



# 2020 Value-Added Tax refresher

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## STATEMENT BY SARS COMMISSIONER EDWARD KIESWETTER AT A MEDIA BRIEFING HELD ON TUESDAY 5 MAY 2020

<https://www.sars.gov.za/Media/MediaReleases/Pages/5-May-2020-Statement-by-SARS-Commissioner.aspx>

Whilst it is early days, our initial view is that revenue performance will be lower than the February Budget announcement by between 15%-20%. This means that revenue under-recovery could move up to R285 billion.

From the preliminary assessment of revenue performance of the first month we can report the under-recovery of around R9 billion for April represents a year on year decline of 8.8%

More than ever before, we need taxpayers to remain compliant!



# Impact on Revenue Performance (Media Briefing 5 May)

- 1. PAYE down on prior year by 5.2%**
  - **65 219 employers** who made payments in April 2019, but no payments in April 2020 - tax value of R3.8b
  - **87 137 employers** who made payments in April 2019, made lower payments in April 2020 - tax value R6.1b
- 2. Domestic VAT down on prior year by 4.3%**
  - Number of vendors who filed and paid decreased by 13% from 160 136 in April 2019 to 139 313 in April 2020.
  - 139 313 vendors that paid this year, only 104 996 (75%) are repeat payers (also paid in the PY). Collections from this 75% of vendors that paid in both years contracted by R200m (0.9%). This signifies a strain in the core tax base.
  - Year-on-year monthly payments from those who filed decreased by 20% with a **tax value of R1.1b**
- 3. Import Tax overall down on prior year by 19.7%**
  - Import VAT **down 25%** on prior year - tax value R1.6b
  - Customs Duties down 11.8% on prior year - **tax value R100m**
- 4. Specific Excise Duties down on prior year by 54.7%** - tax value R1.3b (R1.7b lower on alcohol and cigarettes, offset by R0.4b upward correction on Fuel Levy)
  - We have already received requests for payment deferrals from 3 taxpayers in respect of Alcohol, Cigarettes and Fuel
  - We are currently investigating non-compliance in instances of alcohol and cigarettes
  - We have anecdotal evidence that illicit sale of cigarettes and alcohol has continued during the lockdown period - whilst the revenue impact is relatively low as a percentage of total revenue, we raise the criminality thereof as our main concern
- 5. Corporate Taxes down on prior year by 55.4%**
  - April is not a significant month for corporate taxes, but early indications point to a downward spiral in all areas with the exception of electricity, gas and water
  - We expect that the number of companies who will apply for business rescue will grow over the next year
- 6. VAT Refunds 12.5% lower than estimated**

VAT refund payments for April is lower as the number of credit returns contracted compared to the prior year for the month of April - refund value of R15.5b compared to R17.7b in April 2019



# Objective of the course

The VAT refresher course is designed to ensure that the vendor understands the requirements of the VAT Act, can apply it in practice and ensure that defensible positions are taken with regards to tax uncertain positions.

- The course is designed to provide value to:
- The accountant required to submit the monthly VAT returns by *"going back to basics"*.
- The IT developer who must implement and maintain an ERP system to manage VAT.
- The internal tax manager and financial manager who must deal with complex transactions such as:
  - Preparation and submission of the IT 14SD
  - Covid-19 related events such as debt restructures, increased bad debts, late payment of creditors and waivers of debts.
  - Cessation of trade and potential deemed output VAT payable.
  - Mergers and acquisitions and sale of going concerns.
  - Change in use adjustments
  - Insurance pay-outs
  - Apportionment of input tax
  - VAT on fringe benefits
- The external tax advisor who must advise on the above.
- The external auditor who must ensure that non-compliance with laws and regulations does not have a material impact on the annual financial statements.
- The internal auditor who must ensure that processes and controls are in place to minimise the risk of non-compliance with laws and regulations.



# 2020 Value-Added Tax refresher

## CONTENT



## 2020 Value-Added Tax refresher

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- Mechanics of VAT
- Lay-out of the VAT Act
- Definitions



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- Taxable and non-taxable supplies
- Imported services and imported goods
- Deemed supplies
- Time and value of supplies
- Zero Rated supplies of goods and services
- Exempt supplies
- Disclosure on VAT 201



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#### Supplies made to the vendor

- Link between the type of supply and the treatment of input VAT
- Denial of input tax irrespective of what the purpose of the expense is
- Direct attribution of expenses and apportionment of VAT
- Claiming input VAT on goods imported
- Notional input tax on second-hand goods
- Documentary evidence – Tax invoices, debit notes and credit notes
- Disclosure on VAT 201





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### Special rules

- Bad debts
- VAT on repossessions
- Change in use adjustments
- Immovable property
- Discounts
- The IT 14SD



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## Mechanics of VAT



# How does VAT work?

Person	Input VAT	Output VAT	Net VAT



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# How does VAT work?

Where can things go wrong for the taxpayer?

Where can things go wrong for SARS?

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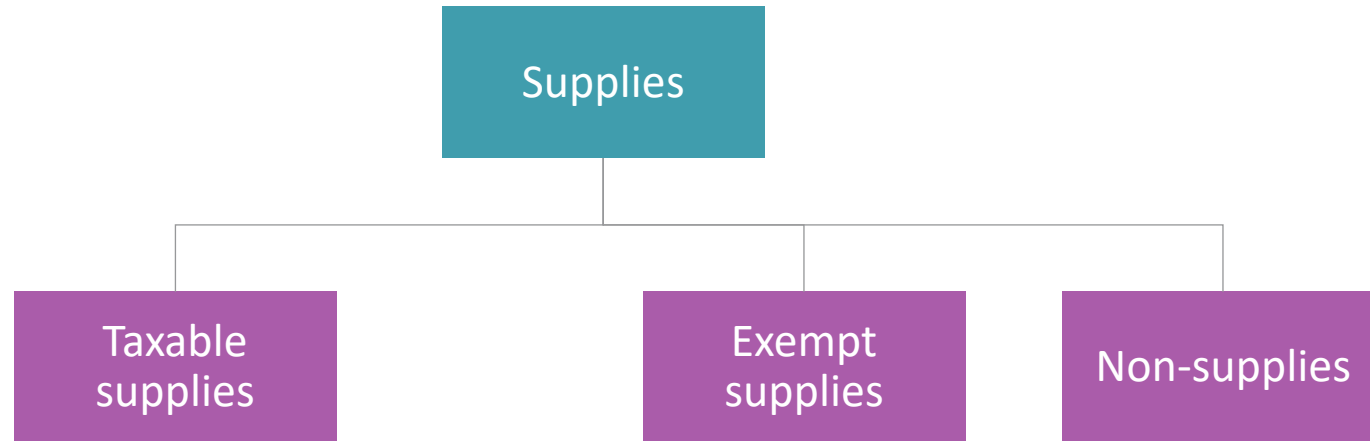


# Mechanics of VAT

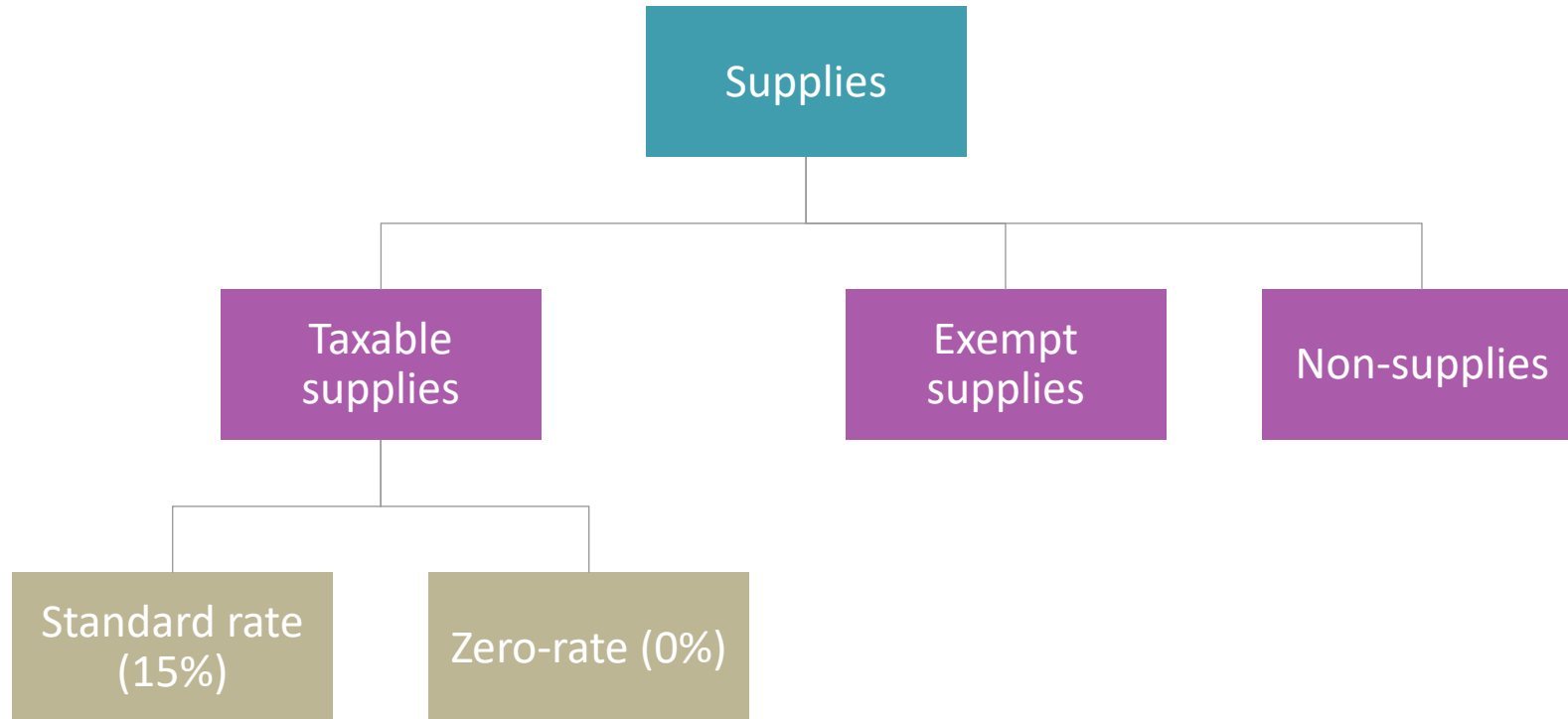
Supplies



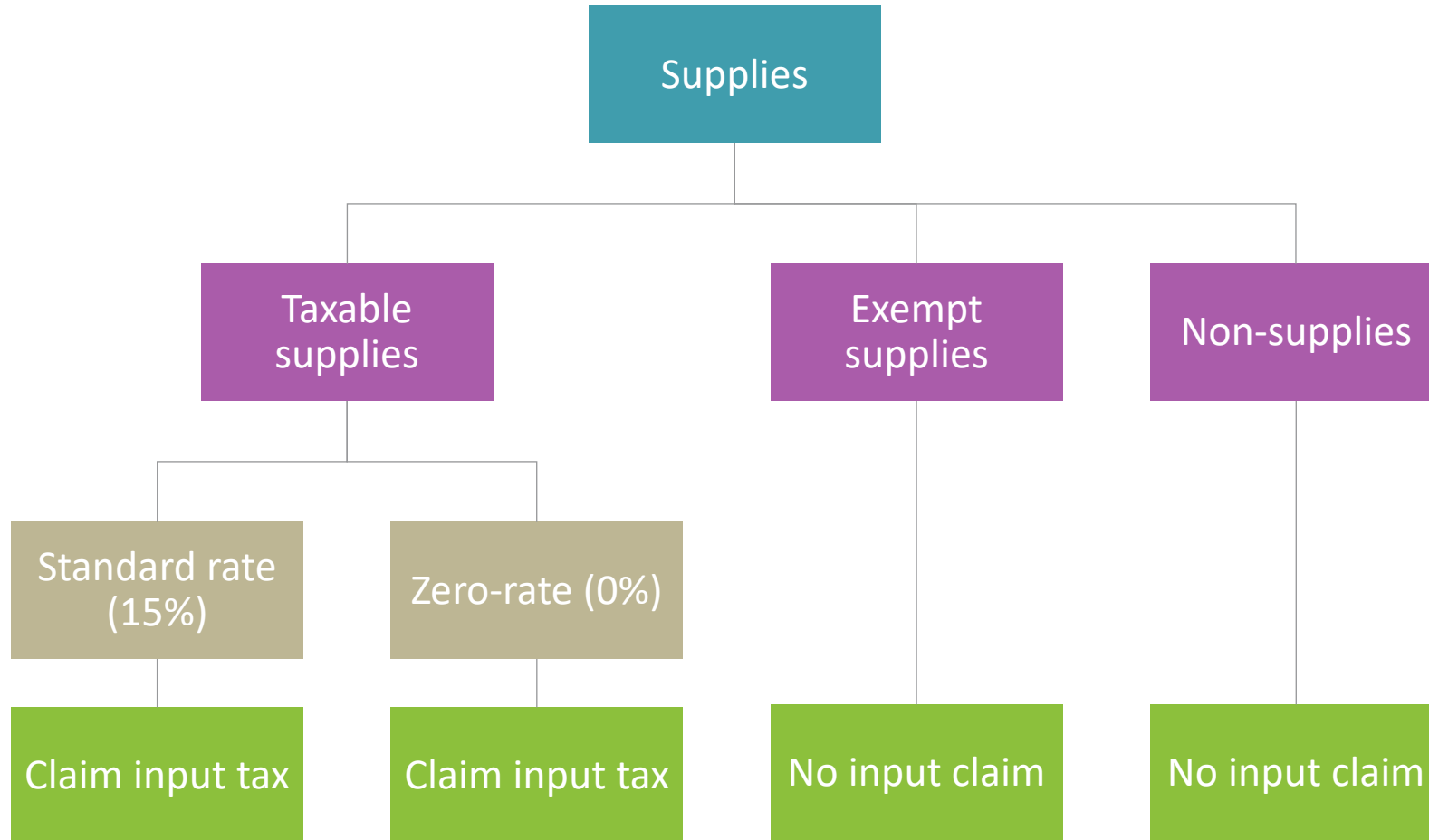
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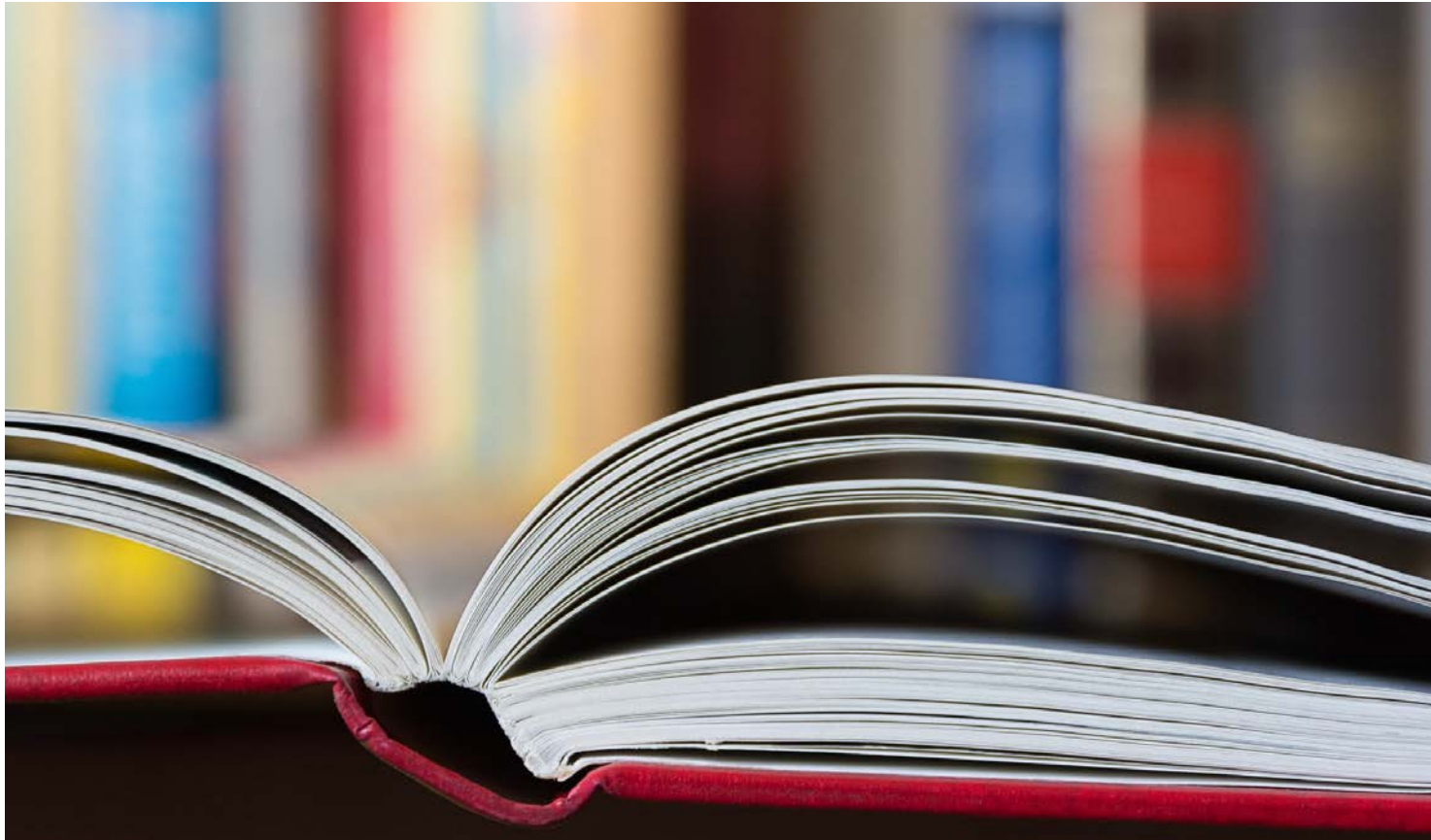




# Layout of the VAT Act

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# Layout of the VAT Act

- Imposition (S7)
- Supplies of "Goods" or "Services" by a "Vendor" in "Enterprise" (S7(1)(a))
- "Goods" imported (S 7(1)(b) &13)
- "Imported Services" (S 7(1)(c) &14)
- Deemed Supplies (S8)
- Exempt Supplies(S12)
- Zero Rates Supplies(S11)
- Standard Rate Supplies
- Timing (S9)
- Value (S10)
- Accounting Basis (S15)
- Permissible and denied Input Tax (S17)
- Adjustments (S18)
- Documentation (S20 & S21)

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## Definitions





# Enterprise

What about a single event (e.g. a big concert or sporting event?)

**“enterprise”** means—

(a) in the case of any vendor,

- any enterprise or activity which is carried on continuously or regularly by any person in the Republic or
- partly in the Republic and
- in the course or furtherance of which goods or services are supplied to any other person
- for a consideration,
- whether or not for profit,
- including any enterprise or activity carried on in the form of a commercial, financial, industrial, mining, farming, fishing, municipal or professional concern or any other concern of a continuing nature or in the form of an association or club;



# Enterprise - continued

(b) without limiting the applicability of paragraph (a) in respect of any activity carried on in the form of a commercial, financial, industrial, mining, farming, fishing or professional concern—

- (vi) 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 of those electronic services is a resident of the Republic;
  - (bb) any payment to that person in respect of such electronic services originates from a bank registered or authorised in terms of the Banks Act, 1990 (Act No. 94 of 1990);
  - (cc) the recipient of those electronic services has a business address, residential address or postal address in the Republic;



# Electronic Services: VAT 404 Guide

The original (Electronic Services Regulations (ESR) came into effect on 1 June 2014, but the scope of services only covered a restricted list of electronic services. The list of electronic services is now set out in the updated ESR which came into effect on 1 April 2019.<sup>15</sup> The main features of the new rules on electronic services can be summarised as follows:

- The previous scope of “electronic services” under the original ESR was expanded to include **any** supplies of electronic services (subject to a few exceptions such as telecommunications services, certain group company transactions and educational services, which are similar to those contemplated in the exemption under section 12(h)).
- The compulsory registration threshold for non-resident suppliers of electronic services was increased to **R1 million** (previously R50 000). Non-resident suppliers of electronic services can now also register voluntarily if they exceed the R50 000 threshold.
- The definition of “enterprise” now includes the activities of an “**intermediary**” if that person facilitates a supply of “electronic services” by a non-resident. “Facilitates” in this context means, for example, that the electronic services are advertised, sold or otherwise made available via an online marketplace or “platform” operated by the intermediary. This rule applies in circumstances where the invoicing and collection of the payment for the supply is done by the intermediary.
- A new provision<sup>17</sup> was introduced to deem an **intermediary to be the supplier of electronic services** in certain instances. The effect is that the intermediary facilitating supplies of electronic services will be liable to charge and account to SARS for the VAT on the supply of electronic services if the non-resident principal is not registered for VAT in South Africa. An intermediary (whether resident or non-resident) will therefore be required to register and account for VAT if the value of the supplies (including any deemed supplies) exceeds the new compulsory registration threshold.

Also see Explanatory Memorandum to the Electronic Services Regulations



# Person and vendor

“**person**” includes any public authority, any municipality, any company, any **body of persons (corporate or unincorporated)**, the estate of any deceased or insolvent person and any trust fund;

“**vendor**” means any person

- who is or
- is required to be registered under this Act:

Provided that where the Commissioner has under section 23 or 50A determined the date from which a person is a vendor that person shall be deemed to be a vendor from that date;



# Consideration

**“consideration”**, in relation to the supply of goods or services to any person, includes

- any payment made or to be made
- (including any deposit on any returnable container and tax),
- whether in money or otherwise,
- or any act or forbearance, whether or not voluntary,
- in respect of, in response to, or for the inducement of, the supply of any goods or services,
- whether by that person or by any other person,

but does not include

- any payment made by any person as a donation to any association not for gain:

Provided that

- a deposit (other than a deposit on a returnable container), whether refundable or not, given in respect of a supply of goods or services shall not be considered as payment made for the supply
- unless and until the supplier applies the deposit as consideration for the supply or such deposit is forfeited;



# Example 1

Company A  
Holds mineral  
rights and  
mining licence  
over property

Company B  
owns mining  
equipment and  
employs  
people



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Company A  
Holds mineral  
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over property

Company B  
owns mining  
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people

Provides the right to use  
mineral rights in return for  
which it receives a 50%  
profit share

Provides equipment, people  
and conducts the mining  
process in return for which  
it receives a 50% profit share

The parties agree that  
they will jointly mine the  
minerals and that the  
profit will be shared 50/50  
This is not a partnership,  
but an unincorporated JV



# Example 2

- An audit firm agrees that it will charge an hourly rate of R2 000 for the audit plus VAT plus expenses
- Must VAT be charged on the recovery of expenses?
  - R3.98 per km for travel costs paid to employees working on the audit
  - Printing costs of R1.50 per page
  - Flight costs
  - Accommodation costs





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## Supplies made by a vendor



Was there a “supply” of “goods” or “services”?

