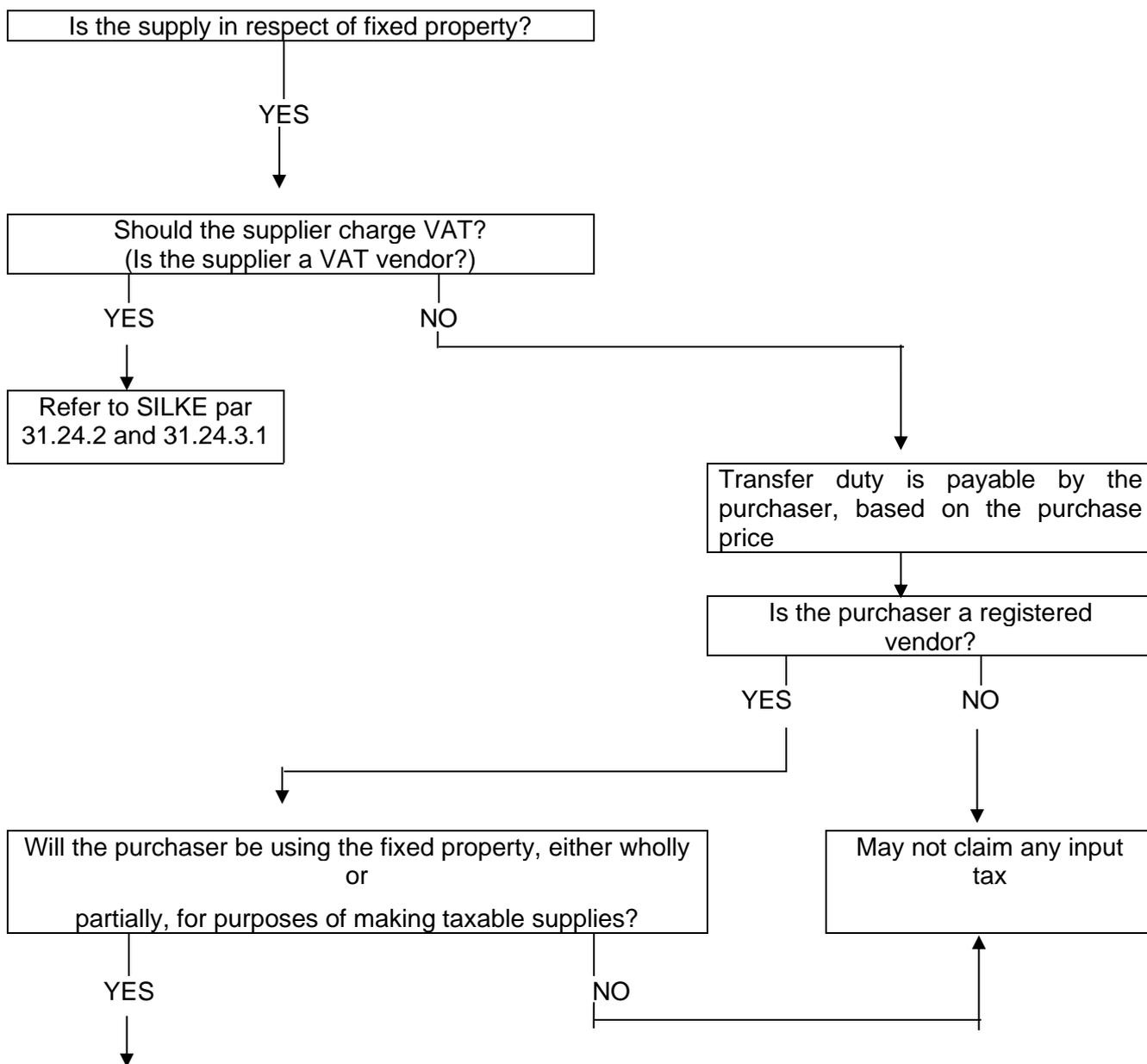
The following is an example of the VAT payable on the importation of goods:

	OPTION A <i>Entered other than from BLNS countries and entered for home (domestic) consumption</i>	OPTION B <i>Entered from BLNS countries</i>
	R	R
Customs value	100	100
Add-on (10% of customs value)	10	Nil
Customs/import duties	10	Nil
	120	100
VAT	15% x R120 = R18	15% x R100 = R15

3.5.10 Special rules: Fixed property - SILKE par 31.24

Chapter 31.24 summarises the situation where fixed property is bought as a taxable supply (VAT is charged). Chapter 31.24, however, also refers to a situation where fixed property is bought from a non-vendor (therefore, not a taxable supply – transfer duty is payable), but the purchaser is a registered vendor. The following illustration summarises the consequences if transfer duty is payable:

Fixed property transactions where transfer duty is payable



- The notional input tax, which the vendor may claim, is not limited to the transfer duty payable on the property. It will be calculated as $15/115 \times$ the lesser of the cost or open market value of the fixed property (definition of "input tax" in section 1).
- The time of supply will be the earlier of any payment or date of registration of the property. Note, however, that the notional input tax will be claimable only to the extent that payment has been made of the purchase consideration and then only if the fixed property has already been registered in the name of the vendor when the deduction of the notional input tax is made (section 16(3)(a)(ii)(aa), read together with section 16(3)(a)(ii)(bb)(A)).

**REMEMBER**

The purpose for which the fixed property is acquired determines whether input tax or notional input tax can be claimed on the acquisition of the property. If the property is acquired for the supply of residential accommodation under an agreement for the letting and hiring thereof (including residential accommodation for the employees, directors or shareholders of the company, free of charge or at a rent charged to other tenants), no input tax can be claimed on the acquisition of the property as it was acquired to make exempt supplies (non-taxable supplies). If the property is acquired for the sale thereof or used for taxable enterprise activities, input tax will be deductible as the property was acquired for the making of taxable supplies.

If the property was acquired to make exempt supplies and it is thereafter supplied (sold), no output tax will be levied on the supply, as the supply is that of property that was used to make exempt supplies and exempt supplies are excluded from the definition of an “enterprise”. If the property was acquired to be sold, it will be a taxable supply and output tax will be levied on the supply.

3.5.11 Adjustments arising from the change in the use of goods or services or supplies of going concerns or leasehold improvements - SILKE par 31.25 to 31.31

Below is a summary of the adjustments to input or output tax due to

- a change in the use of goods or services
- a supply of a going concern
- the completion of leasehold improvements

The table will provide you with a reference to a relevant example for the application of that specific section.

ADJUSTMENTS TO OUTPUT TAX DUE TO CHANGE IN USE / SUPPLY OF A GOING CONCERN / LEASEHOLD IMPROVEMENTS		
Section	Time	Calculation
<p>Section 18(1) (100% or less taxable → 0% taxable) Goods and services acquired wholly or partially for taxable supplies subsequently applied wholly for private, exempt or non-taxable supplies or for purposes where an input tax would be denied <i>(Example in SILKE 31.25)</i></p>	<p>The time the goods are so applied <i>(section 9(6))</i></p>	<p>15/115 x open market value <i>(section 10(7) or 10(8))</i></p>
<p>Section 18(2) (Capital goods ↓ taxable supplies, for example, 60% → 40%) Reduction in the use of capital goods or services in the making of taxable supplies <i>(Examples in SILKE 31.27)</i></p>	<p>The adjustment must be made on the last day of the year of assessment or on the last day of February, if not a taxpayer for income tax purposes <i>(section 18(6))</i></p>	<p>15/115 x the lesser of</p> <ul style="list-style-type: none"> • adjusted cost (including VAT), or • open market value on the last day of the year of assessment <p><i>(section 10(9))</i> x reduction in % taxable use <i>(No adjustment is required if the cost of the asset [excluding VAT] is less than R40 000, or if the decrease in apportionment ratio is 10% or less.)</i></p>
<p>Section 18(3) (Fringe benefits) Vendor supplies an employee or office holder with a fringe benefit as contemplated in paragraph (i) of the “gross income” definition, read together with the Seventh Schedule to the Income Tax Act. (This section does not apply if the supply is an exempt or zero-rated supply or if it is the supply of entertainment.) <i>(Examples in SILKE par 31.12.4)</i></p>	<p>The time at which the benefits are included as part of the employee’s remuneration <i>(section 9(7))</i></p>	<p>15/115 x the cash equivalent of the benefit for normal tax purposes, except where the benefit is the right of use of a motor vehicle <i>(section 10(13))</i></p>
<p>Section 18A The purchaser acquires an enterprise as a going concern (zero-rated) wholly or partly for non-taxable supplies. (No adjustment if taxable supplies are 95% or more.) <i>(Example in SILKE par 31.29)</i></p>	<p>The tax period in which the enterprise was supplied to the purchaser <i>(section 18A(3))</i></p>	<p>The part of the total cost to the vendor of acquiring the enterprise that is attributable to the intended non-taxable use (excluding any portion of the cost for which an input tax would have been denied in terms of section 17(2)) x 15% <i>(section 18A(2))</i></p>

ADJUSTMENTS TO OUTPUT TAX DUE TO CHANGE IN USE / SUPPLY OF A GOING CONCERN / LEASEHOLD IMPROVEMENTS		
Section	Time	Calculation
<p>Section 18C</p> <p>Lessor is deemed to have made a taxable supply where input tax would have been denied, or to the extent that the goods were used to make exempt supplies, at the time of the completion of the improvements by the lessee.</p>	<p>When the leasehold improvements are completed</p> <p><i>(section 9(12))</i></p>	<p>Adjustment to output tax in accordance with the formula: $A \times B \times C$ Where A = the tax fraction, B = the amount of the improvements as stipulated in the agreement or, if no amount is stipulated, then the open market value of the improvements, and C = the percentage of supplies made other than taxable supplies (e.g. exempt supplies)</p>
<p>Section 18D</p> <p>Developer is deemed to make a deemed taxable supply when residential property was developed to make taxable supplies and is subsequently let under an agreement or more than one agreement for the letting and hiring thereof and the combined total period of the agreement/agreements does not exceed 12 months.</p> <p><i>(Effective only from 1 April 2022)</i></p>	<p>The date within the tax period in which the agreement for the letting and hiring of the residential property comes into effect, or in which the dwelling is occupied, whichever comes first.</p> <p><i>(section 9(13))</i></p>	<p>The consideration in money equal to the adjusted cost to the vendor of the construction, extension or improvement of the residential property or the portion of such residential property that is supplied.</p> <p><i>(section 10(29))</i></p>