- General Section 7(1)(a)
- Goods imported (S7(1)(b) and S13 )
- Services imported (S7(1)(c) & S14)



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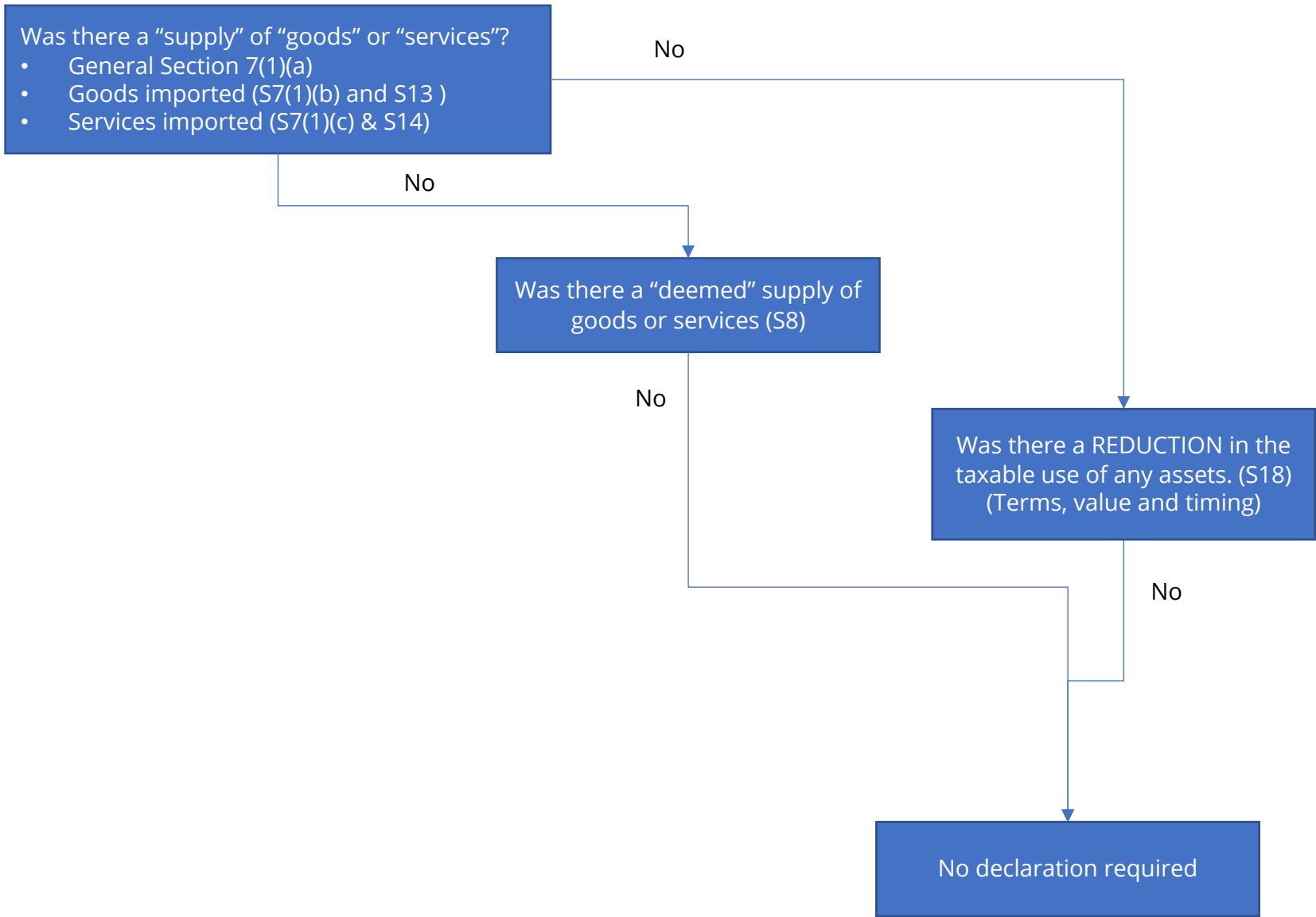
No

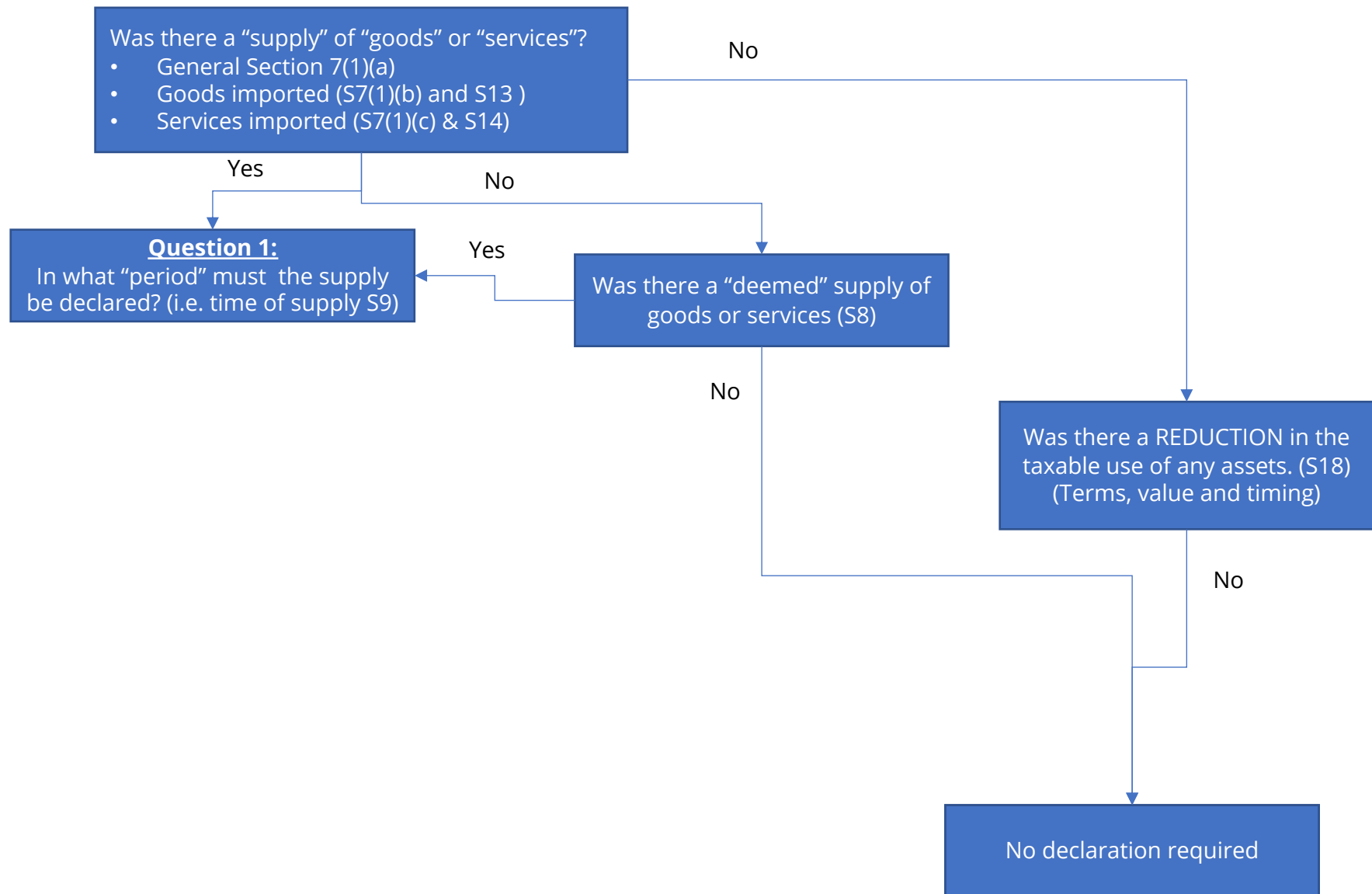
Was there a REDUCTION in the taxable use of any assets. (S18)  
(Terms, value and timing)

No

No declaration required







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- General Section 7(1)(a)
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No

Yes

No

**Question 1:**  
In what "period" must the supply be declared? (i.e. time of supply S9)

Yes

Was there a "deemed" supply of goods or services (S8)

No

**Question 2**  
What is the "value" of the supply to be declared on the VAT return? (S10)

Was there a REDUCTION in the taxable use of any assets. (S18) (Terms, value and timing)

No

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Is the supply "exempt" from VAT?  
S12

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(Terms, value and timing)

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Is the supply "exempt" from VAT? S12

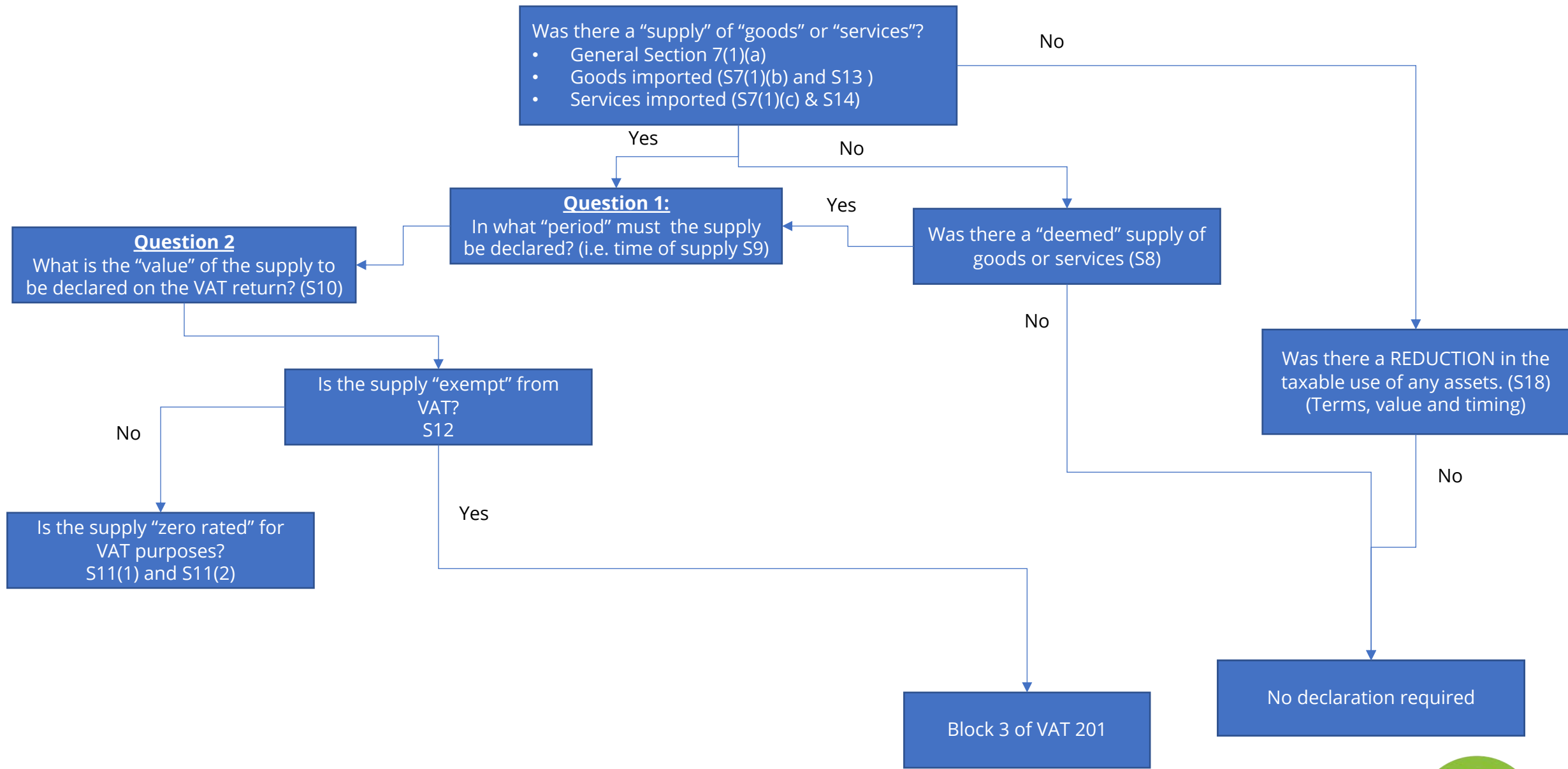
Yes

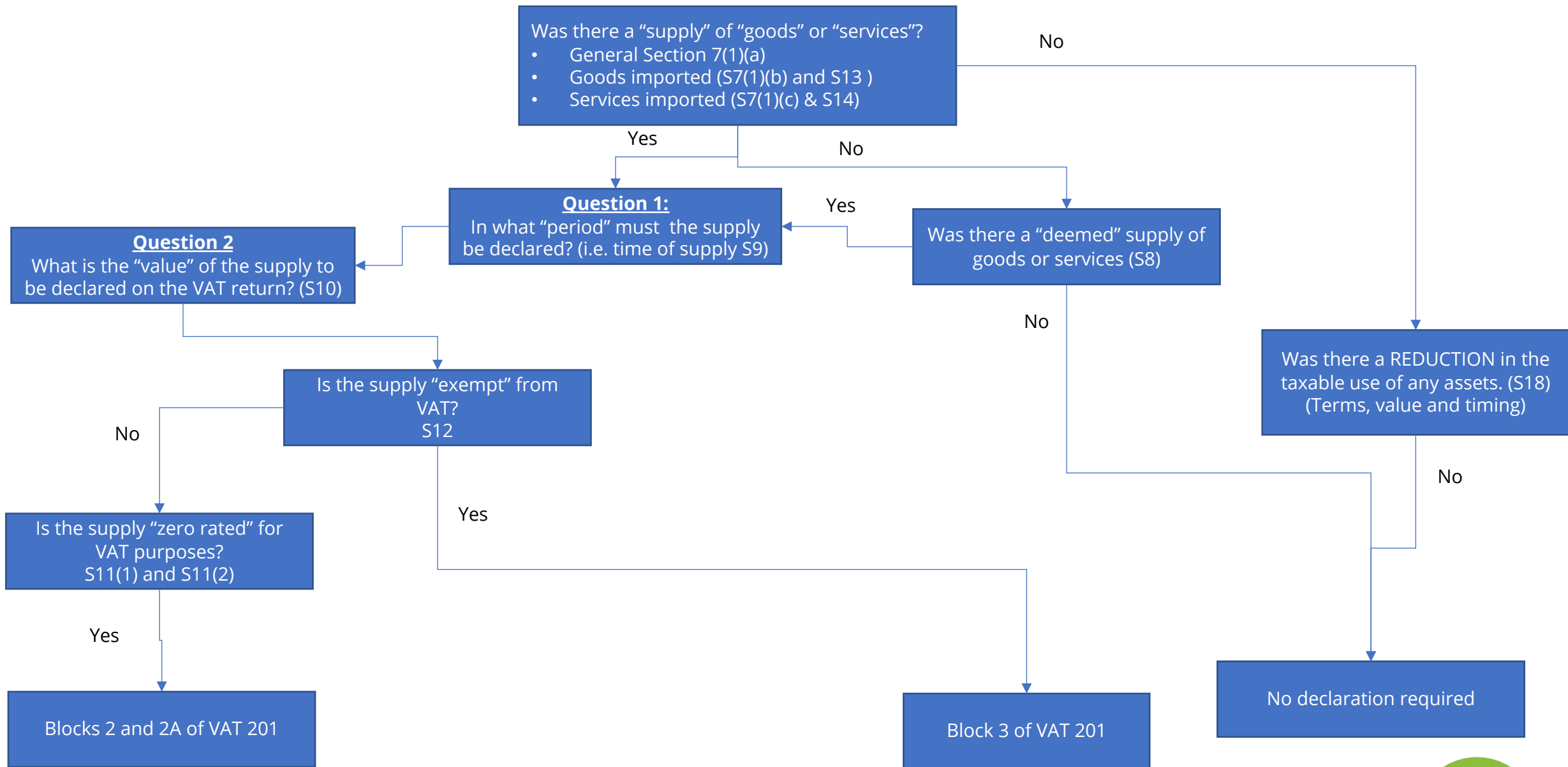
Block 3 of VAT 201

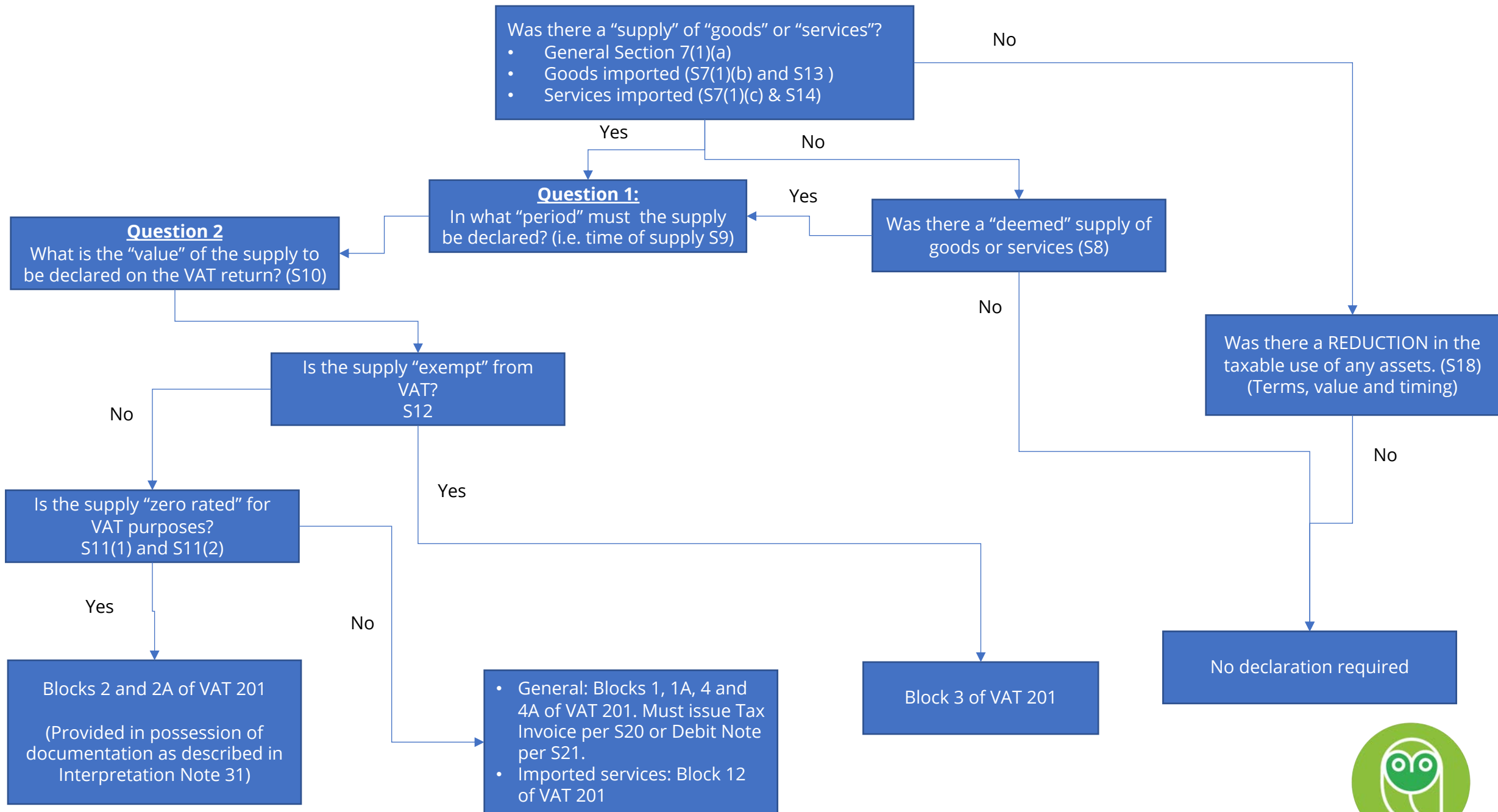
No declaration required











## A. Calculation of Output Tax and Imported Services

ACALC01

### Supply of Goods and/or Services By You

Standard rate (excluding capital goods and/or services and accommodation)

1 R

X  $\frac{r}{100+r}$

4

R

Standard rate (only capital goods and/or services)

1A R

X  $\frac{r}{100+r}$

4A

R

Zero rate (excluding goods exported)

2 R

Zero rate (only exported goods)

2A R

Exempt and non-supplies

3 R

### Supply of accommodation:

Exceeding 28 days

5 R

X

%

6

Value Not exceeding 28 days

7

R

**Total: (6 + 7)**

8

R

X  $\frac{r}{100}$

9

R

### Adjustments:

Change in use and export of second-hand goods

10

R

X  $\frac{r}{100+r}$

11

R

Other and imported services

12

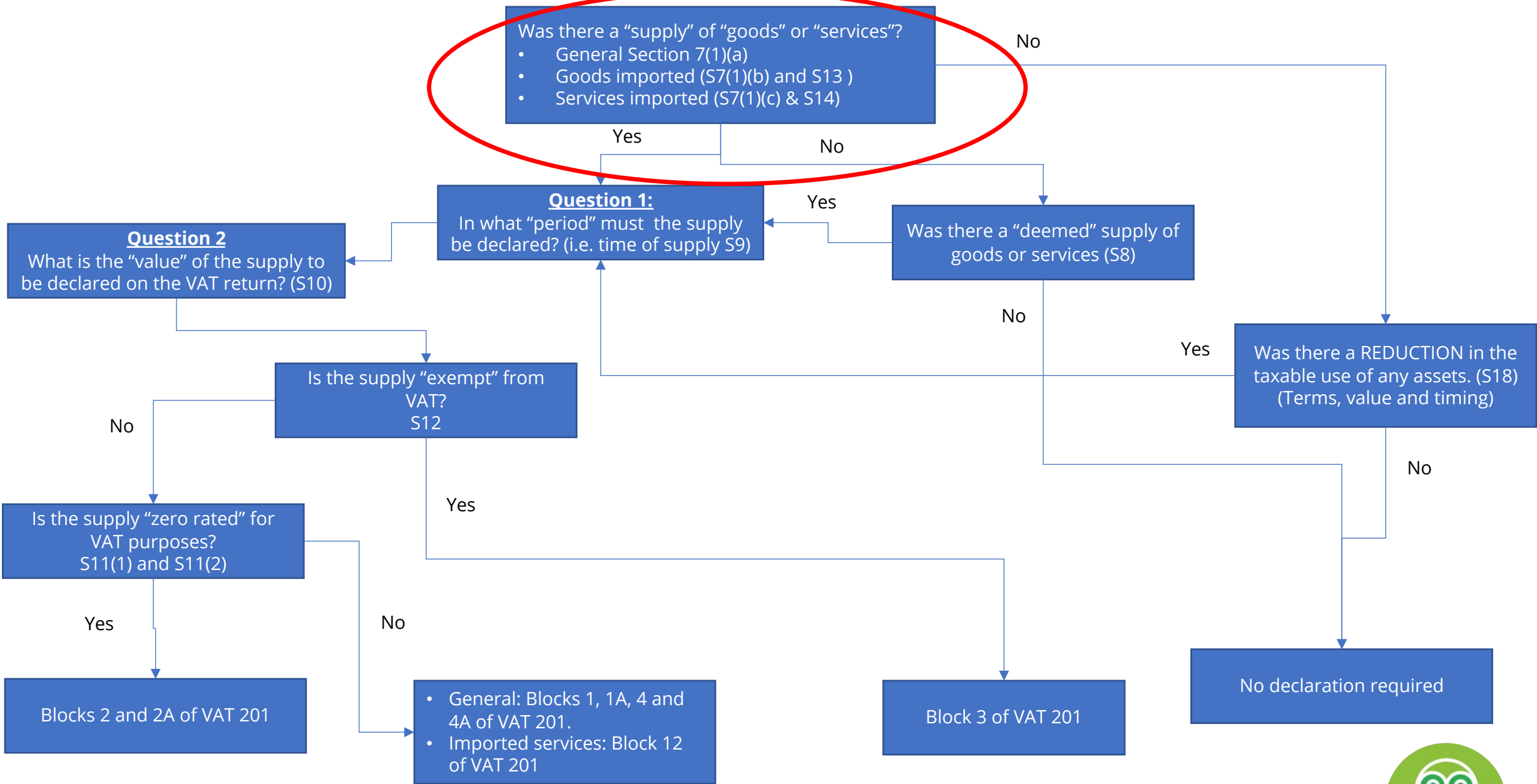
R

**Total A: TOTAL OUTPUT TAX (4+4A+9+11+12)**

13

R





# Section 7(1)(a)

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

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



**“supply”** includes

- performance in terms of a sale, rental agreement, instalment credit agreement and all other forms of supply,
- whether voluntary,
- compulsory or
- by operation of law,

irrespective of where the supply is effected, and any derivative of **“supply”** shall be construed accordingly;



**“goods”** means

- corporeal movable things,
- fixed property,
- any real right in any such thing or fixed property,
- and electricity, but excluding—
  - (a) money;
  - (b) any right under a mortgage bond or pledge of any such thing or fixed property; and
  - (c) any stamp, form or card which has a money value and has been sold or issued by the State for the payment of any tax or duty levied under any Act of Parliament, except when subsequent to its original sale or issue it is disposed of or imported as a collector’s piece or investment article;



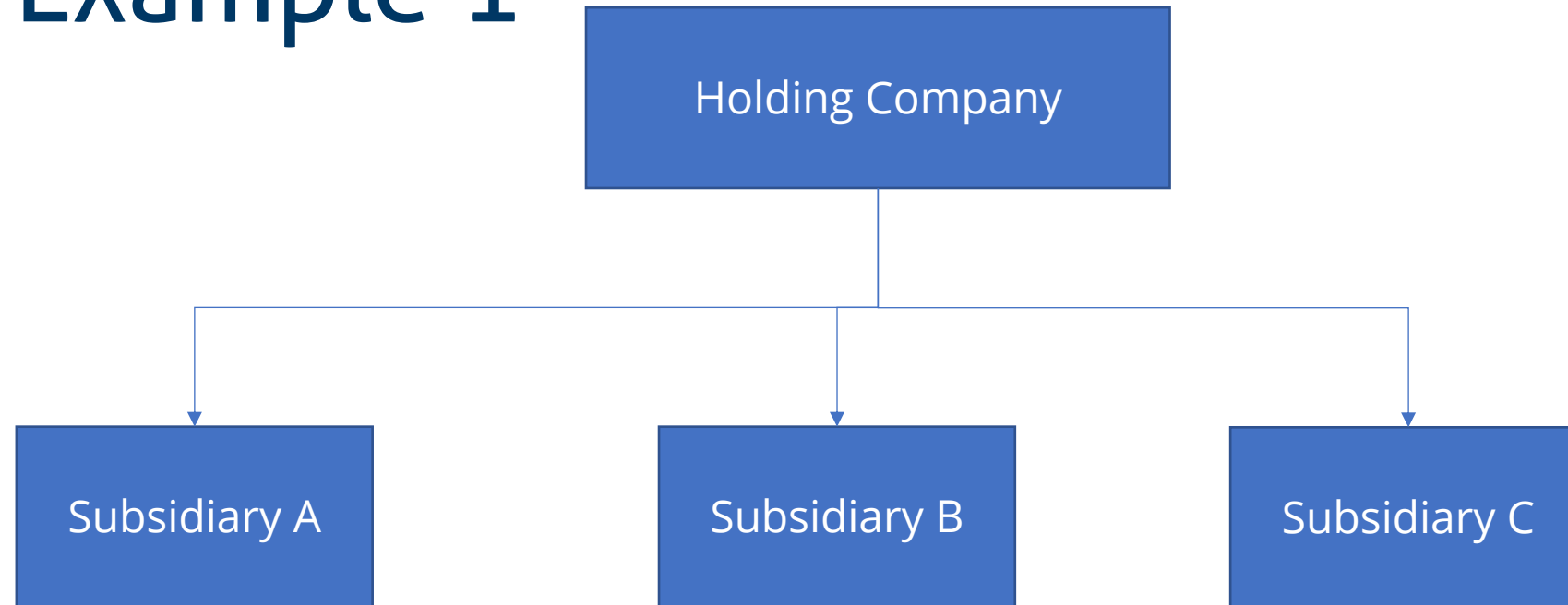


## **“services”** means

- anything done or to be done,
  - including
    - the granting,
    - assignment,
    - cession or
    - surrender of any right
  - or the making available of any facility or advantage,
- but excluding
- a supply of goods, money or any stamp, form or card contemplated in [paragraph \(c\)](#) of the definition of [“goods”](#);



# Example 1



All employees in the Tax Department are employed by Holding Company. They are responsible for all taxes in the group. The salaries of the employees in the tax department is recovered from the Subsidiaries and no VAT is charged since it is simply a recovery of salaries.

**Is this correct?**



# Example 2



A government tender for the construction of a new sport stadium is issued.



Company A pays an amount of R1 million to Company B so that Company B will submit its tender at a higher price than that of Company A



The payment is in contravention of the Prevention and Combating of Corrupt Activities Act, 2004 and Company A may not claim a deduction of the R1 million for Income Tax Purposes (S23(o) of the ITA)



Must Company B pay output VAT?



Can Company A claim input VAT?