ADJUSTMENTS TO INPUT TAX DUE TO CHANGE IN USE		
Section	Time	Calculation
<p>Section 18(4) (100% non-taxable → 100% or less taxable supplies) Goods or services acquired for non-taxable purposes are subsequently wholly or partly applied for making taxable supplies (including second-hand goods where no notional input tax was claimed initially). <i>(Example in SILKE 31.26)</i> (Note that section 18(4) will also apply when a non-vendor becomes a vendor.)</p>	<p>The tax period in which the change takes place</p>	<p>15/115 x lesser of</p> <ul style="list-style-type: none"> adjusted cost (including VAT), or open market value at conversion date <i>(section 18(4) & 10(4))</i> <p>x % taxable use x (in the case of second-hand goods) the ratio that the amount paid bears to the total consideration in money, expressed as a percentage <i>(95% or more taxable use deemed to be 100% taxable use)</i></p>
<p>Section 18(5) (Capital goods ↑ taxable supplies, for example, 40% → 60%) Increase in the taxable use of capital goods or services <i>(Examples included in SILKE 31.27)</i></p>	<p>The adjustment must be made on the last day of the year of assessment or on the last day of February, if not a taxpayer for income tax purposes. <i>(section 18(6))</i></p>	<p>15/115 x the lesser of</p> <ul style="list-style-type: none"> adjusted cost (including VAT), or open market value on the last day of the year of assessment <i>(section 18(5) & 10(4))</i> <p>x increase in % taxable use <i>(No adjustment is required if the cost of the asset [excluding VAT] is less than R40 000, or the increase in apportionment ratio is 10% or less.)</i></p>
<p>Section 18(9) (Input tax denied on purchase or import of a motor car → converted to a game-viewing vehicle or a hearse) Motor car where input tax was denied in terms of section 17(2)(c) on acquisition or importation and subsequently converted to a game-viewing vehicle or hearse <i>(Example in SILKE 31.28)</i></p>	<p>The tax period in which conversion takes place <i>(section 18(9))</i></p>	<p>15/115 x the lesser of</p> <ul style="list-style-type: none"> open market value, or adjusted cost inclusive of VAT <p>of the motor car on the day before that conversion took place <i>(section 18(9))</i></p>
<p>Section 16(3)(h) (Less than 100% taxable supplies → supplied or 100% non-taxable supplies) Goods or services acquired partly for making taxable supplies, subsequently supplied by a vendor or applied wholly for non-taxable purposes <i>(Example in SILKE 31.25)</i></p>	<p>The date at which the goods are deemed to be supplied <i>(section 9(6))</i></p>	<p>15/115 x the lesser of</p> <ul style="list-style-type: none"> open market value, or adjusted cost inclusive of VAT <i>(section 16(3)(h))</i> <p>x percentage use for non-taxable purposes for period before the adjustment</p>



Refer to the definition of “adjusted cost” in section 1 of the VAT Act. It is defined to include VAT, that is, it is the cost price where VAT has been charged or would have been charged if VAT were applicable at the time of the supply of the goods or services.

In comparing the open market value with the adjusted cost of an asset, the question arises whether the “adjusted cost” includes VAT at 14% if the asset was purchased at 14%, or at 15%. Although the VAT Act is not explicit in this regard, SARS’ guidance regarding changes in use adjustments is that the VAT rate applicable at the date of the time of supply in terms of the change in use must be applied. Thus, if goods were purchased before 1 April 2018 and there was a subsequent change in use after 1 April 2018, the adjusted cost would include VAT at a rate of 15%. You would thus compare the adjusted cost that includes VAT at 15% with the open market value that also includes VAT at 15%.

Refer to the value of supply rule in section 10(5), which determines that the supply will be deemed to be made for a consideration in money that equals the lesser of the cost to the vendor (including VAT) of acquisition, manufacture, assembly, construction or production of goods or services, or the open market value of the supply (refer to paragraphs 3.6.8 and 3.6.11 of this tutorial letter). We are of the opinion that, for the purposes of comparability, the VAT to be included in the calculation of cost to the vendor must equal the VAT that is included in the open market value. Therefore, where the open market value includes VAT at 15%, VAT at 15% must be included in the cost to determine the value of the deemed supplies (i.e. supplies to foreign branches and ceasing to be a vendor).

3.6 SUGGESTED SOLUTION FOR THE BEANCOUNTER SCENARIO



Read the Beancounter scenario again and make a rough summary of what your solution would be, now that you have studied VAT. You should write down all the VAT implications relating to the Beancounter scenario. You need not provide detailed references to specific sections but, rather, just a list of all the different provisions that will have an effect on Bizzie Beancounter in starting her new dry-cleaning business.

Share your solution on [Discussion Forum 3.1](#), then refer to the [solution](#) that will be made available on Friday of your study week.

3.7 SUMMARY OF LEARNING UNIT 3

This learning unit introduced you to the content of the Value-Added Tax Act and the relevant law amendments. The table of reference under 3.3.2 was provided to guide you through the work. A framework for determining and calculating VAT, as well as a summary of the time and value of supply, was provided to assist you in analysing VAT-related scenarios. Remember to look at the **additional resources** available for this learning unit. Ensure that you do not study VAT in isolation; always consider the impact of VAT on all applicable transactions. Now you are ready to apply your VAT knowledge by doing the activities provided below.

Remember that taxable supplies include zero-rated supplies as well as standard rated supplies. Exempt supplies are **NOT** taxable supplies.

ACTIVITY 3.2 (14 marks / 39 minutes)

Milky Bar CC

On 1 April 2024, Milky Bar CC signed the documents for the acquisition of a two-storey building from a non-vendor, which will be let to various tenants. The ground floor of the building will be let to two different non-connected tenants, one operating a petrol station (including sundry sales of motor vehicle related consumables) combined with a workshop, and the other trading as a greengrocer (exclusively selling fresh fruit and vegetables). The first floor consists of four residential flats that will be let to four different families.

The purchase price of the building was equal to its open market value of R4 025 000 and a deposit of R402 500 was payable (into a trust) to the attorneys of the seller (who would also handle the transfer of the property). On registration of the property into the name of the corporation (this was effected on 15 May 2024), the transfer duty of R276 400 was payable. The outstanding balance of the purchase consideration is payable monthly in six instalments of R603 750 each to the seller, effective from the date of registration. The instalments are applied to reduce the consideration (purchase price) of the acquisition and assume that the payment arrangement is not an instalment credit agreement in terms of s 1 of the VAT Act.

The financial director of the corporation did a calculation of the rentals that should be received from this property during the first year of trading: This calculation was done by referring to the existing rental contracts.

	R
Petrol station	420 000
Workshop	420 000
Greengrocer	172 000
Residential flats	<u>168 000</u>
	<u>1 180 000</u>

The Commissioner has indicated that he will accept the above turnover figures for the purposes of making any reasonable apportionment.

In the budgets, as prepared by the financial director, provision has also been made for interest payable on a loan that will be used to finance the acquisition of the property. Such amount of interest in respect of the first year of assessment will amount to R160 000.

REQUIRED		Marks
(a)	Indicate with reasons, whether Milky Bar CC is obliged to register as a VAT vendor.	1
(b)	Indicate, with reasons, whether the respective tenants themselves are making standard rated, zero-rated or exempt supplies. Assume for this part of the question, that all the tenants are registered vendors where applicable	3
(c)	Indicate, with reasons, whether Milky Bar CC will be entitled to an input tax credit in respect of the acquisition of the property and, if so, indicate the extent (amount) thereof as well as the time of claiming such credit.	9
(d)	Indicate, with reasons, whether Milky Bar CC will be entitled to an input tax credit in respect of the interest payable on the loan.	1

ACTIVITY 3.2: - SUGGESTED SOLUTION**Milky Bar CC**

- a) The requirement is very specific - "An indication with reasons".

At the commencement of April 2024, it is anticipated that the total value of taxable supplies in terms of contractual obligations in writing to be made by the corporation (standard and zero-rated) is in excess of R1 000 000 for the following twelve-month period (R420 000 + R420 000 + R172 000 = R1 012 000) and the corporation will thus be obliged to register as a VAT vendor (section 23(1)(b)) as it is carrying on an enterprise as defined. (1)

- b) The requirement for this part of the question is the same as for part (a).

The supply of fuel levy goods will be zero-rated (section 11(1)(h)) (taxable supplies) while other motor vehicle related supplies will be standard rated (taxable supplies). (1)

The workshop will be making standard-rated (taxable) supplies while the greengrocer will be making zero-rated (taxable) supplies (basic foodstuff – section 11(1)(j)). (1)

The letting of flats for residential purposes constitute exempt supplies (section 12(1)(c)). (1)

3

- c) You are required to indicate, with reasons. Additionally, you are specifically required to indicate the amount of the input tax as well as when it can be claimed.

Milky Bar CC will be able to claim a notional input tax credit in respect of the acquisition of the property since the corporation is carrying on an enterprise as defined and is obliged to register as a vendor for VAT purposes (see part (a) above).

However, the corporation is making both taxable and exempt supplies (residential accommodation). Therefore, the input tax that it may claim will have to be apportioned according to the turnover of the corporation.

While no VAT is to be charged on the acquisition of the property (purchased from a non-vendor), such property will constitute "second-hand goods" as defined in section 1(1) and the corporation could, therefore, qualify to claim a notional input tax credit on the lower of the cost or its open market value. In this case, the notional input tax credit is $\frac{15}{115} \times R4\,025\,000 = R525\,000$ (refer to section 16(3)(a)(ii)(bb) and the definition of "input tax" in section 1(1)). (1)

Such notional input tax will, however, be subject to apportionment as mentioned above.

With regard to the amount of the input tax credit that may be claimed, the following calculation must be done:

As the building will be used 86% ($R1\,012\,000/R1\,180\,000 \times 100$) for the making of taxable supplies, only $86\% \times R525\,000 = R451\,500$ can be claimed. (1)

The time of supply is the earlier of date of registration of the building in the name of Milky Bar CC or the date of payment (section 9(3)(d)). (1)

Input tax that can be claimed is further limited to the extent of payment. And then only if the fixed property has already been registered in Milky Bar CC's name (section 16(3)(a)(ii) (aa) and (bb)) (1)

Therefore:

On registration the attorney will pay the deposit of R402 500 over to the seller (as part of consideration) and the first instalment of R603 750 will be paid to the seller. Input tax of R112 875 ($R402\,500 +$

R603 750) $\times \frac{15}{115} \times 86\% = R112\ 875$) will be claimable on date of registration to the extent that payment has been made. (3)

Thereafter for five months on the date of payment of the instalments input tax of R67 725 (R603 750 $\times \frac{15}{115} \times 86\%$) will be claimable. (2)
9

d) No input tax can be claimed in respect of the interest charge as this relates to an exempt supply (a financial service) - sections 2 and 12(a). (1)
Total 14

ACTIVITY 3.3 (29 marks / 62 minutes)

Rent a Crock (Pty) Ltd is a resident company with a **December** year-end and is a **registered category B VAT vendor** (tax periods ending on February, April, June, etc.). All amounts in the question **exclude VAT** (if applicable), and all parties involved are registered VAT vendors, unless specifically stated otherwise.