**“imported services”** means a supply of

- services that is made by
- a **supplier** who is resident or carries on business **outside the Republic**
- to a recipient who is a resident of the Republic
- to the extent that such services are utilized or consumed in the Republic
- **otherwise than for the purpose of making taxable supplies**

The recipient of imported services must, on the earlier of

- (i) the time an invoice is issued by the supplier or recipient in respect of the supply of the imported services, or
- (ii) the time any payment is made by the recipient in respect of that supply

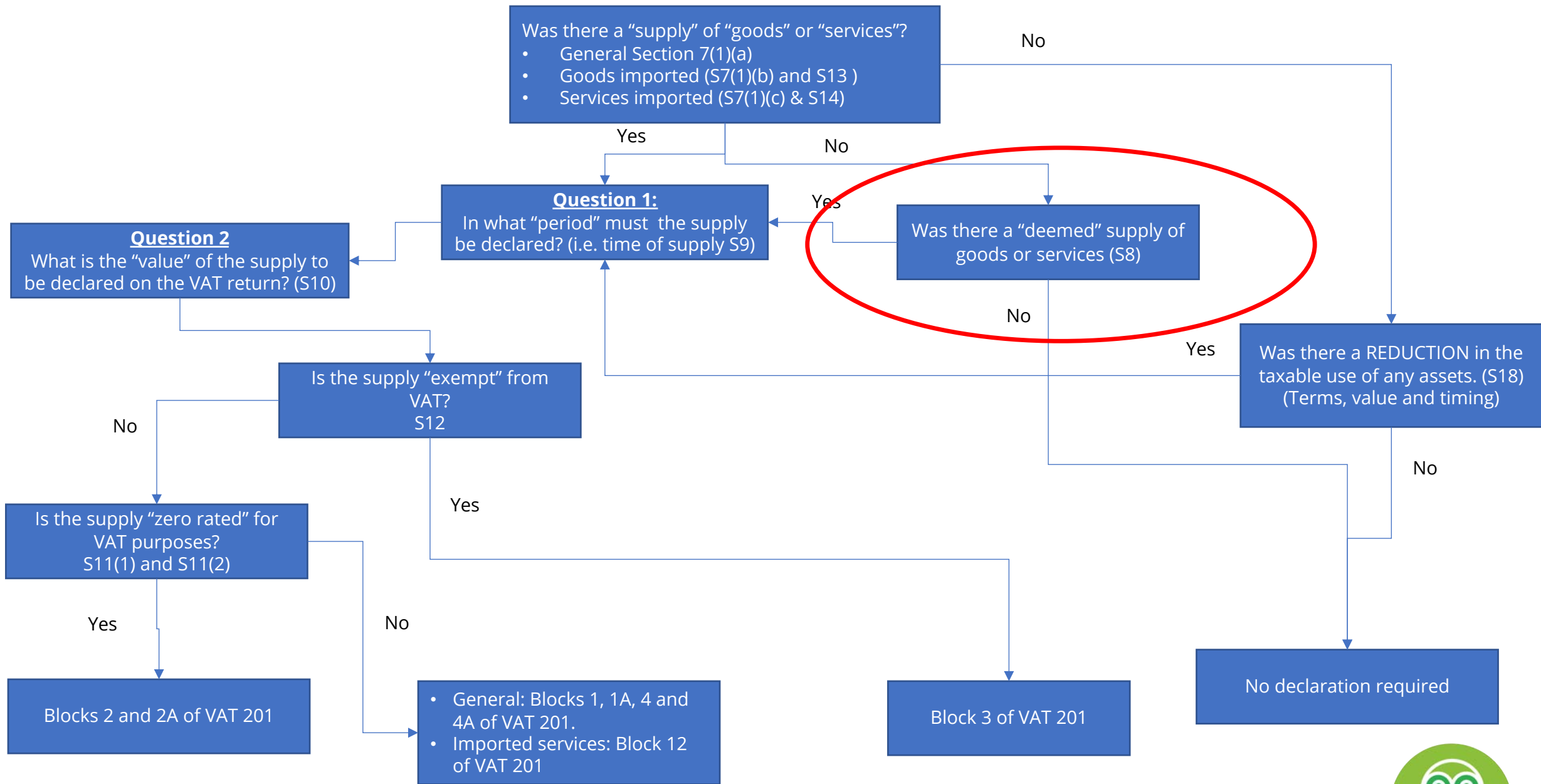
Declare the output VAT to SARS in block 12





- If RSA resident is vendor and use the services to make 100% taxable supplies – then there is no output VAT
- If RSA resident is vendor and use the services to make non-taxable supplies – then there is output VAT of R15k
- If RSA resident is vendor and use the services to make 40% non-taxable supplies – then there is output VAT of  $R15k \times 40\% = R6k$
- If RSA resident is non-vendor and therefore makes non-taxable supplies – then there is output VAT of R15k







## Deemed supplies (section 8)



# Cease to be a vendor



S8(2): Cease to be a vendor



S10(5): Value of supply is deemed to be the lower of cost or market value of all assets on hand





# Deemed supplies: Insurance S8(8)

For the purposes of this Act, except section 16 (3),

- where a vendor receives any indemnity payment under a contract of insurance
- or is indemnified under a contract of insurance by the payment of an **amount of money** to **another person**,

that payment or indemnification, as the case may be, shall,

- to the extent that it relates to a loss incurred in the course of carrying on an enterprise,
- be deemed to be consideration received for a supply of services performed
- on the day of receipt of that payment or on the date of payment to such other person, as the case may be, by that vendor in the course or furtherance of his enterprise:

Provided that this subsection shall not apply in respect of any indemnity payment received or indemnification under a contract of insurance

- where the supply of services contemplated by that contract is not a supply subject to tax under section 7 (1) (a):

Provided further that this subsection shall not apply in respect of any indemnity payment received by a vendor under a contract of insurance

- to the extent that such payment relates to the total reinstatement of goods, stolen or damaged beyond economic repair,
- in respect of the acquisition of which by the vendor a deduction of input tax under section 16 (3) was denied in terms of section 17 (2) or would have been denied if these sections had been applicable prior to the commencement date.



## **“insurance”** means

- insurance or guarantee
- against loss, damage, injury or risk of any kind whatever,
- whether pursuant to any contract or law, and
- includes reinsurance; and
- “contract of insurance” includes a policy of insurance, an insurance cover, and a renewal of a contract of insurance



# Insurance: Example 1

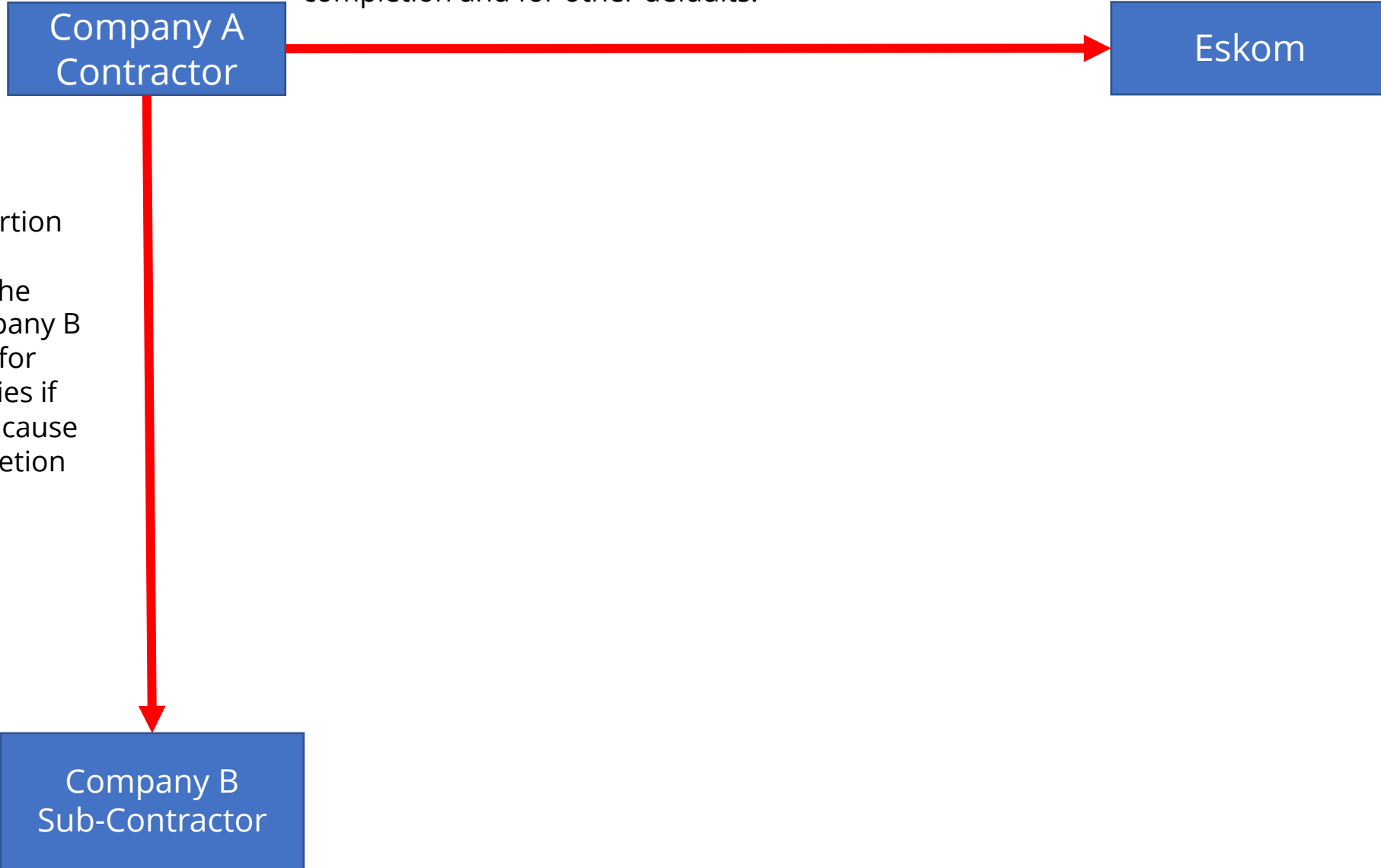
- Vendor buys single cab bakkie for R345K and claim R45k input VAT
- The bakkie is insured for R345k
- The bakkie is parked at the warehouse and is stolen on the same night.
- The insurance company pays R345k to the vendor, who uses the money to immediately buy another bakkie.

Event	Vendor	Insurance Company
Vendor buys initial bakkie and claim VAT	(R45 000)	
Insurance company pays cash to vendor who is deemed to provide service to insurance company S8(8)	R45 000	
Insurance company may claim a deemed input tax S16(3)(c)		(R45 000)
Vendor buys replacement bakkie and claim VAT	(R45 000)	



# Insurance: Example 2

Contractor has a contract with Eskom for construction of power plant. The contract has penalty clauses for late completion and for other defaults.

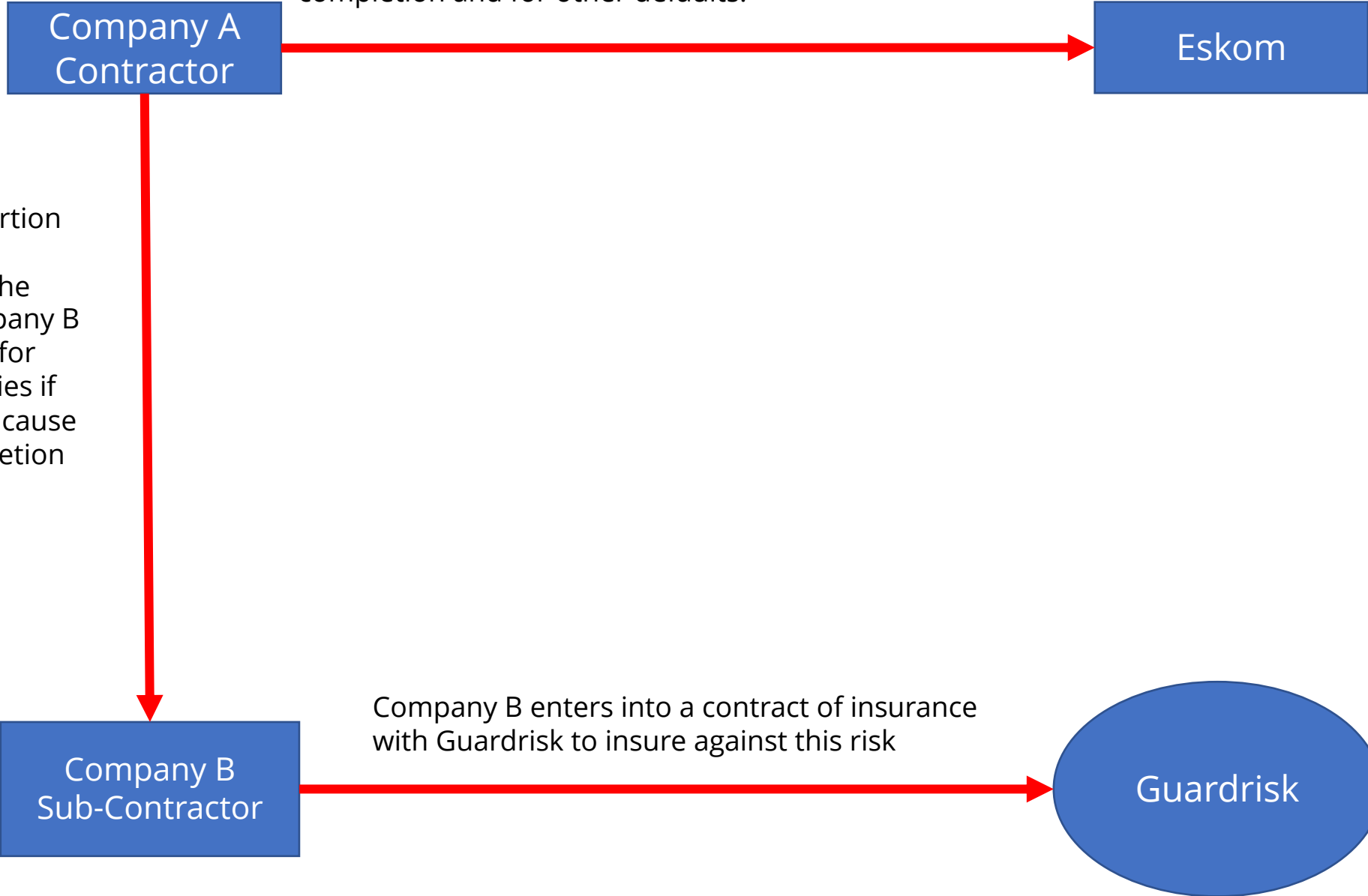


Company A subcontracts a portion of the contract to Company B with the proviso that Company B will be held liable for any Eskom penalties if Company B is the cause for the late completion of the project.



# Insurance: Example 2

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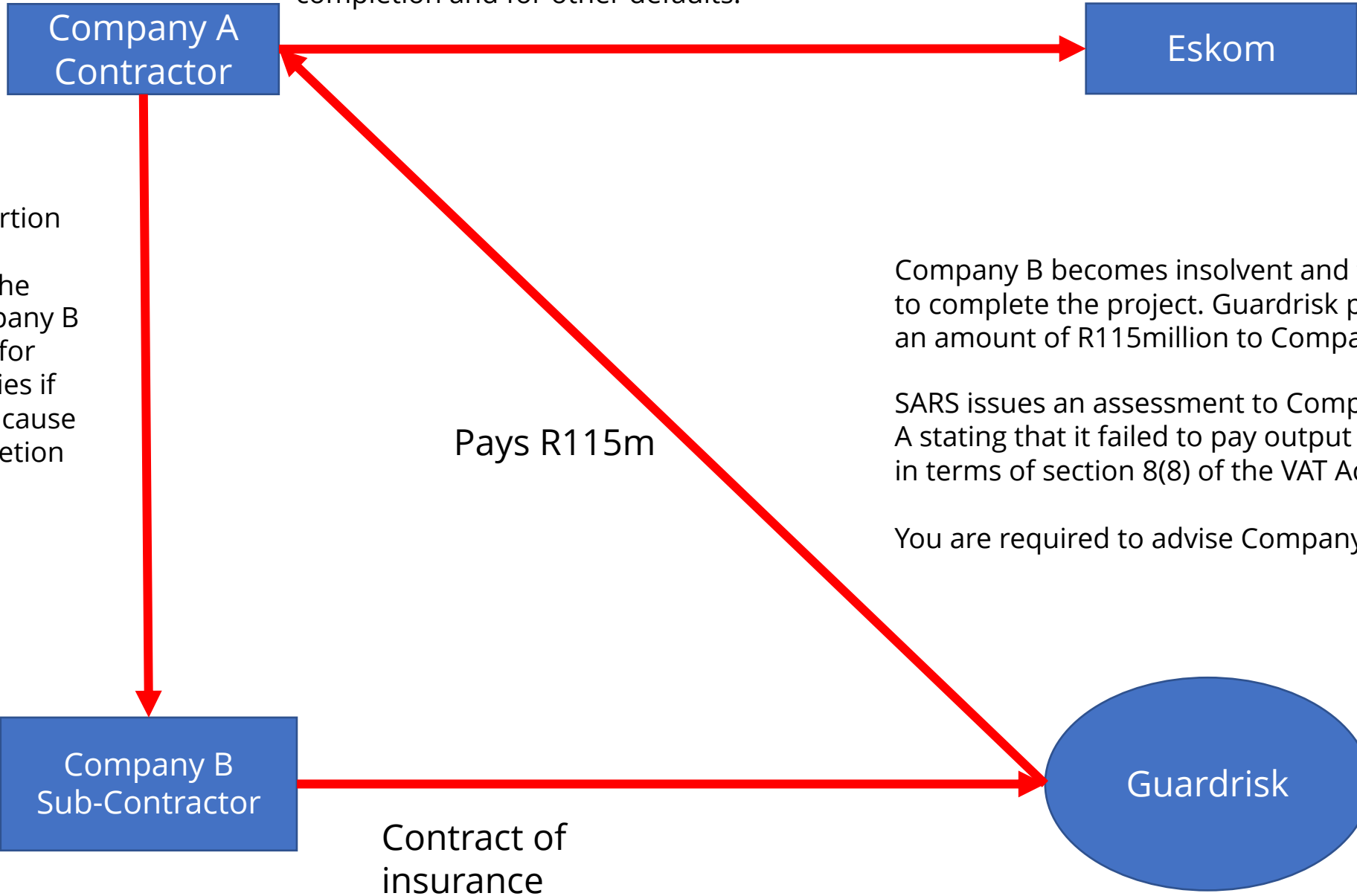


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# Insurance: Example 2

Contractor has a contract with Eskom for construction of power plant. The contract has penalty clauses for late completion and for other defaults.



Company A subcontracts a portion of the contract to Company B with the proviso that Company B will be held liable for any Eskom penalties if Company B is the cause for the late completion of the project.

Company B becomes insolvent and fails to complete the project. Guardrisk pays an amount of R115million to Company A.

SARS issues an assessment to Company A stating that it failed to pay output tax in terms of section 8(8) of the VAT Act

You are required to advise Company A



# Insurance: Example 3

- A company owns a building of which 40% is leased to individuals as residential accommodation and 60% is leased to businesses as commercial property.
- The building is destroyed in a fire and the company receives R1 150 000 from the insurance company.
- Output VAT payable =  $R1\ 150\ 000 \times 15/115 \times 60\% = R90\ 000$



# Deemed supplies

- S8(13) Where any person
  - bets an amount
  - on the outcome of a race or on any other event or occurrence,
  - the person with whom the bet is placed
  - shall be deemed to supply a service to such first-mentioned person





# Warranties

**S8(26)** The supply of goods or services under any warranty agreement shall, for the purposes of section 11 (2) (v), be deemed to be a supply of services.

**S11(2)(v)** – zero rate

the services relate to goods under warranty to the extent that the services are—

- (i) provided in terms of that warranty;
- (ii) supplied to the warrantor for consideration under that warranty given by the warrantor who is—
  - (aa) not a resident of the Republic;
  - (bb) not a vendor; and
  - (cc) outside the Republic at the time the services are rendered; **and**
- (iii) in respect of goods that were subject to tax upon importation (in terms of section 7 (1) (b) of this Act);



# Corporate Rules S8(25)

- S 42: Asset for share transactions
- S45: Intra group transactions

For the purposes of this Act,

- where any goods or services are supplied
- by a vendor to another vendor,
- those vendors must for purposes of that supply or subsequent supplies of those goods or services, **be deemed to be one and the same person**
- provided the provisions of section 42, 44, 45 or 47 of the Income Tax Act are complied with:

Provided that this subsection shall not apply to a supply contemplated in section 42 or 45 of the Income Tax Act, unless—

- (i) that supply is of an enterprise or part of an enterprise which is capable of separate operation, where the supplier and recipient have agreed in writing that such enterprise or part, as the case may be, is **disposed of as a going concern**;
- (ii) the enterprise or part, as the case may be, disposed of as a going concern **has been carried on in**, on or in relation to goods or services applied mainly for purposes of such enterprise or part, as the case may be, and partly for other purposes, such goods or services shall, where disposed of to such recipient, for the purposes of this paragraph be deemed to form part of such enterprise or part, as the case may be, notwithstanding the provisions of paragraph (v) of the proviso to the definition of “enterprise” in section 1; **or**
- (iii) the supply is of **fixed property** and the supplier and the recipient have agreed in writing that, immediately after the supply, the **supplier will lease the fixed property from the recipient**.



# Excess consideration Section 8(27) and 16(3)(m)

## Section 8(27) – liable for tax after 4 months

For the purposes of this Act,

- where any amount received
- in respect of a taxable supply of goods or services
- at the rate specified in section 7 (1)
- exceeds the consideration charged for that supply,
- and such excess amount has not been refunded within four months of receipt thereof,

that excess amount shall be deemed

- to be consideration for a supply of services
- performed by the vendor in the course or furtherance of that vendor’s enterprise
- on the last day of the tax period during which that four month period ends.

## Section 16(3)(m) – subsequent refunds

(3) Subject to the provisions of subsection (2) of this section and the provisions of sections 15 and 17, the amount of tax payable in respect of a tax period shall be calculated by deducting from the sum of the amounts of output tax of the vendor which are attributable to that period, as determined under subsection (4), and the amounts (if any) received by the vendor during that period by way of refunds of tax charged under section 7 (1) (b) and (c) and 7 (3) (a), the following amounts, namely

- (m) an amount equal to the tax fraction initially applied to any excess amount contemplated in section 8 (27) which is **refunded** by the vendor during the tax period;



# Example 1



A doctor provides medical care to a patient on 1 February 2020



Payment is made by the patient directly to the doctor on 1 February 2020.



Payment is also made by the medical aid to the doctor on 28 February 2020.



The payment of 1 February is refunded to the patient on 31 July 2020.



Output VAT is payable on

31 May 2020 - being 4 months after date of receipt from patient?

30 June 2020 - being 4 months after date of receipt from the med aid?



Input VAT is claimable on 31 July 2020 (S16(3)(m))

## Example 2

A company observes that a payment was made in its bank account of R10 000

There is no reference to the payment and the amount is credited to the “unallocated cash” creditor

Does section 8(27) apply to “unallocated cash?”



# Example 3

A company is a major fixed line telecommunication services provider

The accounts of certain customers are in credit. The reasons may vary –

- Some are erroneous payments into the wrong accounts – e.g. customer A pays an amount into Customer's B account
- Some are estimated payments – e.g. a customer may pay R2 000 per month every month but the bill is only R1 800 per month
- Some are advance payments – e.g. the customer may pay an amount for the next 6 months
- Some are duplicate payments – e.g. the bill for May 2020

What are the VAT consequences of the above receipts?



# Leasehold improvements: Position of lessee

Sections 8(29), 9(12) and 10(28):

- The lessee is deemed to make a supply of the leasehold improvements to the lessor at a nil value at the time that the improvements are completed.
- S 8(29) shall not apply where such leasehold improvements are wholly for consumption, use or supply in the course of making **other than taxable supplies** by the **lessee**.



# Position of the lessor

## 18C. Adjustments for leasehold improvements.—

Where goods

- have been supplied to a **vendor**,
- being a lessor, as contemplated in section 8 (29),
- the lessor shall be deemed to have made a taxable supply in the course or furtherance of the lessor's enterprise,
- and
  - where a deduction of input tax would have been denied in terms of section 17 (2), or
  - to the extent that such goods are not **wholly** for consumption, use or supply in the course of making taxable supplies by that lessor,
- those goods shall be deemed to be supplied by the lessor at the time the leasehold improvements are completed, in accordance with the formula

$A \times B \times C$

in which formula—

"A" represents the tax fraction;

"B" represents the amount stipulated in the agreement or if no amount is stipulated, the open market value as stipulated in section 3 applies, and

"C" represents the percentage of the use or application of the goods for the purposes of making other than taxable supplies at the time the leasehold improvements are completed.





# Leasehold improvements: Position of lessor

At the same time, the lessor will be required to make an output tax adjustment on the value of the improvements stipulated in the lease, or if no value is stipulated, the open market value thereof.

The lessor will, however, not be required to make the adjustment if the leasehold improvements were acquired wholly for taxable purposes.



# Example 1

Vendor (making 100% taxable supplies) leases building from University and incurs leasehold improvements of R11.5m

- May claim R1.5m input tax on leasehold improvements
- Deemed to make a supply to the University
- At Rnil value
- On the date that the improvements are completed

University owns building that is 30% used for taxable supplies

- Deemed to make a taxable supply.
- On the date that the improvements are completed.
- Liable for output tax:  
 $15/115 \times R11.5m \times 70\% = R1\ 050\ 000$



# Example 2

Non-vendor (making 0% taxable supplies) leases building from University and incurs leasehold improvements of R11.5m

- May not claim any input VAT on leasehold improvements
- Section 8(29) does not apply

University owns building that is 30% used for taxable supplies

- Section 18C only applies if Section 8(29) applies – therefore:  
No output tax liability



# Example 3

Vendor (making 100% taxable supplies) leases building from Growthpoint and incurs leasehold improvements of R11.5m

- May claim R1.5m input tax on leasehold improvements
- Deemed to make a supply to the Growthpoint
- At Rnil value
- On the date that the improvements are completed

Growthpoint owns building that is 100% used for taxable supplies

- Deemed to make a taxable supply.
- On the date that the improvements are completed.
- No output tax is payable however, since Growthpoint uses the property 100% to make taxable supplies.



# Example 4

Vendor (making 60% taxable supplies) leases building from Growthpoint and incurs leasehold improvements of R11.5m

- May claim  $R1.5m \times 60\% = R900k$  input tax on leasehold improvements
- Deemed to make a supply to the Growthpoint
- At Rnil value
- On the date that the improvements are completed

Growthpoint owns building that is 100% used for taxable supplies

- Deemed to make a taxable supply.
- On the date that the improvements are completed.
- No output tax is payable however, since Growthpoint uses the property 100% to make taxable supplies.



# Example 5

Vendor (making 100% taxable supplies) leases land from Group company and incurs leasehold improvements of R11.5m

- May claim R1.5m input tax on leasehold improvements
- Deemed to make a supply to the Group Company
- At Rnil value
- On the date that the improvements are completed

Group company only owns land and the rent received for the land is less than R1m p.a. The Group Company is not registered for VAT

No VAT impact since section 18C only applies if the company is a “vendor”.



# The Tax Faculty



## Fringe benefits (section 18(3))



# Fringe Benefits (S18(3))

Notwithstanding anything in this section,

- To the extent that any vendor has or is deemed to have granted a benefit or advantage to an employee or the holder of any office
  - as contemplated in paragraph (i) of the definition of “gross income” in section 1 of the Income Tax Act,
  - read with the Seventh Schedule to that Act,
- and such benefit or advantage consists of a supply of goods or services, the granting of that benefit or advantage shall be deemed to be a supply of goods or services made by the vendor in the course of an enterprise carried on by the vendor:

Provided that this subsection shall not apply to any such benefit or advantage to the extent that

- it has arisen by virtue of any supply of goods or services which is an exempt supply in terms of section 12 of this Act or
- is a supply which is charged with tax at the rate of zero per cent in terms of section 11 of this Act or
- is a supply of entertainment:

Provided further that this subsection shall not apply to any such benefit or advantage to the extent that it is granted by the vendor in the course of making exempt supplies.





# Fringe Benefits Value of supply: S8(13) Incl VAT

(13) Where goods or services are deemed to be supplied by a vendor under section 18 (3),

- the **consideration** in money for the supply
- shall be deemed to be an amount equal to the cash equivalent of the benefit or advantage granted to the employee or office holder, as contemplated in section 9 (7):
- Provided that where such benefit or advantage consists of the right to use a motor vehicle as contemplated in paragraph 2 (b) of the Seventh Schedule to the Income Tax Act, the consideration in money for the supply shall be deemed to be the amount determined in the manner prescribed by the Minister in the *Gazette* for the category of motor vehicle used.



# Examples

Question	Comments
<p><b>Private use of a motor car</b></p> <p>Motor cars 0.3%</p> <p>Cost incl VAT = R575 000 (Note: Determined value is defined differently for VAT than for 7th Schedule) – See VAT Regulation 2835 dated 22 November 1991 – cost excluding VAT)</p>	



# Examples

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<p><b>Private use of a motor car</b></p> <p>Motor cars 0.3%</p> <p>Cost incl VAT = R575 000 (Note: Determined value is defined differently for VAT than for 7th Schedule) – See VAT Regulation 2835 dated 22 November 1991 – cost excluding VAT)</p>	<p>Consideration = 0,3 % x R 500 000 = R1 500 per month</p> <p>Monthly Output VAT</p> <p><math>R1\ 500 \times 15/115 = R195.65</math></p>



# Examples

Question	Comments
<p><b>Private use of a motor car</b></p> <p>Motor cars 0.3%</p> <p>Cost incl VAT = R575 000 (Note: Determined value is defined differently for VAT than for 7th Schedule) – See VAT Regulation 2835 dated 22 November 1991 – cost excluding VAT)</p>	<p>Consideration = 0,3 % x R 500 000 = R1 500 per month</p> <p>Monthly Output VAT</p> <p><math>R1\ 500 \times 15/115 = R195.65</math></p>
<p><b>Private use of a bakkie/company car where employer is a motor car dealer/importer or manufacturer</b></p> <p>Commercial vehicles 0.6%</p> <p>Cost incl VAT = R575 000 (Note: Determined value is defined differently for VAT than for 7th Schedule) – See VAT Regulation 2835 dated 22 November 1991 – cost excluding VAT)</p>	

# Examples

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<p><b>Private use of a bakkie/company car where employer is a motor car dealer/importer or manufacturer</b></p> <p>Commercial vehicles 0.6%</p> <p>Cost incl VAT = R575 000 (Note: Determined value is defined differently for VAT than for 7th Schedule) – See VAT Regulation 2835 dated 22 November 1991 – cost excluding VAT)</p>	<p>Consideration = 0,6 % x R 500 000 = R3 000 per month</p> <p>Monthly Output VAT</p> <p><math>R3\ 000 \times 15/115 = R391.30</math></p>

# Examples

Question	Comments
Employer buys a computer for R11 500 and transfers ownership to the employee.	



# Examples

Question	Comments
Employer buys a computer for R11 500 and transfers ownership to the employee.	<ul style="list-style-type: none"><li>• Employer claims input VAT of R1 500</li><li>• Fringe benefit of R11 500 is subject to PAYE and must appear on IRP 5</li><li>• Output VAT of R1 500 payable by employer (<math>R11.5k \times 15/115</math>)</li><li>• (Cost to employer is R10k (amount excl VAT plus R1.5k OUTPUT VAT))</li></ul>



# Examples

Question	Comments
Employer buys a computer for R11 500 and transfers ownership to the employee.	<ul style="list-style-type: none"><li>• Employer claims input VAT of R1 500</li><li>• Fringe benefit of R11 500 is subject to PAYE and must appear on IRP 5</li><li>• Output VAT of R1 500 payable by employer (R11.5k x 15/115)</li><li>• (Cost to employer is R10k (amount excl VAT plus R1.5k OUTPUT VAT))</li></ul>

## Contrary view

**23C. Reduction of cost or market value of certain assets.**—(1) Notwithstanding the Seventh Schedule, where regard is to be had to the cost to the taxpayer or the market value of any asset acquired by him or her or to the amount of any expenditure incurred by him or her, and—

(a) the taxpayer is a vendor as defined in section 1 of the Value-Added Tax Act; and

(b) the taxpayer is or was in any previous year of assessment entitled under section 16 (3) of the last-mentioned Act to a deduction of input tax as defined in section 1 of that Act,

the amount of such input tax shall be excluded from the cost or the market value of such asset or the amount of such expenditure

Question	Comments
Employer buys a computer for R11 500 and transfers ownership to the employee.	<ul style="list-style-type: none"><li>• Employer claims input VAT of R1 500</li><li>• Fringe benefit of R10 000 is subject to PAYE and must appear on IRP 5 (Note per 23C, the VAT is excluded from MV or cost of asset)</li><li>• Output VAT of R1 304.34 payable by employer (R10k x 15/115)</li></ul>



# Examples

Question	Comments
Employer buys a computer for R11 500 and transfers ownership to the employee – employee pays R4 600 towards computer.	



# Examples

Question	Comments
Employer buys a computer for R11 500 and transfers ownership to the employee – employee pays R4 600 towards computer.	<ul style="list-style-type: none"><li>• Employer claims input VAT of R1 500</li><li>• Employer pays output VAT of R600 on receipt of consideration from employee</li><li>• Fringe benefit of R6 900 is subject to PAYE and must appear on IRP 5</li><li>• Output VAT of R900 payable by employer on fringe benefit (R6 900 x 15/115)</li></ul>



# Examples

Question	Comments
<p>Employer buys a computer for R11 500 and transfers ownership to the employee – employee pays R4 600 towards computer.</p> <p><b>Contrary view</b></p>	<ul style="list-style-type: none"> <li>• Employer claims input VAT of R1 500</li> <li>• Employer pays output VAT of R600 on receipt of consideration from employee</li> <li>• Fringe benefit of R6 900 is subject to PAYE and must appear on IRP 5</li> <li>• Output VAT of R900 payable by employer on fringe benefit (R6 900 x 15/115)</li> </ul>

**23C. Reduction of cost or market value of certain assets.**—(1) Notwithstanding the Seventh Schedule, where regard is to be had to the cost **to the taxpayer** or the market value of any asset acquired by him or her or to the amount of any expenditure incurred by him or her, and—

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(b) the taxpayer is or was in any previous year of assessment entitled under section 16 (3) of the last-mentioned Act to a deduction of input tax as defined in section 1 of that Act,

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Question	Comments
<p>Employer buys a computer for R11 500 and transfers ownership to the employee – employee pays R4 600 towards computer.</p>	<ul style="list-style-type: none"> <li>• Employer claims input VAT of R1 500</li> <li>• Employer pays output VAT of R600 on receipt of consideration from employee</li> <li>• Fringe benefit of R5 400 is subject to PAYE and must appear on IRP 5</li> <li>• Output VAT of R704.34 payable by employer on fringe benefit (R5 400 x 15/115)</li> </ul>

# Examples

Question	Comments
Employer pays for flight costs of employee and his spouse to Cape Town R11 500	



# Examples

Question	Comments
Employer pays for flight costs of employee and his spouse to Cape Town R11 500	<ul style="list-style-type: none"><li>• Employer claims input VAT of R1 500</li><li>• Fringe benefit of R11 500 is subject to PAYE and must appear on IRP5</li><li>• Output VAT of R1 500 payable by employer</li></ul>



# Examples

Question	Comments
Employer pays for flight costs of employee and his spouse to Cape Town R11 500	<ul style="list-style-type: none"><li>• Employer claims input VAT of R1 500</li><li>• Fringe benefit of R11 500 is subject to PAYE and must appear on IRP 5</li><li>• Output VAT of R1 500 payable by employer</li></ul>

## Contrary view

**23C. Reduction of cost or market value of certain assets.**—(1) Notwithstanding the Seventh Schedule, where regard is to be had to the cost **to the taxpayer ... of any expenditure incurred by him** or her, and—

(a) the **taxpayer** is a vendor as defined in section 1 of the Value-Added Tax Act; and

(b) the taxpayer is or was in any previous year of assessment entitled under section 16 (3) of the last-mentioned Act to a deduction of input tax as defined in section 1 of that Act,

the amount of such input tax shall be excluded from ... such expenditure

Question	Comments
Employer pays for flight costs of employee and his spouse to Cape Town R11 500	<ul style="list-style-type: none"><li>• Employer claims input VAT of R1 500</li><li>• Fringe benefit of R10 000 is subject to PAYE and must appear on IRP 5</li><li>• Output VAT of R1 304 payable by employer</li></ul>

# Examples

Question	Comments
Employer pays for flight costs of employee and his spouse to London R20 000	



# Examples

Question	Comments
Employer pays for flight costs of employee and his spouse to London R20 000	<ul style="list-style-type: none"><li>• Overseas travel is zero rated – no input VAT</li><li>• Fringe benefit of R20 000 is subject to PAYE and must appear on IRP 5</li><li>• No output VAT since cost was zero rated</li></ul>





# Examples

Question	Comments
Employer provides residential accommodation to employee	



# Examples

Question	Comments
Employer provides residential accommodation to employee	<ul style="list-style-type: none"><li>• Fringe benefit tax based on 7<sup>th</sup> Schedule Formula</li><li>• No input VAT claimable by employer to maintain property</li><li>• No output tax liability since exempt</li></ul>



# Examples

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Employer provides residential accommodation to employee	<ul style="list-style-type: none"><li>• Fringe benefit tax based on 7<sup>th</sup> Schedule Formula</li><li>• No input VAT claimable by employer to maintain property</li><li>• No output tax liability since exempt</li></ul>
Employer provides water and electricity to employee as part of residential accommodation	



# Examples

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Employer provides residential accommodation to employee	<ul style="list-style-type: none"><li>• Fringe benefit tax based on 7<sup>th</sup> Schedule Formula</li><li>• No input VAT claimable by employer to maintain property</li><li>• No output tax liability since exempt</li></ul>
Employer provides water and electricity to employee as part of residential accommodation	<p>Fringe benefit is formula driven which rate increases if water and electricity is provided</p> <p>VAT under one of 2 alternatives:</p> <ul style="list-style-type: none"><li>• No input tax claim on water and electricity costs since it is part and parcel of supply of residential accommodation. Then no output tax on fringe benefit.</li><li>• Claim VAT but pay corresponding amount of output tax.</li></ul> <p>Net VAT result must be neutral – i.e. no loss to the fiscus</p>



# Examples

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Employer provides water and electricity to employee as part of residential accommodation	Fringe benefit is formula driven which rate increases if water and electricity is provided VAT under one of 2 alternatives: <ul style="list-style-type: none"><li>• No input tax claim on water and electricity costs since it is part and parcel of supply of residential accommodation. Then no output tax on fringe benefit.</li><li>• Claim VAT but pay corresponding amount of output tax.</li></ul> Net VAT result must be neutral – i.e. no loss to the fiscus
Employer pays e-toll fees for employee's private car	



# Examples

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Employer provides water and electricity to employee as part of residential accommodation	<p>Fringe benefit is formula driven which rate increases if water and electricity is provided</p> <p>VAT under one of 2 alternatives:</p> <ul style="list-style-type: none"><li>• No input tax claim on water and electricity costs since it is part and parcel of supply of residential accommodation. Then no output tax on fringe benefit.</li><li>• Claim VAT but pay corresponding amount of output tax.</li></ul> <p>Net VAT result must be neutral – i.e. no loss to the fiscus</p>
Employer pays e-toll fees for employee's private car	<ul style="list-style-type: none"><li>• Amount will be regarded as travel allowance if employee is required to travel for business purposes.</li><li>• No input VAT claimable since the e-toll is in the name of the employee and is not in the name of the employer. Then no output VAT.</li></ul> <p><b>(Note: There is a view that the employee acts as agent on behalf of employer for toll fees. If the taxpayer can discharge the onus of proof that the employee acts as agent o.b.o. the employer, then the employer can claim the VAT).</b></p>

Was there a "supply" of "goods" or "services"?

- General Section 7(1)(a)
- Goods imported (S7(1)(b) and S13 )
- Services imported (S7(1)(c) & S14)

No

Yes

No

Yes

**Question 1:**  
In what "period" must the supply be declared? (i.e. time of supply S9)

Was there a "deemed" supply of goods or services (S8)

No

Yes

Was there a REDUCTION in the taxable use of any assets. (S18) (Terms, value and timing)

No

**Question 2**  
What is the "value" of the supply to be declared on the VAT return? (S10)

Is the supply "exempt" from VAT? S12

No

Yes

Is the supply "zero rated" for VAT purposes? S11(1) and S11(2)

Yes

No

Blocks 2 and 2A of VAT 201

- General: Blocks 1, 1A, 4 and 4A of VAT 201.
- Imported services: Block 12 of VAT 201

Block 3 of VAT 201

No declaration required



# The Tax Faculty



Time of supply (s9)  
Value of supply (s10)





# General Rule: Time of supply (S9(1))

(1) For the purposes of this Act a supply of goods or services shall, except as otherwise provided in this Act, be deemed to take place at the time

- an **invoice** is issued by the supplier or the recipient in respect of that supply or
- the time **any** payment of consideration is received by the supplier in respect of that supply, whichever time is earlier.

**“invoice”** means a document notifying an obligation to make payment;



# General Rule: Value of supply (S10(2))

The value to be placed on any supply of goods or services shall, save as is otherwise provided in this section, be

- the amount of the **consideration** for such supply, as determined in accordance with the provisions of subsection (3),
- less so much of such amount as represents tax.



# General Rule: Value of consideration

(3) For the purposes of this Act the amount of any consideration referred to in this section shall be—

- (a) to the extent that such consideration is a consideration in money, the amount of the money; and
- (b) to the extent that such consideration is not a consideration in money, the open market value of that consideration.



# Barter transactions: Example 1

Car rental company

Provide use of cars to Airline  
(market value R1million) in return  
for flights (market value  
R1million)

Airline

Provide Airline tickets (market  
value R1million) in return for use  
of cars (market value R1million)



# Barter transactions: Example 2

Car rental company

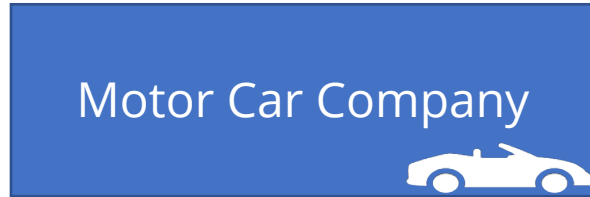
Provide use of cars to Airline (market value R1million) in return for flights (market value R1.1 million)

Airline

Provide Airline tickets (market value R1.1 million) in return for use of cars (market value R1million)



# Barter transactions: Example 2



Provide use of cars to a famous golfer for 1 year. In return, the golfer must post pictures of the vehicle on social media and must attend 3 social events in the year. The golfer is obligated to travel with the vehicle.



Receives use of car for full year. Fully insured and maintained but must bear own fuel.



# Connected parties: Time (S9(2)(a))

(2) A supply of goods or services shall be deemed to take place—

(a) where the supplier and the recipient are connected persons—

(i) in the case of a supply of goods which are to be removed, at the time of the removal; and

(ii) in the case of a supply of goods which are not to be removed, at the time when they are made available to the recipient; and

(iii) in the case of a supply of services, at the time the services are performed:

Provided that this paragraph shall not apply in any case where an invoice is issued in respect of that supply or any payment is made in respect of that supply on or before—

(aa) the day on which the return is furnished for the tax period during which that supply would, but for this proviso, have been made; or

(bb) the last day prescribed by this Act for furnishing the return for the tax period during which that supply would, but for this proviso, have been made:

Provided further that this paragraph shall not apply where the whole of the consideration or part thereof for such supply of goods or services cannot be determined at the time the goods are removed or made available or at the time the services are performed, and the recipient would have been entitled under section 16 (3) at that time to make a deduction of the full amount of tax in respect of that supply, in which case the provisions of [subsection \(1\)](#) shall apply;



# Connected parties: Value (S10(4))

(4) Where—

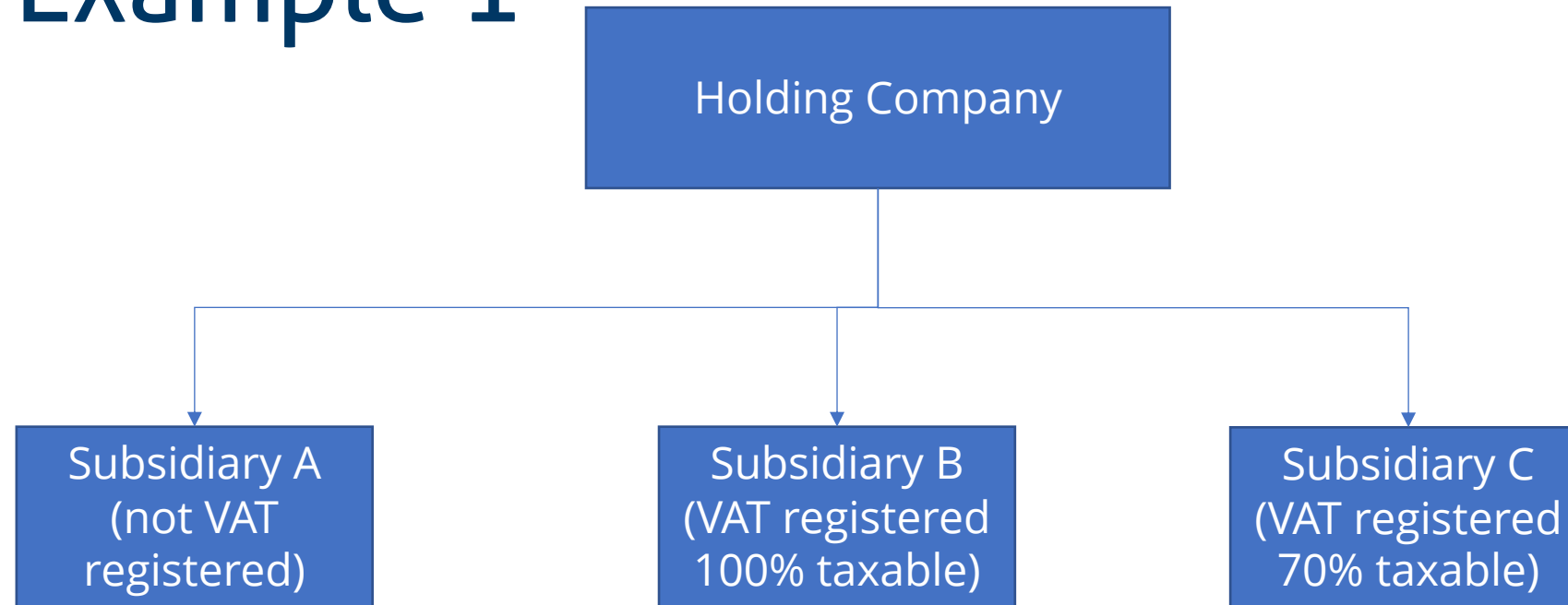
- (a) a supply is made by a person for no consideration or for a consideration in money which is less than the open market value of the supply or the consideration cannot be determined at the time of supply;
- (b) the supplier and recipient are connected persons in relation to each other; **and**
- (c) if a consideration for the supply equal to the open market value of the supply had been paid by the recipient, **he would not have been entitled under section 16 (3) to make a deduction of the full amount of tax** in respect of that supply,

the consideration in money for the supply shall be deemed to be the **open market value** of the supply...





# Example 1

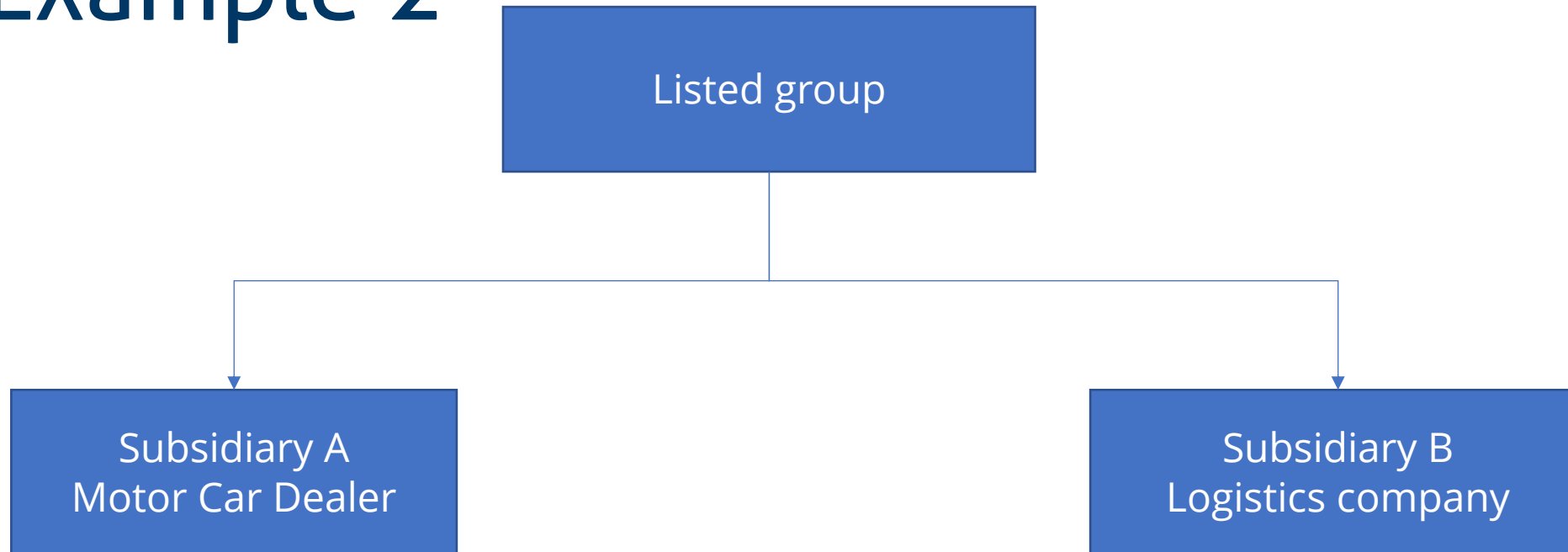


The Tax Dept is housed in the Holding Company. The salaries of the employees in the tax department is recovered with 15% VAT from subsidiaries but with no mark-up once per year.

Is this correct?



# Example 2

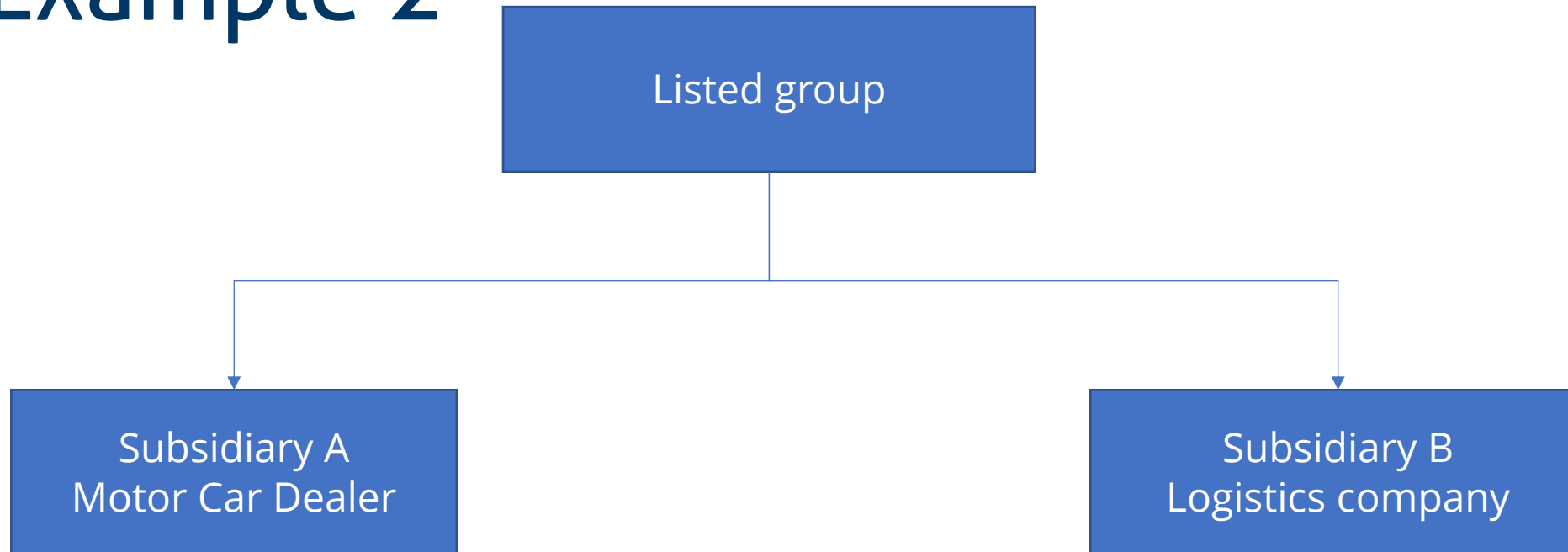


Subsidiary A owns 145 motor car dealerships.

Scenario 1: Subsidiary A sells a BMW 530d to Subsidiary B **at cost** to be used as a company car by Subsidiary B's managing director



# Example 2



Subsidiary A owns 145 motor car dealerships.

Scenario 1: Subsidiary A sells a BMW 530d to Subsidiary B **at cost** to be used as a company car by Subsidiary B's managing director

Scenario 2: Subsidiary A retains ownership of the vehicle but provides the use of the company car to Subsidiary B's managing director for no consideration. Subsidiary B pays a **nominal monthly rental** for the use of this car by its MD.



# Fixed property: VAT 409 Guide for Fixed Property and Construction

The general rule for time of supply is the earlier of an invoice being issued or payment of the consideration being made.