Information relating to Rent a Crock (Pty) Ltd

Rent a Crock (Pty) Ltd buys motor vehicles from Build a Crock (Pty) Ltd or other second-hand motor dealers and rents it to customers on a daily or weekly basis. Customers are invoiced for the rental of the vehicle, the petrol usage and for insurance. The following transactions have not been recorded in the accounting records of Rent a Crock (Pty) Ltd on 31 December 2024:

On 1 November 2024 Rent a Crock (Pty) Ltd purchased two new motor cars from Build a Crock (Pty) Ltd at a total market value of R141 360 (including VAT). 50% of the amount was paid immediately, while the other 50% of the amount will only be payable on 1 February 2025. The one car, a Volkswagen Polo, was purchased for R63 510 (including VAT) and is used as one of the fleet of motor cars to be rented to clients. The other car, a Honda Civic, was purchased for R77 850 (including VAT) and immediately given to the office manager for his exclusive use (private and business). Rent a Crock (Pty) Ltd bears all the expenses relating to the vehicle. The only expenses incurred in respect of these two vehicles during November 2024 and December 2024 were fuel costs of R5 500 (in total) on the Volkswagen Polo, and R700 (in total) in respect of the Honda Civic, as well as insurance of R350 per month per vehicle.

During November 2024 and December 2024, the Volkswagen was rented out to numerous customers. The income received on the rentals consists of:

	R
Rent	13 750
Fuel	5 500
Insurance	1 350
Total	<u>20 600</u>

On 1 December 2024, Rent a Crock (Pty) Ltd purchased a second-hand lawnmower for R5 400 from a non-vendor to mow the lawn outside the offices. The seller agreed to allow Rent a Crock (Pty) Ltd to settle the purchase price in two equal instalments of R2 700 payable on 31 December 2024 and 31 January 2025.

Instead of giving its employees cash to cover their transport expenses to and from work, Rent a Crock (Pty) Ltd purchases bus coupons (for cash) for all employees on a weekly basis. During November 2024 and December 2024, Rent a Crock (Pty) Ltd incurred R3 006 on purchasing bus coupons.

REQUIRED	Marks
<p>Journalise the effect of the above transactions in the books of Rent a Crock (Pty) Ltd for the year of assessment ended 31 December 2024. Ignore any journal narrations but provide brief reasons for the treatment of the transactions.</p> <p>You do not have to provide any journal dates.</p>	29

ACTIVITY 3.3 - SUGGESTED SOLUTION

							Debit R	Credit R			
1	Motor	vehicles	–	Polo	(R63 510	x	$100/115$)	55 226		(2)	
	Motor	vehicles	–	Honda			77 850			(1)	
	Input	tax		(R63 510	x	$15/115$)	8 284			(1)	
	Bank							70 680		(1)	
	Creditor	–	Build	a	Crock			70 680		(1)	
	(VAT is claimable in respect of the motor vehicle acquired as part of the rental fleet as it is an asset acquired for the making of taxable supplies. The motor vehicle acquired for use by the office manager qualifies as a motor car and input tax is denied in terms of section 17(2) of the VAT Act)									(1)	
	Salaries	(fringe benefit	–	use	of	a	motor	vehicle)	53		(½)
	Output						Tax		53		(½)
	(R 77 850	x	$100/115$)	x	0.3%	x	$15/115$	x	2		(2)
	(In terms of section 18(3) the vehicle acquired for use by the office manager constitutes a deemed supply.)									(1)	
	Fuel	(zero-rated)		(R5 500	+	R700)		6 200		(1)	
	Insurance	(R350	x	2	x	2	months)	1 400		(1)	
	Input	tax		(R1 400	x	15%)		210		(1)	
	Bank							7 810		(1)	
	Fuel and insurance paid on vehicles. (No input tax claimed on fuel as it is zero-rated – section 11(h) of the VAT Act)									(1)	
	Bank							22 865		(½)	
	Fuel		received				(zero-rated)		5 500		(½)
	Insurance						received		1 350		(½)
	Rent						received		13 750		(½)
	Output	tax	((R1 350	+	R13 750)	x	15%)		2265		(1)
	(Income received on renting out the Volkswagen Polo. Fuel being zero-rated in terms of section 11(h) of the VAT Act, while rent and insurance are taxable supplies)									(1)	