However, the **supply of fixed property** has a special time of supply rule, which is the earlier of –

- the date of registration of transfer of the property in the Deeds Registry, or
- the date on which any payment in respect of the consideration for the supply is made.

Notwithstanding the special time of supply rule,

- the supplier of the fixed property will only be required to account for output tax on the supply in the tax period in which payment is received.
- The term “payment” in this context means any amount received that has the effect of reducing or discharging the obligation relating to the purchase price.
- In other words, the payment received by the supplier must reduce the amount ultimately owed by the purchaser in respect of the purchase price of the property.
- Similarly, input tax can be deducted by the recipient to the extent that payment has been made which has the effect of reducing or discharging the obligation relating to the purchase price.
- **This means that vendors account for the VAT on fixed property supplies only to the extent that payment is made.**
- **However, this rule does not apply if the supply is between “connected persons” if the recipient is not entitled to a full input tax deduction in respect of the property.**



# The VAT Act

Fixed  
prop

**Section 16(4)** For the purposes of [subsection \(3\)](#), output tax in relation to a supply made by a vendor shall be attributable to a tax period—

- (a) in the case of a vendor who is in terms of section 15 required to account for tax payable on an invoice basis—
  - (i) subject to the provisions of [subparagraph \(ii\)](#), where a supply is made or is deemed to be made by him during that tax period;
  - (ii) where a supply is made under a sale concluded on or after 6 June 1996 in respect of which the provisions of section 9 (3) (d) apply (other than a supply in respect of which the provisions of section 10 (4) apply), **to the extent that payment of any consideration which has the effect of reducing or discharging any obligation (whether an existing obligation or an obligation which will arise in the future) relating to the purchase price for that supply has been made during that tax period;**

**Section 16(3)** Subject to the provisions of [subsection \(2\)](#) of this section and the provisions of sections 15 and 17, the amount of tax payable in respect of a tax period shall be calculated by deducting from the sum of the amounts of output tax of the vendor which **are attributable to that period**, as determined under [subsection \(4\)](#), and the amounts (if any) received by the vendor during that period by way of refunds of tax charged under section 7 (1) (b) and (c) and 7 (3) (a), the following amounts, namely—

- (a) in the case of a vendor who is in terms of section 15 required to account for tax payable on an invoice basis, the amounts of input tax—
  - (i) in respect of supplies of goods and services (not being supplies of second-hand goods to which paragraph (b) of the definition of “input tax” in section 1 applies and supplies referred to in [subparagraph \(iiA\)](#)) made to the vendor during that tax period;



# Rental agreement (S9(3)(a))

(3) Notwithstanding anything in [subsection \(1\)](#) or [\(2\)](#) of this section—

(a) where goods are supplied under

- any rental agreement or
- where services are supplied under any agreement or law which provides for periodic payments,
- they shall be deemed to be successively supplied for successive parts of the period of the agreement or as determined by such law,
- and each of the successive supplies
- shall be deemed to take place when
  - a payment becomes due or
  - is received,whichever is the earlier;



# Construction contracts (S9(3)(b))

where and to the extent that—

- (i) goods are supplied progressively or periodically under any agreement or law which provides for the consideration for that supply to be paid in instalments or periodically and in relation to the progressive or periodic supply of those goods; or
- (ii) goods or services supplied directly in the construction, repair, improvement, erection, manufacture, assembly or alteration of goods are supplied under any agreement or law which provides for the consideration for that supply to become due and payable in instalments or periodically in relation to the progressive nature of the work,

those goods or services shall be deemed to be successively supplied, and each such successive supply shall be deemed to take place whenever

- any payment in respect of any supply becomes due,
  - is received, or
  - any invoice relating only to that payment is issued,
- whichever is the earliest;



# Instalment credit agreement

## **Time of supply: (S9(3)(c))**

where goods are supplied under an instalment credit agreement, that supply shall, ... be

- deemed to take place at the time the goods are delivered or
  - the time any payment of consideration is received by the supplier in respect of that supply,
- whichever time is earlier;

## **Value of supply (S10(6))**

Where goods are supplied under

- an instalment credit agreement,
- the consideration in money for the supply shall be deemed to be the **cash value** of that supply.





# Instalment credit agreement defined

**“instalment credit agreement”** means any agreement entered into on or after the commencement date whereby any goods consisting of corporeal movable goods or of any machinery or plant, whether movable or immovable—

(a) are supplied under a **sale** under which—

- (i) the goods are sold by the seller to the purchaser against payment by the purchaser to the seller of a stated or determinable sum of money at a stated or determinable future date or in whole or in part in instalments over a period in the future; and
- (ii) such sum of money includes finance charges stipulated in the agreement of sale; and
- (iii) the aggregate of the amounts payable by the purchaser to the seller under such agreement exceeds the cash value of the supply; and
- (iv) (aa) the purchaser does not become the owner of those goods merely by virtue of the delivery to or the use, possession or enjoyment by him thereof; or  
(bb) the seller is entitled to the return of those goods if the purchaser fails to comply with any term of that agreement; or



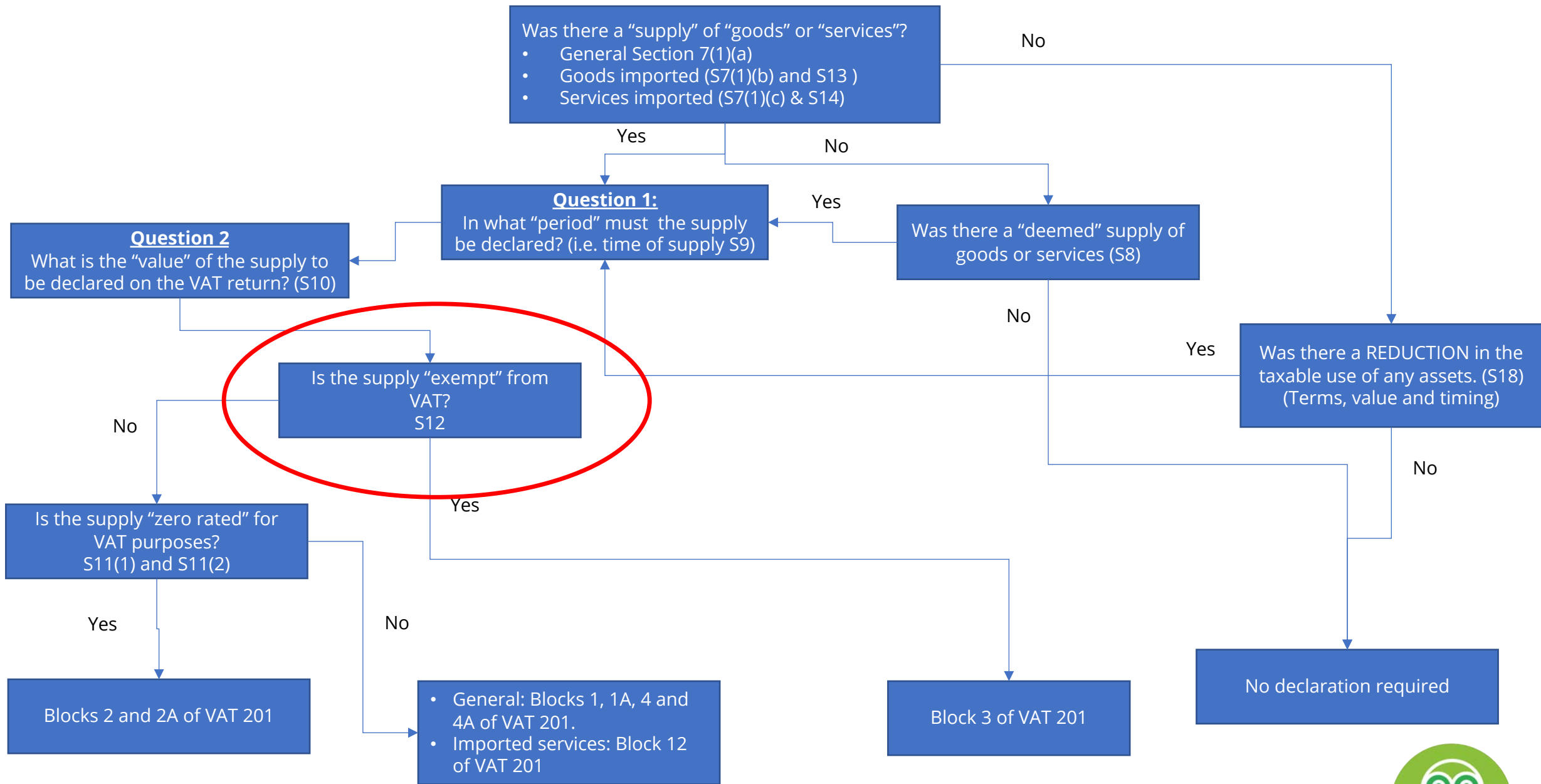
# Instalment credit agreement defined

**“instalment credit agreement”** means any agreement entered into on or after the commencement date whereby any goods consisting of corporeal movable goods or of any machinery or plant, whether movable or immovable—

(b) are supplied under a **lease** under which—

- (i) the rent consists of a stated or determinable sum of money payable at a stated or determinable future date or periodically in whole or in part in instalments over a period in the future; and
- (ii) such sum of money includes finance charges, including any amount determined with reference to the time value of money, stipulated in the lease; and
- (iii) the aggregate of the amounts payable under such lease by the lessee to the lessor for the period of such lease (disregarding the right of any party thereto to terminate the lease before the end of such period) and any residual value of the leased goods on termination of the lease, as stipulated in the lease, exceeds the cash value of the supply; and
- (iv) the lessee is entitled to the possession, use or enjoyment of those goods for a period of at least 12 months; and
- (v) (aa) the lessee accepts the full risk of destruction or loss of, or other disadvantage to, those goods and assumes all obligations of whatever nature arising in connection with the insurance, maintenance and repair of those goods while the agreement remains in force; or
  - (bb) (A) the lessor accepts the full risk of destruction or loss of, or other disadvantage to those goods and assumes all obligations of whatever nature arising in connection with the insurance of those goods; and
  - (B) the lessee accepts the full risk of maintenance and repair of those goods and reimburses the lessor for the insurance of those goods, while the agreement remains in force;





# Financial Services (S12(a))

The supply of any of the following goods or services shall be **exempt** from the tax imposed under section 7 (1) (a):

- (a) The supply of any financial services, but **excluding** the supply of financial services which, but for this paragraph, **would be charged with tax at the rate of zero per cent under section 11;**



# Financial services defined (S2)

**2. Financial services.**—(1) For the purposes of this Act, the following activities shall be deemed to be financial services:

- (a) The exchange of currency (whether effected by the exchange of bank notes or coin, by crediting or debiting accounts, or otherwise);
- (b) the issue, payment, collection or transfer of ownership of a cheque or letter of credit;
- (c) the issue, allotment, drawing, acceptance, endorsement or transfer of ownership of a debt security;
- (d) the issue, allotment or transfer of ownership of an equity security or a participatory security
- (f) the provision by any person of credit under an agreement by which money or money's worth is provided by that person to another person who agrees to pay in the future a sum or sums exceeding in the aggregate the amount of such money or money's worth;



# Financial services defined (S2)

- (i) the provision, or transfer of ownership, of a long-term insurance policy, the provision or transfer of ownership of reinsurance in respect of any such policy: Provided that such an activity shall not be deemed to be a financial service to the extent that it includes the management of a superannuation scheme;
- (j) the provision, or transfer of ownership, of an interest in a superannuation scheme;
- (k) the buying or selling of any derivative or the granting of an option: Provided that where a supply of the underlying goods or services takes place, that supply shall be deemed to be a separate supply of goods or services at the open market value thereof: Provided further that the open market value of those goods or services shall not be deemed to be consideration for a financial service as contemplated in this paragraph:
- (o) the issue, acquisition, collection, buying or selling or transfer of ownership of any cryptocurrency:



# Financial services defined (S2)

**Provided** that the activities contemplated in paragraphs (a), (b), (c), (d), (f) and (o)

- shall not be deemed to be financial services
- to the extent that the consideration payable in respect thereof is
- any **fee, commission, merchant's discount or similar charge**, excluding any discount cost.



# Residential accommodation (S12(d))

(d) the supply of leasehold land by way of letting ... to the extent that that land is used or is to be used for the principal purpose of accommodation in a **dwelling** erected or to be erected on that land;

**“dwelling”** means, except where it is used in the supply of commercial accommodation, any building, premises, structure, or any other place, or any part thereof,

- used predominantly as a place of residence or abode
- of any natural person or
- which is intended for use predominantly as a place of residence or abode of any natural person,
- including fixtures and fittings belonging thereto and enjoyed therewith





# Passenger transport (S12(g))

- the supply by any person in the course of
- a transport business
- of any service comprising the transport by that person in a vehicle ...
- operated by him of **fare-paying passengers**
- and their personal effects by **road or railway** (excluding a funicular railway),
- not being a supply of any such service which, but for this paragraph, would be charged with tax at the rate of zero per cent under section 11 (2) (a)



# Educational services (S12(h))

- (i) the supply of educational services—
  - (aa) provided by the State or a school registered under the South African Schools Act, 1996 (Act No. 84 of 1996), or a public college or private college established, declared or registered as such under the Further Education and Training Colleges Act, 2006 (Act No. 16 of 2006);
  - (bb) by an institution that provides higher education on a full time, part-time or distance basis and which is established or deemed to be established as a public higher education institution under the Higher Education Act, 1997 (Act No. 101 of 1997), or is declared as a public higher education institution under that Act, or is registered or conditionally registered as a private higher education institution under that Act; or
  - (cc) by any public benefit organisation as contemplated in paragraph (a) of the definition of “public benefit organisation” contained in section 30 (1) of the Income Tax Act that has been approved by the Commissioner in terms of section 30 (3) of that Act and which has been formed for—
    - (A) adult basic education and training including literacy and numeracy education, registered under the Adult Basic Education and Training Act, 2000 (Act No. 52 of 2000), vocational training or technical education;
    - (B) education and training of religious or social workers;
    - (C) training or education of persons with a permanent physical or mental impairment;
    - (E) provision of bridging courses to enable indigent persons to enter a higher education institution as envisaged in subparagraph (bb);

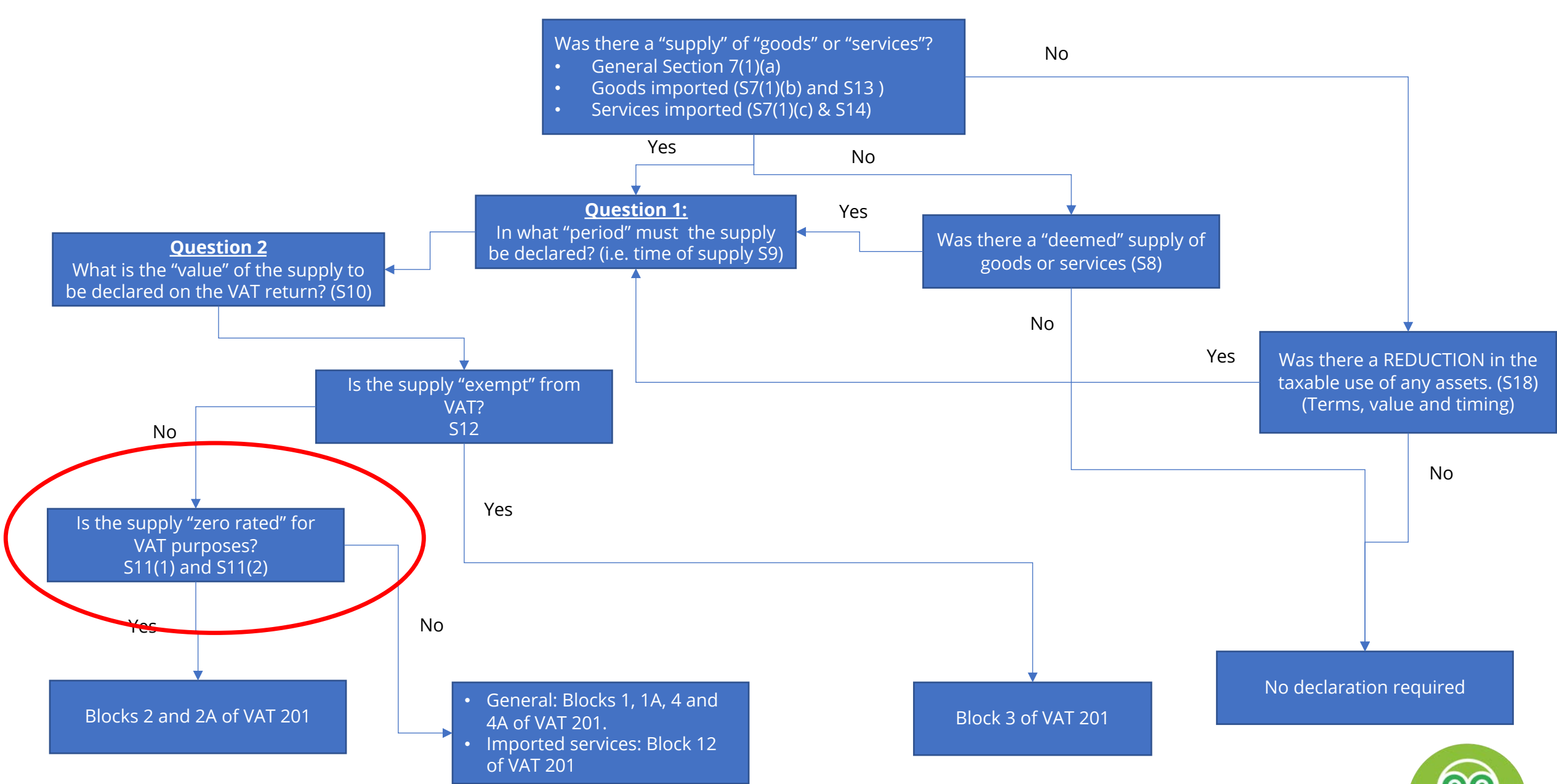


# Educational services (S12(h)) (Continued)

- (ii) the supply by a school, university, technikon or college solely or mainly for the benefit of its learners or students of goods or services (including domestic goods and services) necessary for and subordinate and incidental to the supply of services referred to in [subparagraph \(i\)](#) of this paragraph, if such goods or services are supplied for a consideration in the form of school fees, tuition fees or payment for lodging or board and lodging; or
- (iii) the supply of services to learners or students or intended learners or students by the Joint Matriculation Board referred to in [section 15](#) of the Universities Act, 1955 ([Act No. 61 of 1955](#)):

Provided that vocational or technical training provided by an employer to his employees and employees of an employer who is a connected person in relation to that employer does not constitute the supply of an educational service for the purposes of this paragraph;







## Zero rated supplies Goods (S11(1))



# Sale of going concern (S11(1)(e))

... the supply is to a registered vendor of an enterprise or of a part of an enterprise which is capable of separate operation, where the supplier and the recipient have agreed in writing that such enterprise or part, as the case may be, is disposed of as a going concern:

Provided that—

- (i) such enterprise or part, as the case may be, shall not be disposed of as a going concern unless—
  - (aa) such supplier and such recipient have, at the time of the conclusion of the agreement for the disposal of the enterprise or part, as the case may be, agreed in writing that such enterprise or part, as the case may be, will be an income-earning activity on the date of transfer thereof; and
  - (bb) the assets which are necessary for carrying on such enterprise or part, as the case may be, are disposed of by such supplier to such recipient; and
  - (cc) in respect of supplies on or after 1 January 2000, such supplier and such recipient have at the time of the conclusion of the agreement for the disposal of such enterprise or part, as the case may be, agreed in writing that the consideration agreed upon for that supply is inclusive of tax at the rate of zero per cent;
- (ii) where the enterprise or part, as the case may be, disposed of as a going concern has been carried on in, on or in relation to goods or services applied mainly for purposes of such enterprise or part, as the case may be, and partly for other purposes, such goods or services shall, where disposed of to such recipient, for the purposes of this paragraph and section 18A be deemed to form part of such enterprise or part, as the case may be, notwithstanding the provisions of paragraph (v) of the proviso to the definition of “enterprise” in section 1



# Examples

Detail	Conclusion
Land and building is sold without a rental agreement	S11(1)(e) cannot apply

# Examples

Detail	Conclusion
Land and building is sold without a rental agreement	S11(1)(e) cannot apply
Land and building is sold with rental (for entire property) agreement to 3 <sup>rd</sup> party	S11(1)(e) can apply



# Examples

Detail	Conclusion
Land and building is sold without a rental agreement	S11(1)(e) cannot apply
Land and building is sold with rental (for entire property) agreement to 3 <sup>rd</sup> party	S11(1)(e) can apply
Land and building being let is sold to the tenant	S11(1)(e) cannot apply

# Examples

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Land and building is sold and then leased back	S11(1)(e) cannot apply

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Sell of assets of dormant business which the purchaser will use to commence business	S11(1)(e) cannot apply

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Motor Car Manufacturer sells a paint shop (part of the business) to a purchaser with the equipment, employees and stock.	S11(1)(e) can apply

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Sell of assets of dormant business which the purchaser will use to commence business	S11(1)(e) cannot apply
Motor Car Manufacturer sells a paint shop (part of the business) to a purchaser with the equipment, employees and stock.	S11(1)(e) can apply
Sells building with rental agreements – where 60% of the building is let as commercial property and 40% as residential	<ul style="list-style-type: none"><li>• S11(1)(e) can apply</li><li>• Claim input tax for 60% S16(3)(h) on lower of cost/MV on 40%</li><li>• Purchaser will have S18A output VAT</li></ul>

# Examples

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Motor Car Manufacturer sells a paint shop (part of the business) to a purchaser with the equipment, employees and stock.	S11(1)(e) can apply
Sells building with rental agreements – where 60% of the building is let as commercial property and 40% as residential	<ul style="list-style-type: none"> <li>• S11(1)(e) can apply</li> <li>• Claim input tax for 60% S16(3)(h) on lower of cost/MV on 40%</li> <li>• Purchaser will have S18A output VAT</li> </ul>
Sells building with rental agreements – where 40% of the building is let as commercial property and 60% as residential	<ul style="list-style-type: none"> <li>• S11(1)(e) cannot apply – 15%</li> <li>• Claim input tax for 60% S16(3)(h) on lower of cost/MV on 60%</li> <li>• Purchaser can only claim 40% input VAT</li> </ul>

# Adjustment where sale of going concern (S18A)

- Applies where business acquired as going concern
- Used partially for purposes of making non taxable supplies
- Deemed supply valued at:
  - Cost of acquiring business
  - Less: percentage taxable supplies
- Vendor sells an office block with rental agreements to the purchaser for R10m with zero rate VAT.
- Purchaser intends renting out 20% of the space as residential accommodation.
- Purchaser is deemed to make supply as follows:

Total cost      R10m

Less:              80%

Equals            R2m

Output VAT = R2m x 15% = R300k



# Documentary evidence: IN 31

Disposal of an enterprise or part thereof as a going concern [section 11(1)(e)]

- a) A copy of the contract of sale between the recipient and the vendor confirming in writing that –
  - i) the enterprise or part thereof –
    - is disposed of as a going concern; and
    - will be an income-earning activity on the date of transfer thereof;
  - ii) the assets necessary for carrying on such enterprise or part thereof must be disposed of to the purchaser; and
  - iii) the consideration for the supply includes VAT at the zero rate;
- b) Tax invoice; and
- c) The recipient's Notice of Registration.





## Zero-rated foodstuff (S11(1)(g))

the supply is of such goods used or consumed for agricultural, pastoral or other farming purposes as are set forth in Part A of Schedule 2, provided such supply is made in compliance with such conditions as may be prescribed in the said Part;



# Type of goods

The provisions of [paragraph 1](#) shall apply only if the Commissioner, in respect of a vendor registered under this Act, is satisfied that that vendor, being the recipient of any such goods, carries on agricultural, pastoral or other farming operations and has issued to him a notice of registration in which authorization is granted whereby the goods concerned may be supplied to him at the rate of zero per cent

- Animal Feed
- Animal remedy
- Fertilizer
- Pesticide
- Plants
- Seed



# Documentary evidence: IN 31

<p>Goods used or consumed for agricultural, pastoral or other farming purposes [section 11(1)(g)]</p>	<ul style="list-style-type: none"><li>a) <u>Tax invoice</u>; and</li><li>b) The recipient's Notice of Registration in which authorisation is granted for goods to be supplied to that recipient, at the rate of 0%.</li></ul>
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## Zero-rated foodstuff (S11(1)(j))

the goods consist of such foodstuffs as are set forth in Part B of Schedule 2, but subject to such conditions as may be prescribed in the said Part



# Zero rated foodstuff

## 6.3.1 Certain basic foodstuffs

Certain basic foodstuffs are zero-rated, provided it is not supplied for immediate consumption (that is, as a meal or refreshment) or added to a standard-rated supply. These include the following:

<ul style="list-style-type: none"><li>• brown bread</li></ul>	<ul style="list-style-type: none"><li>• dried mealies and mealie rice</li></ul>
<ul style="list-style-type: none"><li>• brown bread flour (excluding wheaten bran)</li></ul>	<ul style="list-style-type: none"><li>• samp</li></ul>
<ul style="list-style-type: none"><li>• hens eggs<sup>56</sup> (that is, not from ostriches, ducks etc)</li></ul>	<ul style="list-style-type: none"><li>• vegetables<sup>57</sup> and fresh fruit</li></ul>
<ul style="list-style-type: none"><li>• dried beans</li></ul>	<ul style="list-style-type: none"><li>• lentils</li></ul>
<ul style="list-style-type: none"><li>• maize meal</li></ul>	<ul style="list-style-type: none"><li>• rice</li></ul>
<ul style="list-style-type: none"><li>• pilchards in tins or cans</li></ul>	<ul style="list-style-type: none"><li>• vegetable cooking oil (excluding olive oil)<sup>58</sup></li></ul>
<ul style="list-style-type: none"><li>• milk, cultured milk, milk powder and dairy powder blend</li></ul>	<ul style="list-style-type: none"><li>• edible legumes and pulses of leguminous plants (that is, peas, beans, peanuts etc)</li></ul>

Documentary evidence: IN 31

**M**

Certain specified foodstuffs  
[section 11(1)(j)] (Part B of  
Schedule 2)

Tax invoice.

# Zero Rated Foodstuff

- The zero rate will not apply where –
- Zero-rated foodstuffs are prepared for immediate consumption for example –
  - a glass of milk served in a restaurant;
  - a pre-packed salad with salad dressing purchased at a supermarket;
  - sandwiches and other take-away foods.
- A standard rated product or ingredient is supplied together with a zero-rated foodstuff for example –
  - a punnet of vegetables seasoned with herbs and including a stick of butter;
  - a pack of rice or beans containing a sachet of flavouring;
  - a gift hamper consisting of a basket of fruit with chocolates and nuts.



## Export of Goods (S11(1)(a))



Export of  
goods by RSA  
Vendor





Direct export  
RSA Vendor contracts & pay transport contractor

Export of goods by RSA Vendor



Direct export  
RSA Vendor contracts & pay transport contractor

Export of goods by RSA Vendor

Indirect export  
Goods collected by non-resident or non-resident pays for transport



**Direct export**  
RSA Vendor contracts & pay transport contractor

**Export of goods by RSA Vendor**

**Indirect export**  
Goods collected by non-resident or non-resident pays for transport

**“exported”**, in relation to any movable goods supplied by any vendor under a sale or an instalment credit agreement, means—  
(a) consigned or delivered by the vendor to the recipient at an address in an export country as evidenced by documentary proof acceptable to the Commissioner

**INTERPRETATION NOTE: NO. 30 (ISSUE 3)**

The supply of movable goods as contemplated in section 11(1)(a)(i) read with paragraph (a) of the definition of “exported” and the corresponding documentary proof

In order for a vendor to substantiate its entitlement to apply the zero rate to the supply of movable goods to a recipient at an address in an export country, that vendor must be in possession of documentary proof as is acceptable to the Commissioner.  
In the event that the Commissioner is not satisfied that there is sufficient proof of export, the supply cannot be zero-rated and, is therefore, subject to VAT at the standard rate.

- This Note –
- only applies to direct exports, that is, movable goods supplied by the vendor under a sale or instalment credit agreement and consigned or delivered at an address in an export country;
  - A vendor experiencing difficulty in determining the applicable rate of tax may, before applying the zero rate to the supply of movable goods, submit a written application to the Commissioner.



# Interpretation Note 30

## 6.2 Movable goods physically delivered by the vendor at an address in an export country

A vendor who physically delivers movable goods to a recipient at an address in an export country as contemplated in paragraph (b) of the definition of “consigned or delivered” (see Preamble), must obtain and retain –

- a copy of the zero-rated tax invoice;
- the recipient’s order or the contract between the recipient and the vendor;
- the customs documentation;
- proof that the movable goods have been received by the recipient in the export country;
- the transport documentation as required for the relevant mode of transport in terms of 6.3); and
- proof of payment for the movable goods supplied to the recipient.



# Interpretation Note 30 <sup>Rail</sup>

## 6.3 Movable goods conveyed by the vendor's cartage contractor to an address in an export country

The table below lists the documentation a vendor must obtain and retain if the vendor delivers movable goods to an export depot, railway station, harbour, airport, postal service or a courier company in the Republic or the vendor's cartage contractor takes possession of the movable goods at the premises of the vendor, from where the movable goods are exported by the cartage contractor for delivery to the recipient at an address in an export country.

Mode of transport	Documentation
Road	<ul style="list-style-type: none"> <li>(a) A copy of the zero-rated tax invoice</li> <li>(b) The recipient's order or the contract between the recipient and the vendor</li> <li>(c) Proof that the vendor paid the transport costs</li> <li>(d) Either –                             <ul style="list-style-type: none"> <li>(i) a copy of the relevant document to prove that the cartage contractor took possession of the movable goods from the vendor; or</li> <li>(ii) a copy of the road manifest issued by the cartage contractor</li> </ul> </li> <li>(e) A copy of the proof of delivery issued by the cartage contractor that the movable goods have been received by the recipient in the export country</li> <li>(f) The customs documentation</li> <li>(g) Proof of payment for the movable goods supplied to the recipient</li> </ul>

Rail	<ul style="list-style-type: none"> <li>(a) A copy of the zero-rated tax invoice</li> <li>(b) The recipient's order or the contract between the recipient and the vendor</li> <li>(c) Proof that the vendor paid the transport costs</li> <li>(d) A copy of the rail consignment note; or if by –                             <ul style="list-style-type: none"> <li>(i) wagon, a copy of the combined consignment note and wagon label issued by the rail operator; or</li> <li>(ii) container, a copy of the container terminal order or freight transit order issued by the container operator or the rail operator</li> </ul> </li> <li>(e) The customs documentation</li> <li>(f) Proof of payment for the movable goods supplied to the recipient</li> </ul>
Sea	<ul style="list-style-type: none"> <li>(a) A copy of the zero-rated tax invoice</li> <li>(b) The recipient's order or the contract between the recipient and the vendor</li> <li>(c) Proof that the vendor paid the transport costs</li> <li>(d) A copy of the sea freight transport document</li> <li>(e) The customs documentation</li> <li>(f) Proof of payment for the movable goods supplied to the recipient</li> </ul>
Air	<ul style="list-style-type: none"> <li>(a) A copy of the zero-rated tax invoice</li> <li>(b) The recipient's order or the contract between the recipient and the vendor</li> <li>(c) Proof that the vendor paid the transport costs</li> <li>(d) A copy of the airfreight transport document</li> <li>(e) The customs documentation</li> <li>(f) Proof of payment for the movable goods supplied to the recipient</li> </ul>
Post	<ul style="list-style-type: none"> <li>(a) A copy of the zero-rated tax invoice</li> <li>(b) The recipient's order or the contract between the recipient and the vendor</li> <li>(c) Proof that the vendor paid the postage costs</li> <li>(d) Proof of receipt of the movable goods by the postal service;</li> <li>(e) The customs documentation</li> <li>(f) Proof of payment for the movable goods supplied to the recipient</li> </ul>

# Time periods

- (a) In order to apply the zero rate to the supply of movable goods that are to be exported, the vendor must obtain the required documentary proof within a period of 90 days calculated from the date the movable goods are required to be exported from the Republic as contemplated in **5.1** and **5.2**.
- (b) In the event that the required documentation is not obtained by the vendor within the prescribed period set out in **7(a)**, the requirements of section 11(3) are not met and VAT therefore could not have been levied at the zero rate under section 11(1). As a result, the vendor is required to account for output tax on the supply. The output tax is calculated by applying the tax fraction to the consideration for the supply. The vendor must include the amount of output tax in Block 12 of the VAT return for the tax period in which the said period of 90 days ends.
- (c) Should the vendor receive the documentation in respect of which output tax was calculated as stipulated in **7(b)** within five years from the end of the tax period during which the original tax invoice for that supply was or should have been issued, the output tax adjustment as contemplated in **7(b)** may be deducted as an adjustment in Block 18 of the VAT return for the tax period in which this documentation is received. Provided that the vendor must be able to provide proof to the Commissioner that the vendor –
  - (i) initially accounted for VAT at the zero rate;
  - (ii) has furnished a return for the tax period for which the output tax calculated in **7(b)**, that is, the output tax adjustment, was payable; and
  - (iii) has properly accounted for the output tax on that supply as contemplated in **7(b)**.
- (d) The vendor having obtained all the other required documentary proof is not required to account for output tax as a result of not obtaining the required proof of payment for the total consideration within the period set out in **7(a)** if –
  - (i) the vendor has entered into a written contract with the recipient for the payment of the consideration for the supply to be made after or over a period exceeding the 90 days but not exceeding six months;
  - (ii) the vendor has entered into a written contract with the recipient for the payment of the consideration for the supply to be made after or over a period exceeding six months but not exceeding 12 months and has the relevant approval from a dealer in foreign exchange authorised by the South African Reserve Bank;
  - (iii) the vendor has entered into a written contract with the recipient for the payment of the consideration for the supply to be made after or over a period exceeding 12 months and has the relevant approval from the South African Reserve Bank;
  - (iv) a written contract provides for a retention amount to be withheld for a period exceeding five years due to the nature of the goods supplied and proof of payment of the retention amount has not been obtained;
  - (v) the recipient is unable to effect the payment due to the restrictions imposed on foreign exchange by the country in which the recipient conducts its enterprise;
  - (vi) the vendor has the relevant approval from the South African Reserve Bank or a dealer in foreign exchange authorized by the South African Reserve Bank not to repatriate any foreign currency for that supply;
  - (vii) in the case of exports *via* air or sea, the time of export has occurred but the movable goods have not yet been removed from the Republic. This exception is limited to a period of six months from the time of export; or
  - (viii) the vendor has written off the said consideration as irrecoverable.

# Export of goods by RSA Vendor

**Direct export**  
RSA Vendor contracts & pay transport contractor

**Indirect export**  
Goods collected by non-resident or non-resident pays for transport

**“exported”**, in relation to any movable goods supplied by any vendor under a sale or an instalment credit agreement, means—  
(a) consigned or delivered by the vendor to the recipient at an address in an export country as evidenced by documentary proof acceptable to the Commissioner

**“exported”**, in relation to any movable goods supplied by any vendor under a sale or an instalment credit agreement, means—  
(d) removed from the Republic by the recipient or recipient’s agent for conveyance to an export country in accordance with any regulation made by the Minister in terms of this Act;

**INTERPRETATION NOTE: NO. 30 (ISSUE 3)**  
The supply of movable goods as contemplated in section 11(1)(a)(i) read with paragraph (a) of the definition of “exported” and the corresponding documentary proof

In order for a vendor to substantiate its entitlement to apply the zero rate to the supply of movable goods to a recipient at an address in an export country, that vendor must be in possession of documentary proof as is acceptable to the Commissioner.  
In the event that the Commissioner is not satisfied that there is sufficient proof of export, the supply cannot be zero-rated and, is therefore, subject to VAT at the standard rate.  
This Note –

- only applies to direct exports, that is, movable goods supplied by the vendor under a sale or instalment credit agreement and consigned or delivered at an address in an export country;
- A vendor experiencing difficulty in determining the applicable rate of tax may, before applying the zero rate to the supply of movable goods, submit a written application to the Commissioner.



# Export of goods by RSA Vendor

**Direct export**  
RSA Vendor contracts & pay transport contractor

**Indirect export**  
Goods collected by non-resident or non-resident pays for transport

**"exported"**, in relation to any movable goods supplied by any vendor under a sale or an instalment credit agreement, means—  
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**"exported"**, in relation to any movable goods supplied by any vendor under a sale or an instalment credit agreement, means—  
(d) removed from the Republic by the recipient or recipient's agent for conveyance to an export country in accordance with any regulation made by the Minister in terms of this Act;

**INTERPRETATION NOTE: NO. 30 (ISSUE 3)**  
The supply of movable goods as contemplated in section 11(1)(a)(i) read with paragraph (a) of the definition of "exported" and the corresponding documentary proof

Road, rail, air & sea

In order for a vendor to substantiate its entitlement to apply the zero rate to the supply of movable goods to a recipient at an address in an export country, that vendor must be in possession of documentary proof as is acceptable to the Commissioner.  
In the event that the Commissioner is not satisfied that there is sufficient proof of export, the supply cannot be zero-rated and, is therefore, subject to VAT at the standard rate.  
This Note –  
• only applies to direct exports, that is, movable goods supplied by the vendor under a sale or instalment credit agreement and consigned or delivered at an address in an export country;  
• A vendor experiencing difficulty in determining the applicable rate of tax may, before applying the zero rate to the supply of movable goods, submit a written application to the Commissioner.

15% VAT charged  
Qualifying purchaser claim refund from the VRA

Part 1 of Regulation 316 Government Gazette 37580





# Export of goods by RSA Vendor

**Direct export**  
RSA Vendor contracts & pay transport contractor

**Indirect export**  
Goods collected by non-resident or non-resident pays for transport

**"exported"**, in relation to any movable goods supplied by any vendor under a sale or an instalment credit agreement, means—  
(a) consigned or delivered by the vendor to the recipient at an address in an export country as evidenced by documentary proof acceptable to the Commissioner

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(d) removed from the Republic by the recipient or recipient's agent for conveyance to an export country in accordance with any regulation made by the Minister in terms of this Act;

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In order for a vendor to substantiate its entitlement to apply the zero rate to the supply of movable goods to a recipient at an address in an export country, that vendor must be in possession of documentary proof as is acceptable to the Commissioner.  
In the event that the Commissioner is not satisfied that there is sufficient proof of export, the supply cannot be zero-rated and, is therefore, subject to VAT at the standard rate.  
This Note –  
• only applies to direct exports, that is, movable goods supplied by the vendor under a sale or instalment credit agreement and consigned or delivered at an address in an export country;  
• A vendor experiencing difficulty in determining the applicable rate of tax may, before applying the zero rate to the supply of movable goods, submit a written application to the Commissioner.

Road, rail, air & sea

Goods initially delivered to Harbour or airport or are supplied by pipeline or electrical transmission line before being exported

15% VAT charged  
Qualifying purchaser claim refund from the VRA

Vendor may elect to apply 0%

Part 1 of Regulation 316 Government Gazette 37580

Part 2-Section A of Regulation 316 Government Gazette 37580



# Export of goods by RSA Vendor

**Direct export**  
RSA Vendor contracts & pay transport contractor

**Indirect export**  
Goods collected by non-resident or non-resident pays for transport

**"exported"**, in relation to any movable goods supplied by any vendor under a sale or an instalment credit agreement, means—  
(a) consigned or delivered by the vendor to the recipient at an address in an export country as evidenced by documentary proof acceptable to the Commissioner

**"exported"**, in relation to any movable goods supplied by any vendor under a sale or an instalment credit agreement, means—  
(d) removed from the Republic by the recipient or recipient's agent for conveyance to an export country in accordance with any regulation made by the Minister in terms of this Act;

**INTERPRETATION NOTE: NO. 30 (ISSUE 3)**  
The supply of movable goods as contemplated in section 11(1)(a)(i) read with paragraph (a) of the definition of "exported" and the corresponding documentary proof

In order for a vendor to substantiate its entitlement to apply the zero rate to the supply of movable goods to a recipient at an address in an export country, that vendor must be in possession of documentary proof as is acceptable to the Commissioner.  
In the event that the Commissioner is not satisfied that there is sufficient proof of export, the supply cannot be zero-rated and, is therefore, subject to VAT at the standard rate.  
This Note –  
• only applies to direct exports, that is, movable goods supplied by the vendor under a sale or instalment credit agreement and consigned or delivered at an address in an export country;  
• A vendor experiencing difficulty in determining the applicable rate of tax may, before applying the zero rate to the supply of movable goods, submit a written application to the Commissioner.

Road, rail, air & sea

Goods initially delivered to Harbour or airport or are supplied by pipeline or electrical transmission line before being exported

Movable goods are exported by qualifying purchaser's agent by Road or Rail

15% VAT charged  
Qualifying purchaser claim refund from the VRA

Vendor may elect to apply 0%

Vendor may elect to apply 0%

Part 1 of Regulation 316 Government Gazette 37580

Part 2-Section A of Regulation 316 Government Gazette 37580

Part 2-Section B of Regulation 316 Government Gazette 37580

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

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



**“agent”**, for purposes of Parts Two – Section B and Three, means a registered vendor—

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

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



# The Tax Faculty



## Zero rated supplies: Services (S11(2))



# Services physically performed outside RSA (S11(2)(k))

**11. Zero rating** (2) *Where, but for this section, a supply of services, other than services contemplated in section 11 (2) (k) that are electronic services, would be charged with tax at the rate referred to in section 7 (1), such supply of services shall, subject to compliance with subsection (3) of this section, be charged with tax at the rate of zero per cent where—*

*(k) the services are physically rendered elsewhere than in the Republic or to a customs controlled area enterprise or an SEZ operator in a customs controlled area;*



# Documentary evidence: IN 31

<p>Services physically rendered in an export country or to a <u>CCA</u> or an IDZ operator in a CCA [section 11(2)(k)]</p>	<ul style="list-style-type: none"><li>a) <u>Tax invoice</u>;</li><li>b) Services physically rendered in an export country:<ul style="list-style-type: none"><li>i) A copy of the vendor's or the vendor's employee's passport bearing a stamp of entry into the export country; or</li><li>ii) In instances where a vendor sub-contracts the services to a person situated in an export country, a copy of the contract between the vendor and the subcontracted person situated in an export country; or</li></ul></li><li>c) Services physically rendered to a CCA or an IDZ operator in a CCA of an IDZ: <p>The original page of the VAT267 form endorsed by an IDZ operator to evidence the entry and exit of the vendor or the vendor's employee into and out of a CCA of an IDZ, in order to perform the services; and</p></li><li>d) <u>Proof of payment</u>.</li></ul>
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# Services rendered to non-residents (S11(2)(l))

**11. Zero rating** (2) Where, but for this section, a supply of services, other than services contemplated in section 11 (2) (k) that are electronic services, would be charged with tax at the rate referred to in section 7 (1), such supply of services shall, subject to compliance with subsection (3) of this section, be charged with tax at the rate of zero per cent where—

- (l) the services are supplied to a person who is not a resident of the Republic, not being services which are supplied directly—
  - (i) in connection with land or any improvement thereto situated inside the Republic; or
  - (ii) in connection with movable property (excluding debt securities, equity securities or participatory securities) situated inside the Republic at the time the services are rendered, except movable property which—
    - (aa) is exported to the said person subsequent to the supply of such services; or
    - (bb) forms part of a supply by the said person to a registered vendor and such services are supplied to the said person for purposes of such supply to the registered vendor; or
  - (iii) to the said person or any other person, other than in circumstances contemplated in subparagraph (ii) (bb), if the said person or such other person is in the Republic at the time the services are rendered,

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



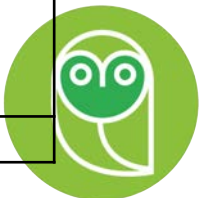


**“resident of the Republic”** means a resident as defined in [section 1](#) of the Income Tax Act: Provided that any other person or any other company shall be deemed to be a resident of the Republic to the extent that such person or company carries on in the Republic any enterprise or other activity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



# Services rendered to non-residents (S11(2)(l))

#	Requirement	Requirement	Application
1	11(2)(l)	The services must be supplied to a person who is not a resident of the Republic	
2	11(2)(l)(i)	The services may not relate to land or improvement thereto situated in South Africa	
3	11(2)(l)(ii)(aa)	If the services relate to movable goods, then the zero rating may apply if the goods are subsequently exported	
4	11(2)(l)(ii)(bb)	<p>If the services relate to movable goods situated in South Africa, then the zero rate may be applied if:</p> <ul style="list-style-type: none"> <li>• The services form part of a supply by the non-resident to a South African vendor; and</li> <li>• The services are supplied to the non-resident for purposes of such supply to the registered vendor.</li> </ul>	
5	11(2)(l)(iii)	<p>The zero rate cannot be applied if the services are supplied to the non-resident or any other person if the non-resident or other person is in South Africa at the time the services are rendered.</p> <p>NB: This proviso is not applicable if S11(2)(l)(ii)(bb) is applicable.</p>	
6	Section 11(2)(l)	The services may not constitute a restraint of trade.	



# Documentary evidence: IN 31

Certain services supplied to a person that is not a resident of the Republic  
[section 11(2)(l)]

- a) Tax invoice;
- b) Written confirmation from the recipient that it is not a resident of the Republic;
- c) Proof of payment; and
- d) **Section 11(2)(l)(ii)(aa):**  
Proof of export (see **Table A, Item A**); or
- e) **Section 11(2)(l)(ii)(bb):**  
A statement from the non-resident containing the name, address and VAT registration number of that non-resident's local recipient; or
- f) **Section 11(2)(l)(iii):**  
A statement from the non-resident that the non-resident or any other person as contemplated in section 11(2)(l)(iii) is not present in the Republic at the time that the services are rendered.



# International transport services in respect of passengers and goods [section 11(2)(a)]

(2) ... such supply of services shall, subject to compliance with [subsection \(3\)](#) of this section, be charged with tax at the rate of zero per cent where—

- (a) the services (not being ancillary transport services) comprise the transport of passengers or goods—
  - (i) from a place outside the Republic to another place outside the Republic; or
  - (ii) from a place in the Republic to a place in an export country; or
  - (iii) from a place in an export country to a place in the Republic;



# Documentary evidence: IN 31

<p>International transport services in respect of goods [section 11(2)(a)]</p>	<p>a) <u>Tax invoice</u>;</p> <p>b) The <u>applicable transport document</u> indicating the collection and delivery addresses or the point of origin and the point of destination;</p> <p>c) Signed <u>delivery</u> note or goods received note; and</p> <p>d) <u>Proof of payment</u>.</p>
<p>International transport services in respect of passengers [section 11(2)(a)]</p>	<p><u>Tax invoice</u> reflecting the ticket number, point of origin, point of destination and recipient's details.</p>



# Domestic air transportation associated with the international carriage by air of passengers [section 11(2)(b)]

(2) ... such supply of services shall, subject to compliance with [subsection \(3\)](#) of this section, be charged with tax at the rate of zero per cent where—

(b) the services comprise the **transport of passengers** from a place in the Republic to another place in the Republic to the extent that that transport is by **aircraft** and constitutes “international carriage” as defined in Article 1 of the Convention set out in the Schedule to the Carriage by Air Act, 1946 (Act No. 17 of 1946);



# Documentary evidence: IN 31

Domestic air transportation associated with the international carriage by air of passengers [section 11(2)(b)]	<u>Tax invoice</u> reflecting the ticket number, the point of origin, the point destination and recipient's details.
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# Local transport services of goods provided by the same supplier of the international transport services [section 11(2)(c)]

(2) ... such supply of services shall, subject to compliance with [subsection \(3\)](#) of this section, be charged with tax at the rate of zero per cent where—

(c) the services (**including** any ancillary transport services) comprise the transport of **goods** from a place in the Republic to another place in the Republic to the extent that those services are supplied by the **same supplier** as part of the supply of services to which [paragraph \(a\)](#) applies;





# Documentary evidence: IN 31

<p>Local transport services of goods provided by the same supplier of the international transport services [section 11(2)(c)]</p>	<ul style="list-style-type: none"><li>a) <u>Tax invoice</u>;</li><li>b) A copy of the transport contract, the house bill of lading and the ocean bill of lading or airway bill of lading, indicating the port of discharge and place of delivery;</li><li>c) Proof of delivery of the goods; and</li><li>d) <u>Proof of payment</u>.</li></ul>
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# Vocational training (S11(2)(r))

... the services comprise of the

- vocational training
- of employees (other than educational services contemplated in section 12 (*h*))
- for the benefit of an employer
- who is not a resident of the Republic and
- who is not a vendor:

Provided that this paragraph shall not apply where the supply is made to a person who is a resident of the Republic or a vendor;



# Documentary evidence: IN 31

<b>R</b>	Services of vocational training provided to employees for the benefit of an employer that is not a resident of the Republic and not a vendor [section 11(2)(r)]	a) <u>Tax invoice</u> ; b) Written confirmation from the recipient that it is not a resident of the Republic and not a vendor; and c) <u>Proof of payment</u> .
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# Documentary evidence : IN 31

- A vendor that is not in possession of the applicable documentary proof
  - within the mentioned **90-day period**, subject to the aforementioned exceptions,
  - is required to **account for output tax** by applying the tax fraction to the consideration for the supply [that is, the consideration is deemed to include VAT in terms of section 64(1)].
  - The vendor must include the amount of output tax in Block 12 of the VAT return for the tax period in which the said period ends.
  - This does not apply in respect of supplies that would have been exempt from VAT in terms of section 12 had it not been zero-rated in terms of section 11 (for example, the supply of financial services to a person that is not a resident of the Republic).
  - These supplies will therefore revert to being exempt with the corresponding denial of input tax.
  - This would also not apply in respect of goods that are zero rated without being subsequently exported, the default zero rating would apply in this instance.
- The vendor is not required to account for output tax in respect of proof of payment required for supplies that require the relevant approval from the South African Reserve Bank, provided that the vendor has complied with the Regulations as set out by the South African Reserve Bank.
- The vendor is entitled to an adjustment should the vendor receive the required documentation within **five years** from the end of the tax period during which the original tax invoice was issued. The output tax adjustment previously declared may be deducted as an adjustment in field 18 of the vendor's VAT return for the tax period in which the documentation is received.
- The rate of tax applicable to the adjustment is the rate of tax in force at the date of issue of the tax invoice.
- A vendor that does not have all the documentary proof required, may, before the expiry of the 90-day period mentioned above, submit a written application to the Commissioner either by email to **VATRulings@sars.gov.za** or by facsimile to 086 540 9390 and request the approval of the alternative documentary proof obtained by the vendor for purposes of section 11(3)

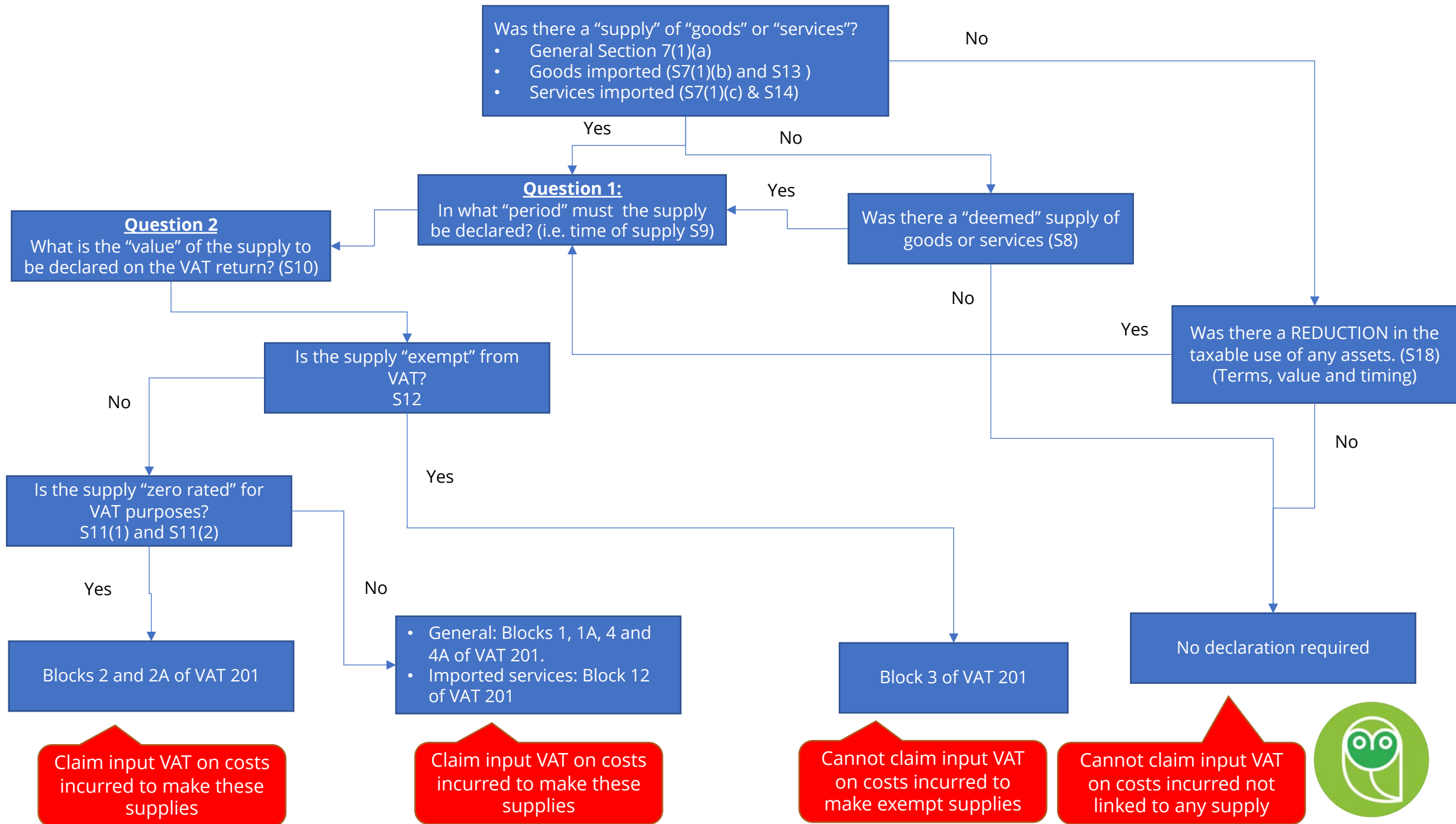


# The Tax Faculty



Link between the  
type of supplies  
and the treatment  
of input tax





# Link between supplies made by vendor and input tax

Supply	Type of supply?	Impact on costs incurred to provide goods/services
Interest is charged by a bank to a local customer.		