ACTIVITY 3.3 SUGGESTED SOLUTION CONTINUED

2.	Equipment	(R5 400	x	100/115)	4 696	(1)		
.....								
	Input tax	(R5 400	x	15/115	x	50%)	352	(1)
.....								
	VAT control account	(R5 400	x	15/115	x	50%)	352	
.....								
	Bank						2 700	(1)
.....								
	Creditor						2 700	(1)
.....								
	A deemed input tax can be claimed on the acquisition of second-hand goods, but only to the extent of payment (section 1(1), definition of input tax, paragraph (b) and section 16(3)(a)(ii)(aa) of the VAT Act)						(1)	
3	Salaries	and	wages		3 006	(1)		
.....								
	Bank						3 006	(1)
.....								
	The supply of bus coupons constitutes a fringe benefit in terms of the Seventh Schedule, but as the supply of fare paying transport is an exempt supply in terms of section 12 of the VAT Act no deemed supply arises in terms of section 18(3).						(2)	

Note: There is no input tax as the cost of buying the bus coupons, does not include VAT (exempt supply) (section 12(g))

 29
ACTIVITY 3.4 (9 marks / 26 minutes)

In answering this question, you may assume that the same taxation legislation that is applicable to the 2024 year of assessment, will apply to the 2025 year of assessment.

Round-off all figures to the nearest R1.

John Dow recently qualified as a Chartered Accountant and registered with SAICA and IRBA to practice as a registered auditor. John registered an incorporated company, JD Incorporated, through which he plans to conduct his business. During March 2024, JD Incorporated registered as a VAT vendor (on the invoice basis, with a two-monthly tax period). The first tax period will end on 30 April 2024.

Tax was never John's strong point. Certain transactions that gave him a headache occurred during March and April 2024 and he requested your assistance.

When JD Incorporated, a Category B vendor, commenced trading, John sold the following assets (his own) to the company at a fair market value:

Office furniture	R
A single cab bakkie (for deliveries)	25 000
Total purchase price	46 000
	<hr/>
	71 000
	<hr/>

On 1 March 2024, the company paid John an amount of R25 000 in respect of the furniture and R6 000 of the purchase price of the bakkie. The outstanding balance of R40 000 will be settled later.

REQUIRED		Marks
(a)	Calculate the VAT implications for JD Incorporated of the above transactions for the tax period ended 30 April 2024.	3
(b)	Determine, supported by calculations, the VAT implications if JD Incorporated should sell the bakkie to a second-hand dealer for R48 000 (cash) on 10 May 2024 and then use the R48 000 to repay the outstanding balance of R40 000 on the bakkie on the following day. Also, refer to the time of supply in your answer.	3
(c)	Complete parts A and B of the VAT201/VAT return for the tax period ended 30 June 2024	3

ACTIVITY 3.5 (15 marks / 35 minutes)

You are a senior tax consultant in the VAT division of Phakwena Consulting (Pty) Ltd in Johannesburg, South Africa. Your client – Research.net – is a company situated in the United States of America. Research.net is a web-based company that provides e-books available for download for leisure reading as well as for study and research purposes.

Research.net received 10 000 hits from South Africa during the period 1 January 2023 to 31 March 2023 and 500 e-books were downloaded as a result of this. All downloads were paid for by credit cards issued by South African Banks. The value of the e-books downloaded was less than R50 000 by 31 March 2023, however, it is anticipated that the number of users that will make use of Research.net will grow to such an extent that the value of the e-books downloaded from 1 January 2023 will exceed R1 000 000 during December 2023.

REQUIRED		Marks
(a)	Your client requested your opinion as to whether it will have to register as a vendor in South Africa and if so from which date. Please refer to all relevant provisions of the Value-Added Tax Act 89 of 1991 (as amended).	5
(b)	If it is assumed that Research.net is not liable to register as a vendor for VAT purposes in South Africa, please indicate, with reference to the VAT Act, whether any VAT is payable on the download of the e-books and who will be liable to pay the VAT, by when it should be paid and how the VAT should be calculated.	10

ACTIVITY 3.5: - SUGGESTED SOLUTION

- (a) To ascertain whether Research.net should register as a vendor in South Africa, it should firstly be determined whether Research.net is carrying on an enterprise in or partly in the Republic in terms of the definition of 'enterprise' in section 1(1) of the Act: (1)
 Included in the definition of enterprise (paragraph (b)(vi)) is the supply of electronic services by a person from a place in an export country where at least two of the following circumstances are present:
- (aa) the recipient is a resident of the Republic;
- (bb) any payment was done via a Bank registered in terms of the Bank Act; (that means a South African Bank) (2)
- (cc) the recipient of those electronic services has a business, residential or postal address in the Republic. (2)
- Also, in terms of paragraph (b)(vii) of the definition of enterprise, includes the activities of an intermediary. An intermediary is a person who facilitates the supply of electronic services supplied by the electronic services supplier and who is responsible for issuing invoices and collecting payment for the supply (definition of intermediary in section 1).
- As the activities of Research.net satisfy at least two of the above criteria of par (b)(vi) of the definition of enterprise, Research.net is carrying on an enterprise in the Republic. (1)
- Following this, it must be ascertained whether Research.net meets the threshold for compulsory registration as a VAT vendor:
- In terms of section 23(1A) a person who carries on an enterprise in terms of paragraph (b)(vi) to the definition of an enterprise will be liable for registration at the end of the month when the total value of the taxable supplies exceeds R1 000 000 (R50 000 prior to 1 April 2023). (2)
- Research.net will therefore be liable to register as a VAT vendor by 31 December 2023. (1)
- Max 5
- (b) The purchase and download of e-books via the internet in this case qualifies as an imported service in terms of the definition in section 1(1) as the services will **not** be consumed for the purpose of making taxable supplies. (2)
- In terms of section 7(1)(c) of the Act, VAT is payable at the standard rate of 15% on imported services as defined in section 1(1). (2)
- In terms of section 7(2) the VAT should be paid by the recipient of the imported service. (2)
- In terms of section 14(1), read with section 14(2), the VAT should be paid within 30 days from the earlier of the date of invoice issued by the supplier or the time any payment is made. (3)
- In terms of section 14(3) the value for the consideration of the supply will be the greater of where the consideration is in money, the amount of the money and where the consideration is not in money, the open market value of the supply. (3)
- Max 10