# Link between supplies made by vendor and input tax

Supply	Type of supply?	Impact on costs incurred to provide goods/services
Interest is charged by a bank to a local customer.		
Interest is charged by a bank to a non-resident customer.		





# Link between supplies made by vendor and input tax

Supply	Type of supply?	Impact on costs incurred to provide goods/services
Interest is charged by a bank to a local customer.		
Interest is charged by a bank to a non-resident customer.		
Tax advisor provides opinion to a local bank and charges fee		



# Link between supplies made by vendor and input tax

Supply	Type of supply?	Impact on costs incurred to provide goods/services
Interest is charged by a bank to a local customer.		
Interest is charged by a bank to a non-resident customer.		
Tax advisor provides opinion to a local bank and charges fee		
Tax advisor provides charges a fee for a meeting attended with the director of a non-resident bank – the meeting is held in Johannesburg		



# Link between supplies made by vendor and input tax

Supply	Type of supply?	Impact on costs incurred to provide goods/services
Interest is charged by a bank to a local customer.		
Interest is charged by a bank to a non-resident customer.		
Tax advisor provides opinion to a local bank and charges fee		
Tax advisor provides charges a fee for a meeting attended with the director of a non-resident bank – the meeting is held in Johannesburg		
Tax advisor provides charges a fee for a meeting attended with the director of a non-resident bank – the meeting is held with Zoom whilst the director is in London		



# Link between supplies made by vendor and input tax

Supply	Type of supply?	Impact on costs incurred to provide goods/services
Interest is charged by a bank to a local customer.		
Interest is charged by a bank to a non-resident customer.		
Tax advisor provides opinion to a local bank and charges fee		
Tax advisor provides charges a fee for a meeting attended with the director of a non-resident bank – the meeting is held in Johannesburg		
Tax advisor provides charges a fee for a meeting attended with the director of a non-resident bank – the meeting is held with Zoom whilst the director is in London		
A fee is charged for passenger transported by Bus from Gauteng to Nelspruit		



# Link between supplies made by vendor and input tax

Supply	Type of supply?	Impact on costs incurred to provide goods/services
Interest is charged by a bank to a local customer.		
Interest is charged by a bank to a non-resident customer.		
Tax advisor provides opinion to a local bank and charges fee		
Tax advisor provides charges a fee for a meeting attended with the director of a non-resident bank – the meeting is held in Johannesburg		
Tax advisor provides charges a fee for a meeting attended with the director of a non-resident bank – the meeting is held with Zoom whilst the director is in London		
A fee is charged for passenger transported by Bus from Gauteng to Nelspruit		
A fee is charged for passenger transported by Bus from Gauteng to Windhoek		



# Link between supplies made by vendor and input tax

Supply	Type of supply?	Impact on costs incurred to provide goods/services
Interest is charged by a bank to a local customer.		
Interest is charged by a bank to a non-resident customer.		
Tax advisor provides opinion to a local bank and charges fee		
Tax advisor provides charges a fee for a meeting attended with the director of a non-resident bank – the meeting is held in Johannesburg		
Tax advisor provides charges a fee for a meeting attended with the director of a non-resident bank – the meeting is held with Zoom whilst the director is in London		
A fee is charged for passenger transported by Bus from Gauteng to Nelspruit		
A fee is charged for passenger transported by Bus from Gauteng to Windhoek		
Timber is sold by a sawmill to a client in Tzaneen		



# Link between supplies made by vendor and input tax

Supply	Type of supply?	Impact on costs incurred to provide goods/services
Interest is charged by a bank to a local customer.		
Interest is charged by a bank to a non-resident customer.		
Tax advisor provides opinion to a local bank and charges fee		
Tax advisor provides charges a fee for a meeting attended with the director of a non-resident bank – the meeting is held in Johannesburg		
Tax advisor provides charges a fee for a meeting attended with the director of a non-resident bank – the meeting is held with Zoom whilst the director is in London		
A fee is charged for passenger transported by Bus from Gauteng to Nelspruit		
A fee is charged for passenger transported by Bus from Gauteng to Windhoek		
Timber is sold by a sawmill to a client in Tzaneen		
Timber is sold by a sawmill to a customer in Gabarone. Goods are delivered in Gabarone by sawmill		

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Timber is sold by a sawmill to a customer in Gabarone. Goods are collected in Pretoria by customer in Gabarone who then exports the goods		



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Timber is sold by a sawmill to a customer in Gabarone. Goods are collected in Pretoria by customer in Gabarone who then exports the goods		
An estate agent receives commission for the sale of land to a non-resident		

# Link between supplies made by vendor and input tax

Supply	Type of supply?	Impact on costs incurred to provide goods/services
The University of Pretoria charges a fee to a student for a B.Com degree		



# Link between supplies made by vendor and input tax

Supply	Type of supply?	Impact on costs incurred to provide goods/services
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# Link between supplies made by vendor and input tax

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A labour union receives a commission from an insurance company for marketing life insurance to its members		



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A labour union charges fees to a member		
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A building consists of 5 floors. The top 4 floors are rented as residential accommodation and the ground floor is rented as shops and office space.		





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PRASA charges a fee for a passenger transport from Johannesburg to Cape Town		
PRASA charges a fee to the same passenger for the carriage of his car on the same train from Johannesburg to Cape Town		



# Link between supplies made by vendor and input tax

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PRASA charges a fee to the same passenger for the carriage of his car on the same train from Johannesburg to Cape Town		
PRASA charges a fee to shops at the Johannesburg station.		
A large listed Bank has a shared service centre that owns the buildings and charges a rent to group companies		



## Supplies made to a vendor



Was a supply made to the vendor?



Was a supply made to the vendor?

No

Was there a special event requiring input tax claim e.g. bad debt, debit note or change in use?



Was a supply made to the vendor?

No

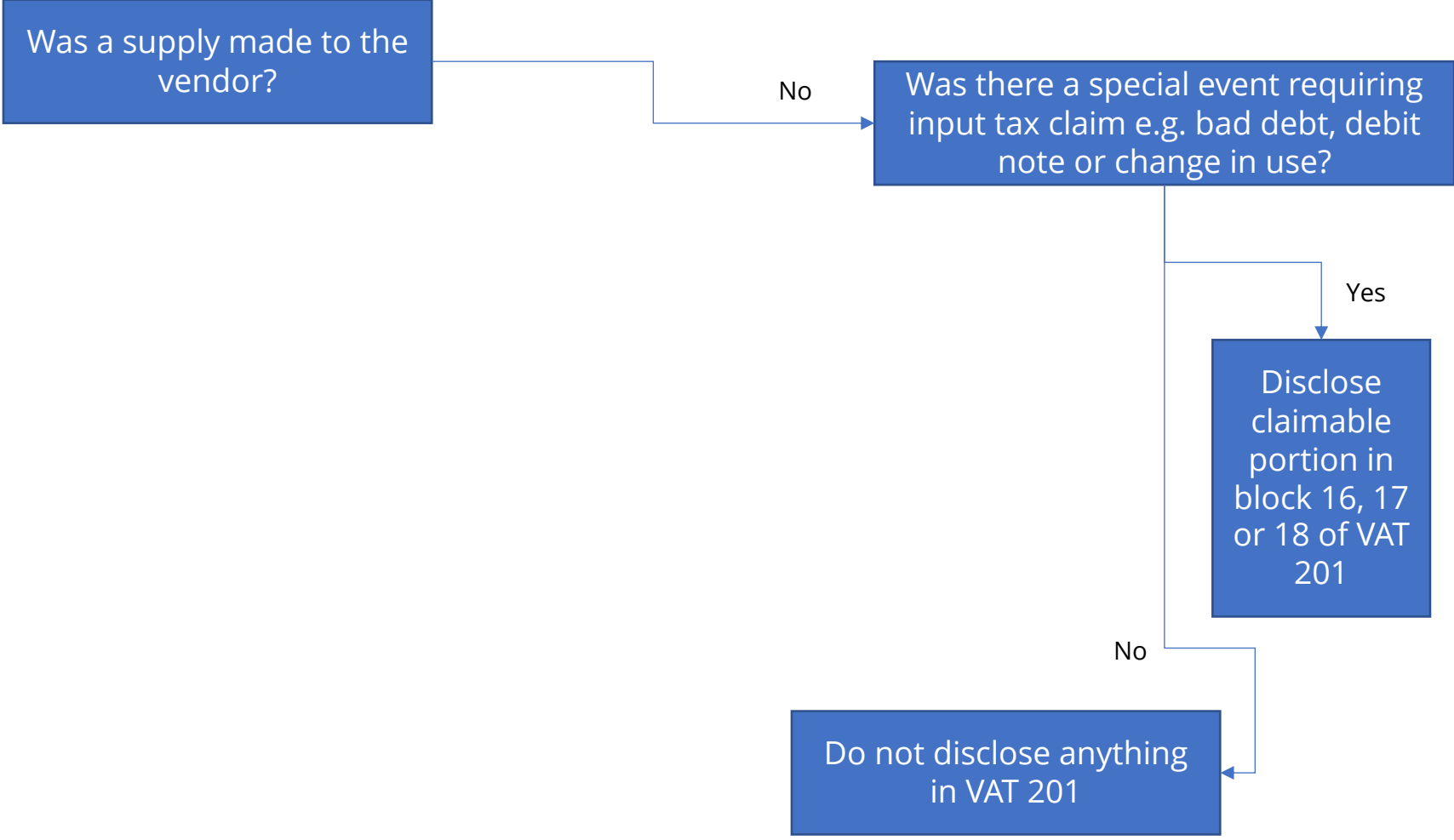
Was there a special event requiring input tax claim e.g. bad debt, debit note or change in use?

No

Do not disclose anything in VAT 201





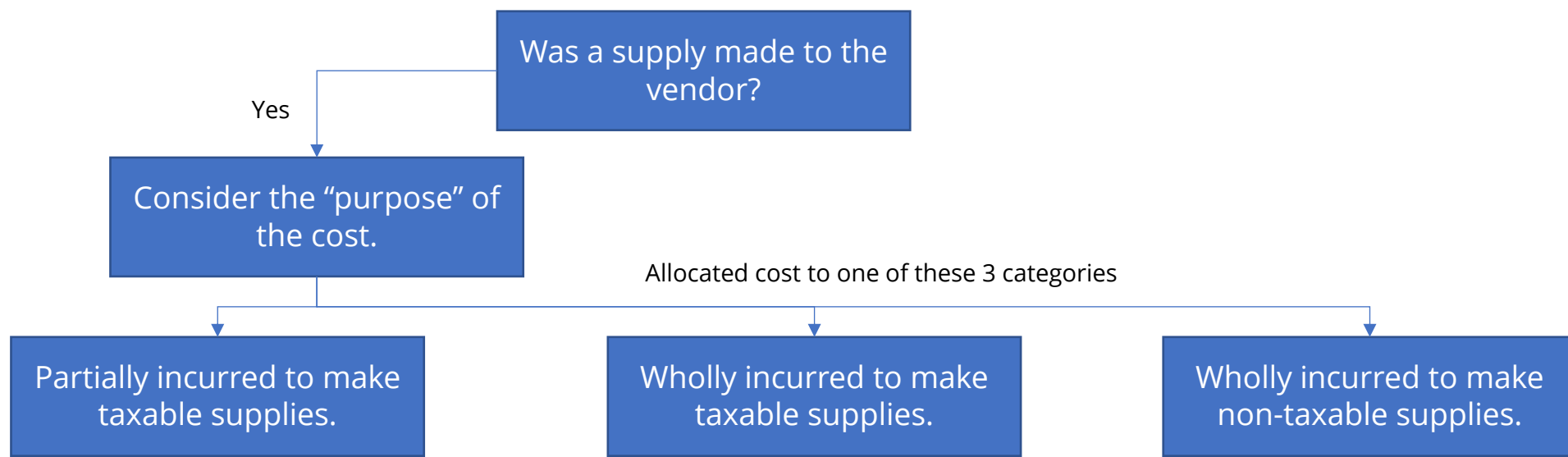


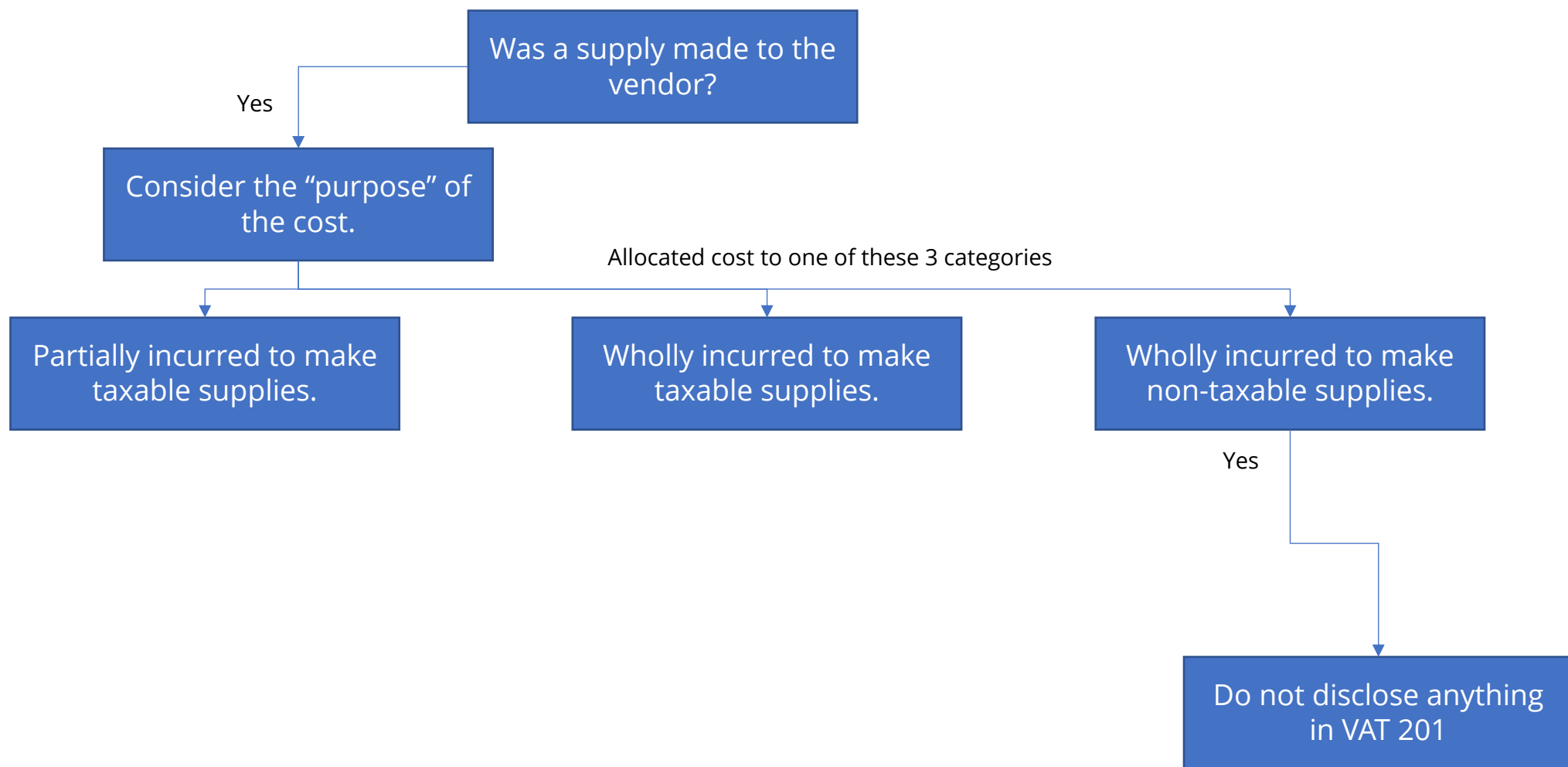
Consider the "purpose" of the cost.

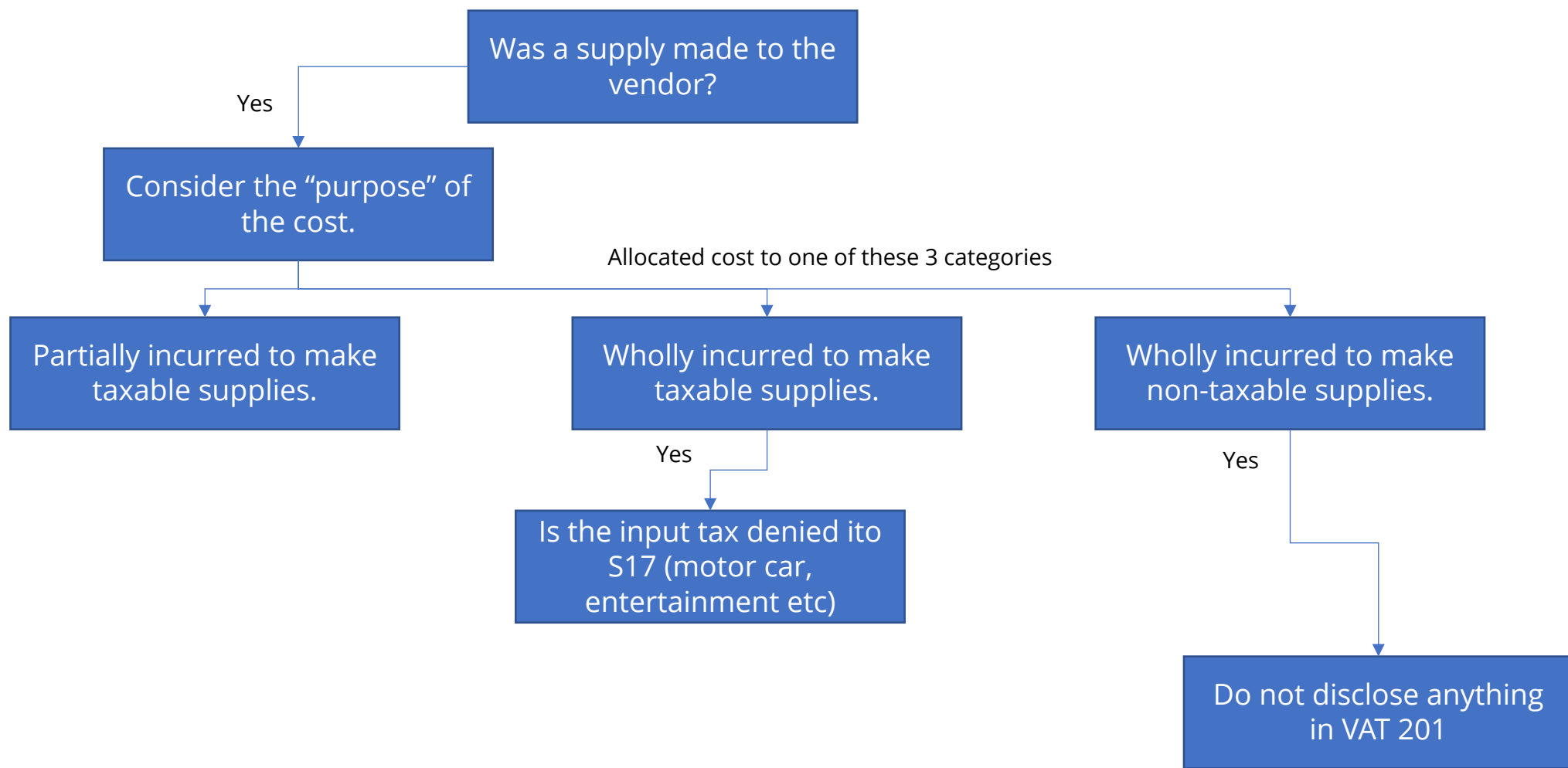
Yes

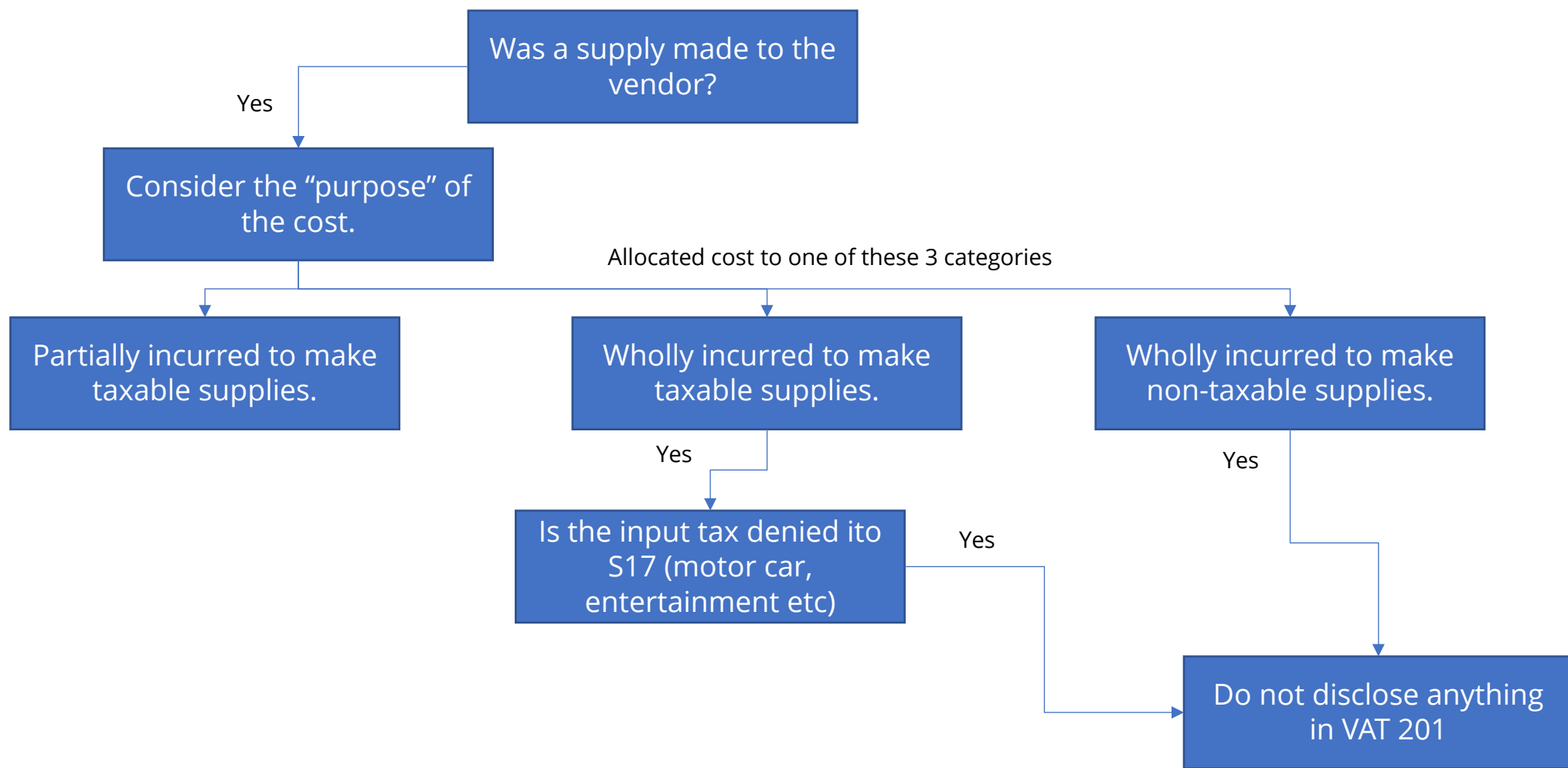
Was a supply made to the vendor?