ACTIVITY 3.6 (5 marks / 20 minutes)

InvestCo Ltd ("InvestCo"), a registered VAT vendor making 100% taxable supplies, is interested in the acquisition of a commercial building for investment purposes from PropCo Ltd ("PropCo"), also a registered VAT vendor making 100% taxable supplies. InvestCo and PropCo are not connected persons. The purchase consideration is equal to the open market value of R8 000 000 and the sale will be concluded on 1 June 2024. The commercial building currently generates R120 000 (including VAT) per month as it is let to a tenant, Odorcrew (Pty) Ltd, and the rental contract will continue after the sale as it will be transferred to InvestCo. The rental of this commercial building operates independently from the other operations of PropCo.

Assume that both parties will agree in writing to any condition necessary, in order to have the transaction qualify as a sale of going concern.

REQUIRED:

		Marks	
		Sub-total	Total
(1)	Write a memo to the CEO of InvestCo Ltd, indicating whether the acquisition of the commercial building would qualify as a sale of a going concern in terms of the VAT Act.	4	5
	<i>Presentation - layout</i>	1	

ACTIVITY 3.6: - SUGGESTED SOLUTION**(1) Memo of sale of commercial building – going concern s 11(1)(e)****To: InvestCo CEO****From: Student****Date: 06 March 2024****Re: Whether the sale/purchase of commercial building constitutes the sale of a going concern (1)**

For the sale of a going concern to be zero-rated, section 11(1)(e) requires the following to be met:

- The supply must be to a registered vendor (by implication) by a registered vendor. (½)
- InvestCo and PropCo are both registered VAT vendors (½)
- The enterprise or part of it must be capable of separate operation. (½)
- The commercial building operates independently from the other operations of PropCo. (½)
- The supplier and recipient must agree in writing that the enterprise will be disposed of as a going concern. (½)
- PropCo and InvestCo agree in writing that the sale will be a sale of a going concern. (½)
- The supplier and recipient must agree in writing that the enterprise is an income-earning activity on the date of the transaction. (½)
- PropCo and InvestCo agree in writing that the commercial building is an income earning activity as it is currently let and will continue to earn rental income after the acquisition. (½)
- The parties must agree in writing that the consideration agreed upon for the supply is inclusive of tax at the rate of zero percent. (½)
- PropCo and InvestCo agree in writing that the consideration is inclusive of VAT (tax) at zero-percent. (½)
- The assets which are necessary for carrying on such enterprise are disposed of by the supplier to the recipient. (½)
- The commercial building including the rental contract (asset necessary to carry on of the enterprise) is disposed of (sold) by PropCo to InvestCo. (½)

Conclusion: The sale of the commercial property to InvestCo meets all the requirements of a sale of a going concern and will be zero-rated. (1)

Total 5

ACTIVITY 3.7 (12 marks / 36 minutes)

Dynamic Developments CC (“the CC”) is registered as a Category A vendor on the invoice basis for VAT purposes. The CC is a residential property developer. Its main business, i.e. 80%, is to develop and sell completed residential units in the course of making taxable supplies. The CC also makes exempt supplies (20%) by letting townhouses for residential purposes.

Due to the adverse economic climate, the CC’s taxable supplies dropped well below the compulsory registration threshold of R1 million during the preceding 12 months. The CC therefore decided to de-register for VAT purposes. The CC was deregistered on 6 February 2024.

The following list comprised the assets and liabilities of the CC on 1 February 2024:

	Note	Cost (excluding VAT) R	Open market value R
Assets			
Sale of house	1	1 300 000	1 450 000
Dump truck – used on the CC’s construction sites solely for taxable supply purposes (purchased prior to 1 April 2018)		680 000	650 000
Debtors	2	?	?
Liabilities			
Creditors	3	?	?

Notes:

- The CC has been trading from a house that it had purchased from a non-vendor for an amount of R1 300 000 on 10 January 2021. Transfer duty of R15 000 was paid in respect of the acquisition of this house. The CC paid the full purchase price of R1 300 000 on 15 February 2021 on the date of registration of the house into its name. The CC claimed the full notional input tax that it was entitled to in its March 2021 tax period. The house was used for the purposes of the CC’s business operations, i.e. for the administration and management of its residential development operations, as well as the letting of its residential townhouses. On 1 February 2024, six days prior to deregistration, the CC sold this house to a non-vendor at the open market value of R1 450 000. The CC received the entire

R1 450 000 three days later, i.e. on 4 February 2024. Registration of the house in the name of the new owner took place on 20 March 2024.

- The following is the debtors’ age analysis on the CC’s services rendered on credit, in the construction and development of the residential properties:

	30 days	60 days	90 days	Total
Amount (R) including VAT	40 300	25 250	11 700	77 250

The CC was of the opinion that all the 90 days outstanding debtors would not be recoverable and consequently wrote these debtors off on 2 February 2024. The CC did not charge any interest on outstanding accounts.

- The following is the creditors’ age analysis:

	30 days	Older than 370 days	Total
Amount (R) including VAT	27 890	12 222	40 112

All these creditors were vendors and none of the supplies were exempt or zero-rated. The creditors older than 370 days are already outstanding for more than 12 months, but no VAT adjustment has yet been accounted for.

REQUIRED	Marks
<p>Calculate Dynamic Developers CC's input tax and output tax arising from its decision to deregister as a vendor. Address all transactions relating to the CC's assets and liabilities in the relevant tax period. Also, address any items not subject to VAT. Support all your calculations with reasons, by referring to the relevant legislation.</p> <p>Mark allocation:</p> <ul style="list-style-type: none"> ● Calculations (8 marks) ● Section numbers (ignore time of supply) (4 marks) 	12

ACTIVITY 3.7: - SUGGESTED SOLUTION

	Output tax R	Input tax R	
Sale of house: R1 450 000 x 15/115 x 100%	189 130		(1)
Section 7(1)(a) / Section 8(16) deemed supply (no apportionment)			(1)
Section 16(3)(h) adjustment Lower of adjusted cost (R1 300 000 x 115/100 = R1 495 000) or OMV (R1 450 000), therefore R1 450 000 x 15/115 x 20%		37 826	(4)
Upon acquisition, the CC was only entitled to 80% of the input tax (= 80% taxable supplies). Can now claim input tax adjustment for the exempt portion, i.e. 20%.			
Deemed supply in terms of section 8(2) on ceasing to be a vendor:			(1)
Dump truck – R650 000 (lesser of cost incl VAT (R680 000 x 115/100=R782 000) (although acquired prior to 1 April 2018 the adjustment is done at the current VAT rate) and OMV R650 000) (s 10(5)) x 15/115	84 783		(2)
Debtors – irrecoverable debts (output tax previously levied) R11 700 x 15/115 Section 22(1) <i>Not section 22(1A) that relates to factoring of debtors</i>		1 526	(1) (½)
Remaining debtors No deemed supply i.t.o. section 8(2), as output tax already accounted for on issue of invoice	-		(1)
Creditors older than 12 months – R12 222 x 15/115 Section 22(3) – output tax adjustment as a result of non-payment of creditors for 12 months and no adjustment has yet been accounted for	1 594		(1) (½)
Creditors – balance of creditors R27 890 x 15/115 Section 22(3) proviso (ii)(dd)(BB) – immediately before the CC ceased to be a vendor	3 638		(1) (½)
		<u>14½</u>	
		Max	<u><u>12</u></u>

The table below shows the link between the activities, the specific outcomes and assessment criteria:

No	Specific outcomes	Assessment criteria	Activity 3.2				Activity 3.3	Activity 3.4			Activity 3.5		Activity 3.6	Activity 3.7
			Milky Bar					(a)	(b)	(c)	(a)	(b)		
			(a)	(b)	(c)	(d)								
1	Assess the tax profile of a taxpayer to determine the various taxes payable by a taxpayer	Conclude on the legal form, business structure and residence status of a taxpayer to determine the types of taxes payable (e.g. value-added tax, donations tax, estate duty, normal tax (including capital gains tax), prepaid taxes, dividends tax, withholding tax).	✓	✓				✓	✓		✓			
		Assess information needed to determine the various tax liabilities, including												
		•the role-players in the tax landscape, •The types of taxes and their interaction and •the underlying principles of a tax system.					✓	✓	✓					
		Determine the various tax liabilities and provide reasons for the inclusion or exclusion of amounts.					✓	✓	✓					
2	Advise taxpayers on the tax effect of transactions, operations, schemes, agreements or events and calculate the tax consequences thereof, taking into account the various taxes payable.	Interpret the tax treatment of a transaction with reference to legislation, double tax agreements and case law.			✓	✓	✓	✓	✓					
		Advise the individual or corporate taxpayer of the value added-tax consequences of transactions.			✓	✓	✓	✓	✓					
		Combine the relevant information to complete the Value-Added Tax and Income Tax returns for individuals or corporate taxpayers.								✓				
3	Advise on specific tax and financial planning opportunities for individuals in their own name as well as for business entities.	Detect the impact and amount of international expansion and international transactions.										✓		
		Interpret a taxpayer's tax profile to give ethical advice and provide an opinion on tax planning options available within the legal framework of the different tax acts, including relevant anti-avoidance legislation, and applicable case law.											✓	✓
		Detect the tax implications that can arise from a change in control of ownership structure.												✓
		Assess the normal tax and VAT consequences for the business and the investor of the investment and financial planning tactics being considered and advise the taxpayer on possible alternatives.												✓
		Critique the available options for a specific decision-making situation to establish the most suitable option and compose a suitable response of the information to the taxpayer if within the field of speciality or refer to an appropriate expert if necessary.										✓		

3.8 LIST OF REFERENCES FOR LEARNING UNIT 3

- SAICA. 2024. *SAICA Student Handbook 2023/2024 Volume 3*, Durban, LexisNexis.
- Stiglingh, et al. 2024. 'Chapter 31: Value-added tax (VAT)', *Silke: South African Income Tax 2024*, Durban, LexisNexis.

END OF LEARNING UNIT 3