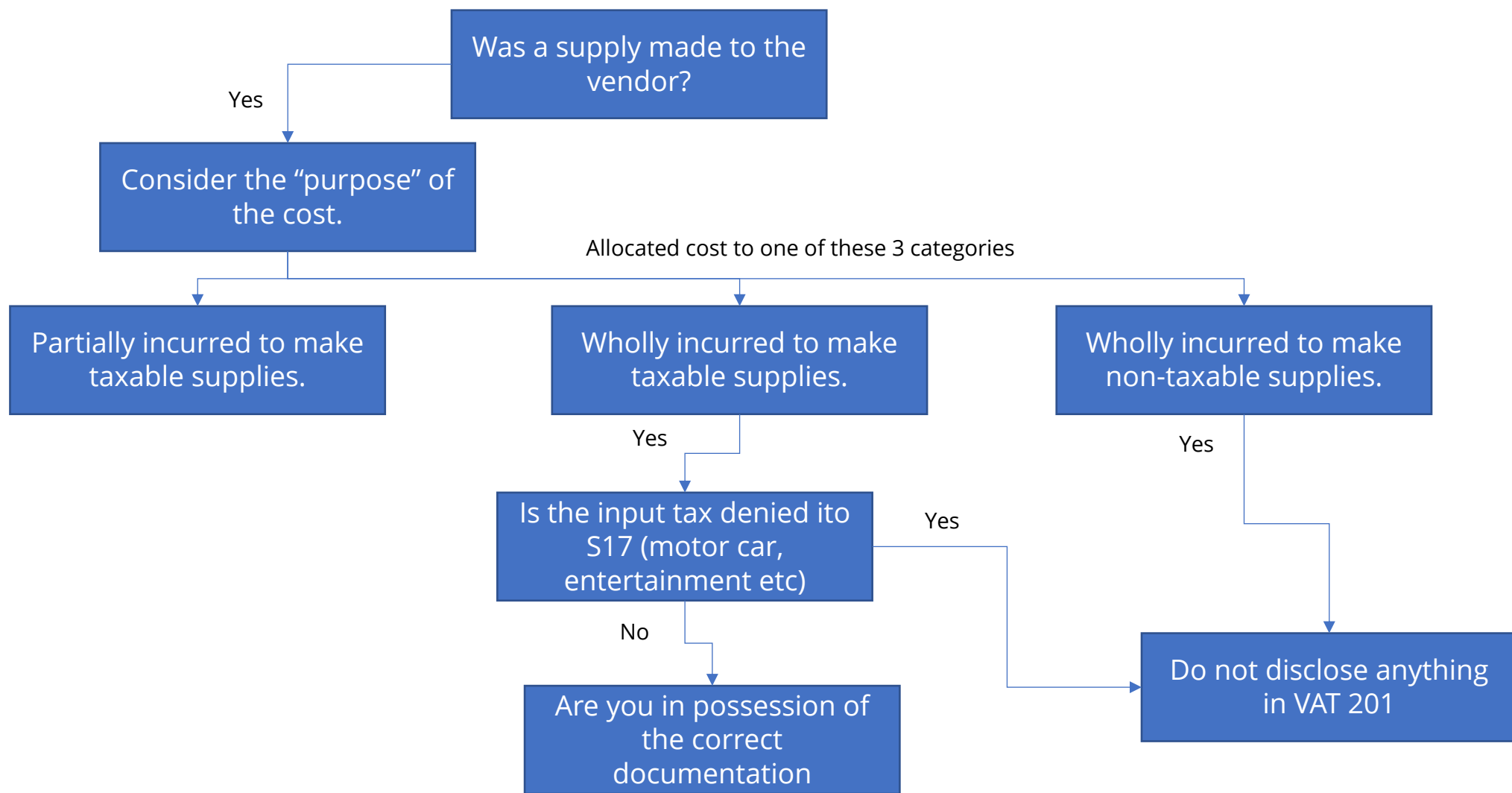


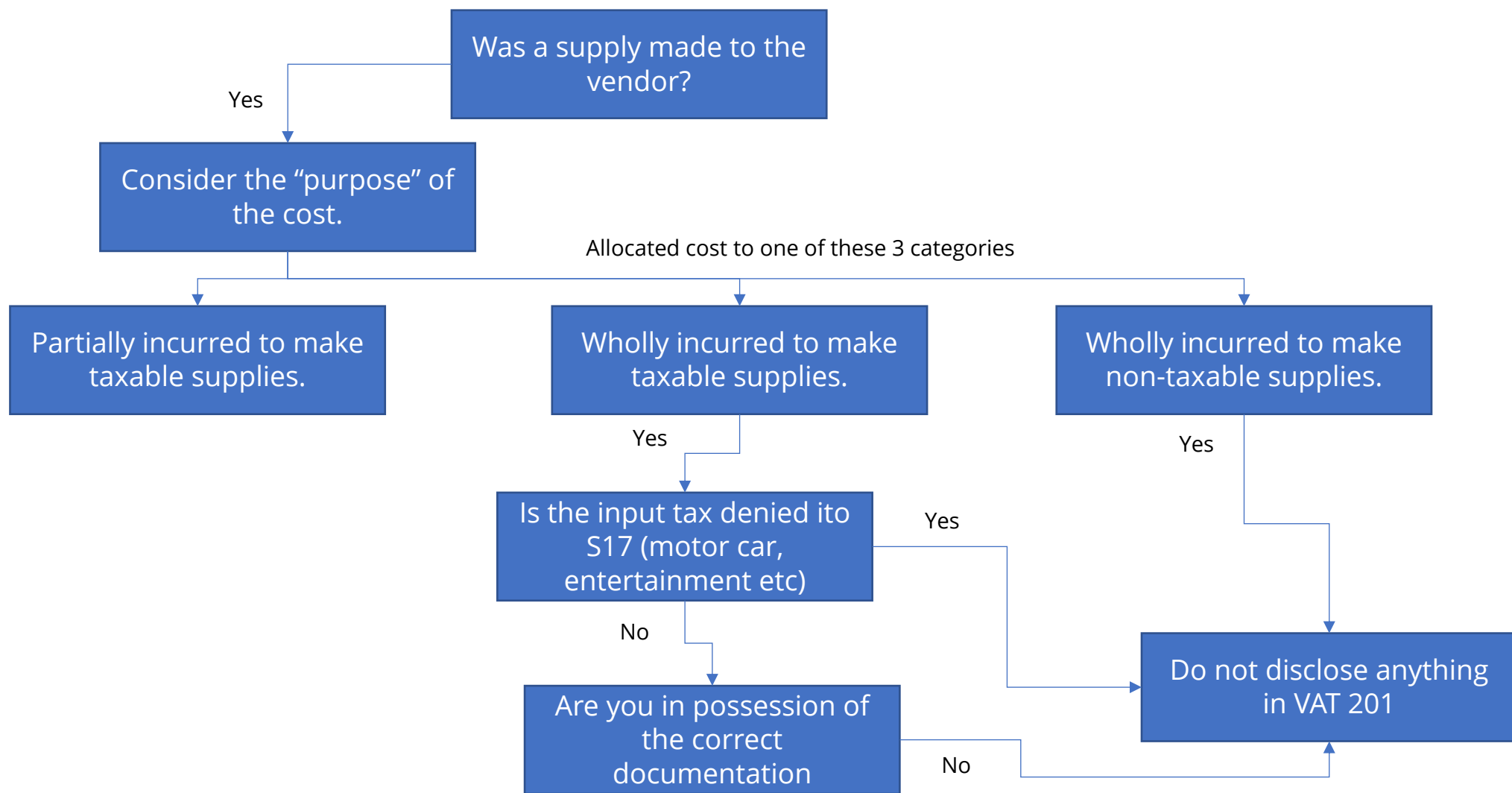




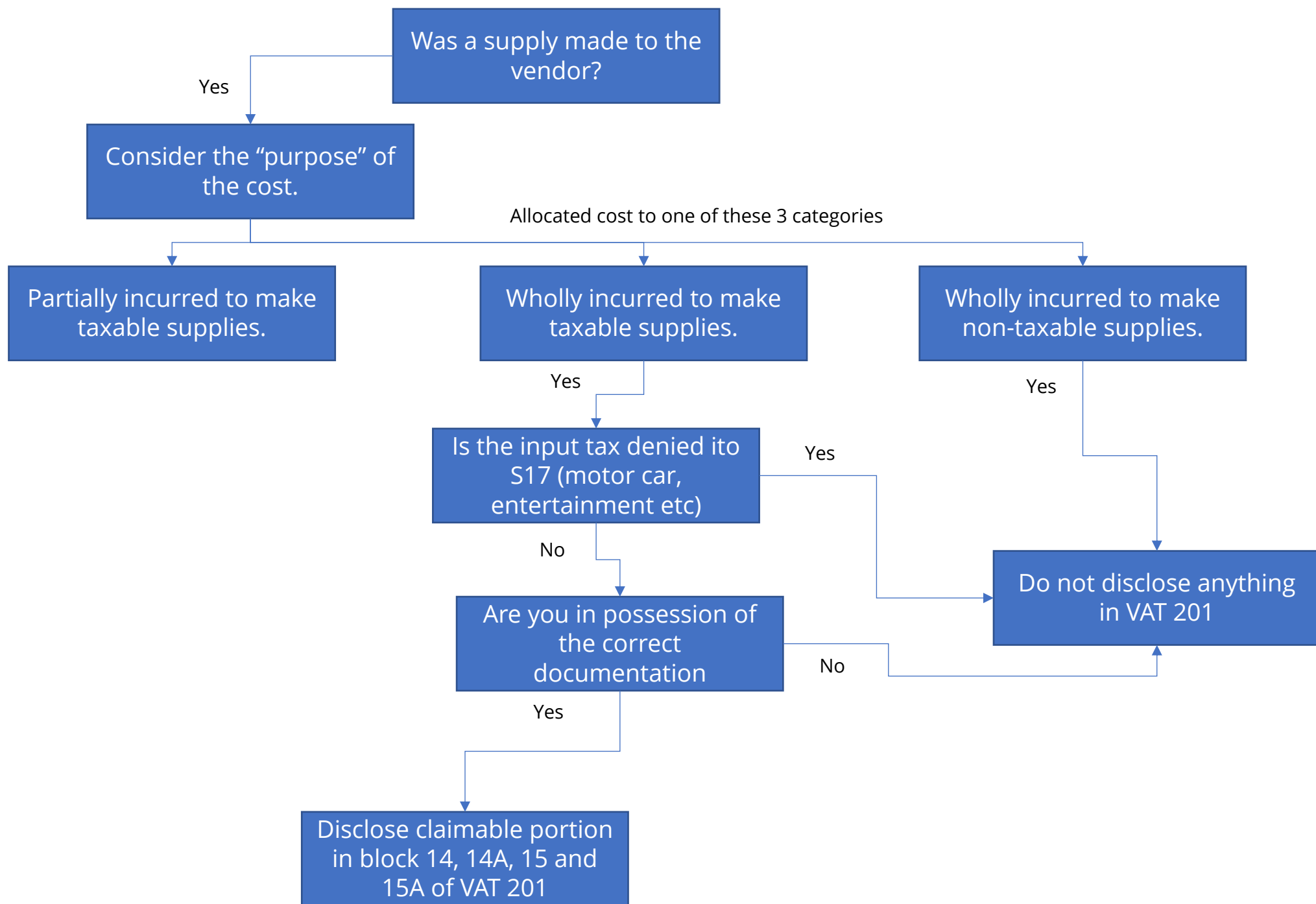


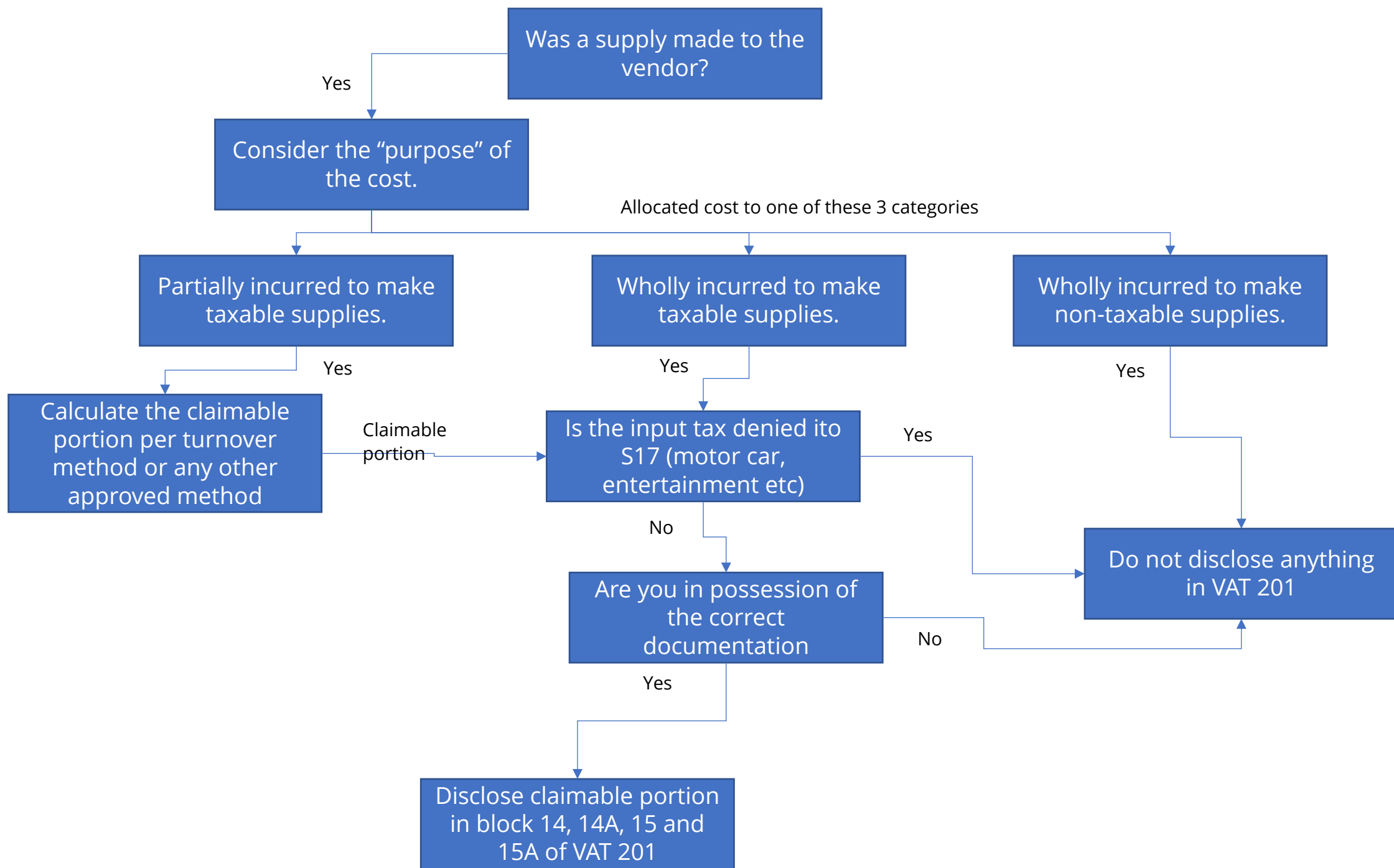


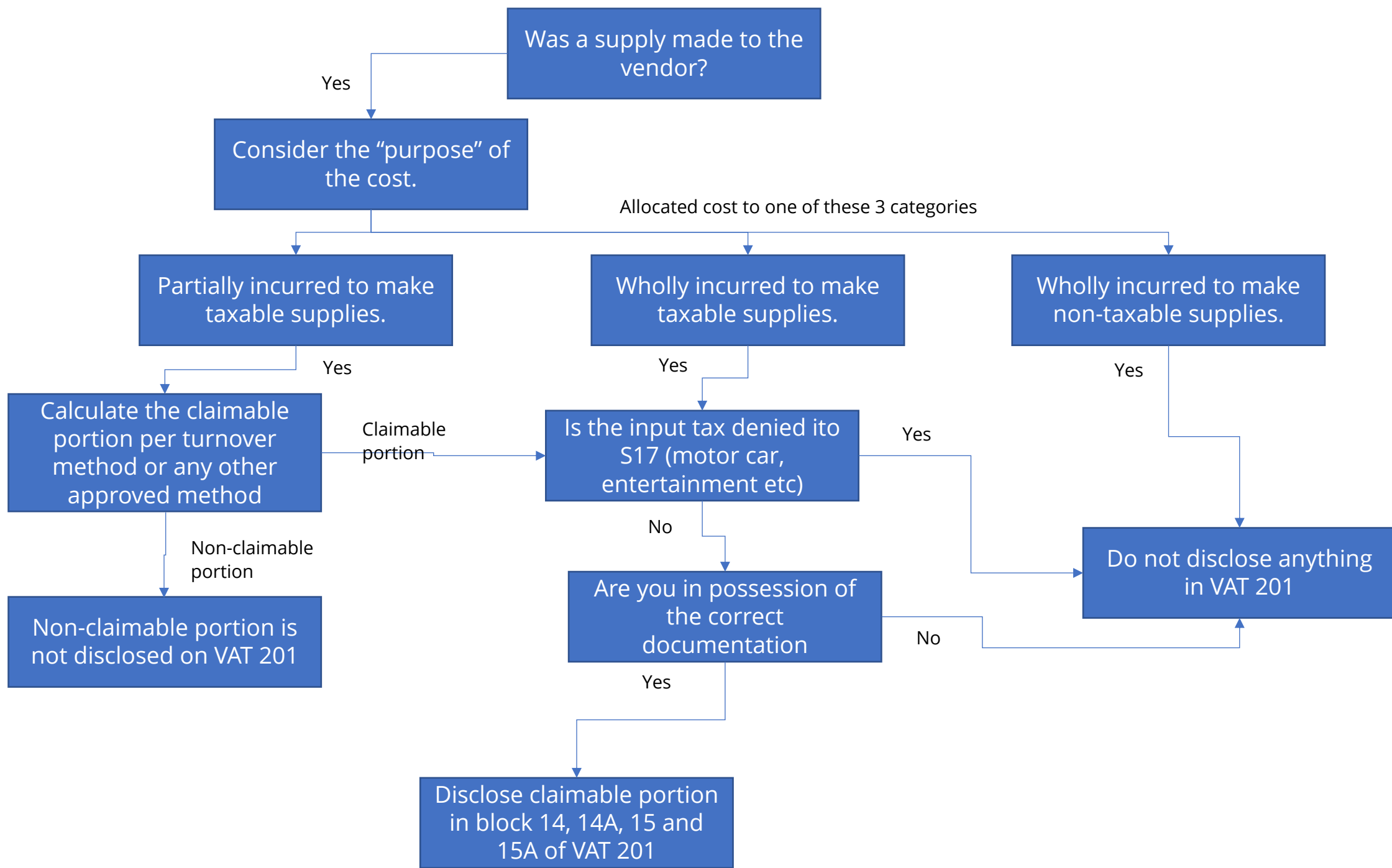


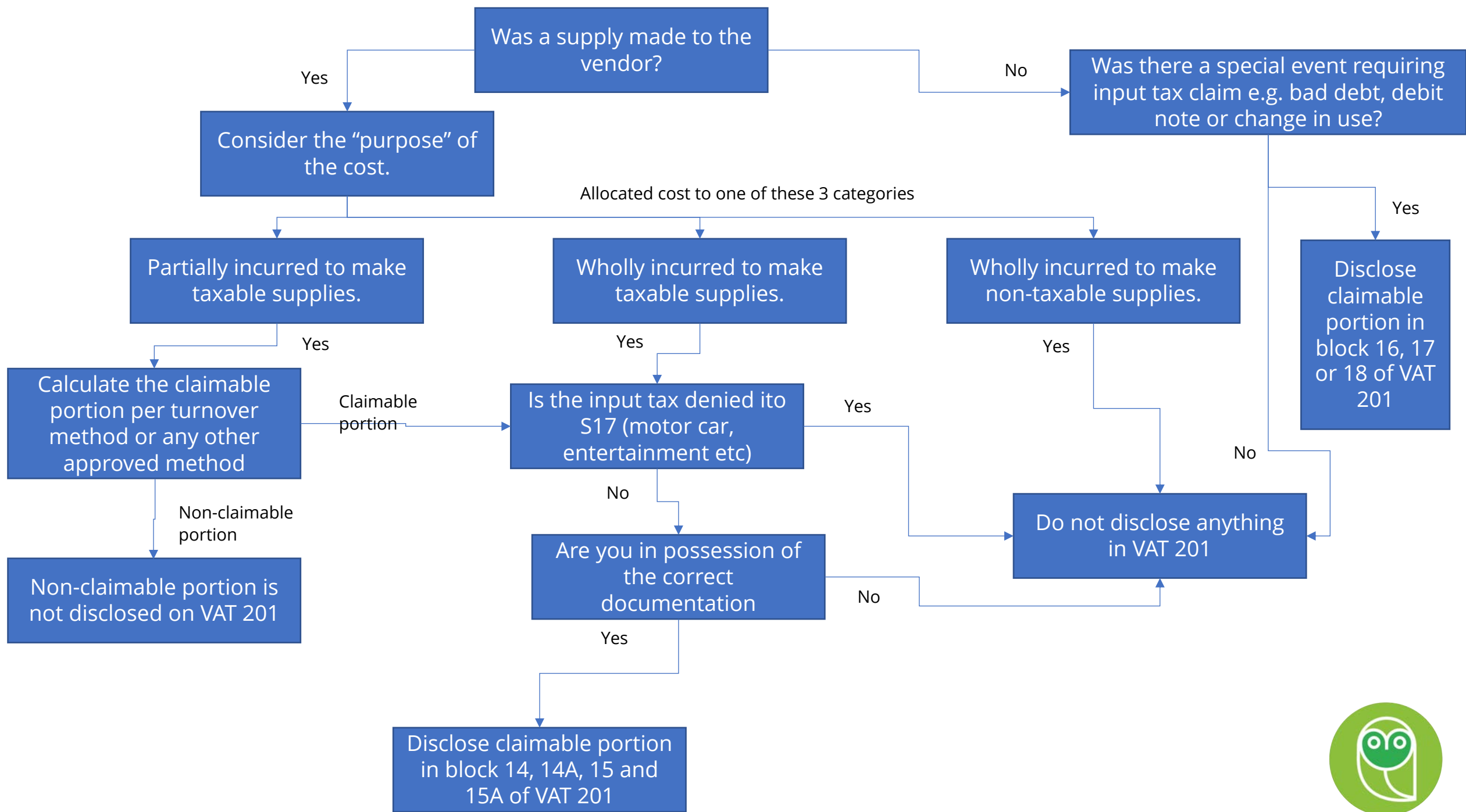












# The VAT 201

## B. Calculation of Input Tax

Capital goods and/or services supplied to you

Capital goods imported by you

Other goods and/or services supplied to you (not capital goods)

Other goods imported by you (not capital goods)

### Adjustments:

Change in use

Bad debts

Other

**Total B: TOTAL INPUT TAX (14+14A+15+15A+16+17+18)**

**VAT PAYABLE/REFUNDABLE (Total A - Total B)**

BCALC01

14 R

14A R

15 R

15A R

16 R

17 R

18 R

19 R

20 R

**Total input Tax (Hidden Field)**



# The Tax Faculty



## Input tax



# Input tax defined

**“input tax”**, in relation to a vendor, means—

- (a) tax charged under section 7 and payable in terms of that section by—
  - (i) a supplier on the supply of goods or services made by that supplier to the vendor; or
  - (ii) the vendor on the importation of goods by that vendor; or
  - (iii) the vendor under the provisions of section 7 (3);
- (b) an amount equal to the tax fraction (being the tax fraction applicable at the time the supply is deemed to have taken place) of the lesser of any consideration in money given by the vendor for or the open market value of the supply (not being a taxable supply) to him by way of a sale on or after the commencement date by a resident of the Republic (other than a person or diplomatic or consular mission of a foreign country established in the Republic that was granted relief, by way of a refund of tax as contemplated in section 68) of any second-hand goods situated in the Republic; and
- (c) an amount equal to the tax fraction of the consideration in money deemed by section 10 (16) to be for the supply (not being a taxable supply) by a debtor to the vendor of goods repossessed under an instalment credit agreement or a surrender of goods: Provided that the tax fraction applicable under this paragraph shall be the tax fraction applicable at the time of supply of the goods to the debtor under such agreement as contemplated in section 9 (3) (c),

where the goods or services concerned are acquired by the vendor wholly for the purpose of consumption, use or supply in the course of making taxable supplies or, where the goods or services are acquired by the vendor partly for such purpose, to the extent (as determined in accordance with the provisions of section 17) that the goods or services concerned are acquired by the vendor for such purpose;



# Second-hand goods

**“second-hand goods”** means—

- (a) goods which were previously owned and used; or
- (b) in respect of the transfer of a unit in the circumstances referred to in Item 8 of Schedule 1 to the Share Blocks Control Act, such unit,

but does not include—

- (i) animals;
- (ii) (aa) goods consisting solely of gold unless acquired for the sole purpose of supplying such goods in the same state without any further processing;
- (bb) gold coins contemplated in section 11 (1) (k); or
- (cc) any other goods containing gold unless those goods are acquired for the sole purpose of supplying those goods in the same or substantially the same state to another person;
- (iii) any prospecting right, mining right, exploration right, production right, mining permit, retention permit or reconnaissance permit as defined in section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), or any reconnaissance permission contemplated in section 14 of that Act granted or renewed in terms of that Act or received upon conversion pursuant to Schedule 11, except when that prospecting right, mining right, exploration right, production right or interest in that right is transferred, ceded, let, sublet, alienated, varied or otherwise disposed of as contemplated in section 11 of the Mineral and Petroleum Resources Development Act, 2002













## Treatment of Customs VAT on import of goods



# VAT on import of goods (VAT 404)

## 12.2.1 General

- VAT is payable on the importation into the RSA of goods purchased from a supplier in another country, subject to certain exemptions.
- Goods may only be imported through one of the 43 designated commercial ports (as listed in **12.1**).
- The VAT on importation must be paid to SARS by the vendor importing the goods or services or the vendor's clearing agent.
- The VAT paid to SARS Customs on goods imported by a vendor in the course of making taxable supplies may be deducted as input tax by the vendor, subject to certain requirements.



# How is the OUTPUT VAT on imports calculated?

## 12.2.3 Imports from countries other than Botswana, Lesotho, Namibia or Swaziland<sup>148</sup> (the BLNS countries)

The BLNS countries together with the RSA form the Southern African Customs Union (SACU). VAT, customs duty and in some cases, excise duty is payable on goods imported from outside the SACU region, (that is, from non-BLNS countries), and is calculated as follows:

$$\begin{aligned} & \text{Customs Duty Value (CV)} \\ & + \text{Customs duty (and Excise duty) if applicable (non-rebated duties)} \\ & + \text{10\% of the Customs Duty Value} \\ & \underline{=} \text{Added Tax Value (ATV)} \\ & \text{ATV} \times 15\% = \text{VAT payable} \end{aligned}$$

The 10% upliftment is not an amount payable to SARS, but represents an amount in lieu of transport and insurance costs which is used for calculating the ATV. The 10% upliftment does not apply in the case of imports from BLNS countries (see **12.2.4**).

### Example 34 – Importation of goods

#### Facts:

C imports a painting from Uganda and pays R5 000 for it. Customs duty is levied at 25%.

#### Result:

Upon being cleared for home consumption, VAT will be calculated as follows:

	R	
Purchase price/customs value	5 000	(CV)
+ Customs duty (@ 25% of CV)	1 250	
+ 10% upliftment (@ 10% of CV)	500	
Value for importation and VAT purposes	<u>6 750</u>	(ATV)
VAT at 15%	<u>1013</u>	

## 12.2.4 Imports from the BLNS countries

Goods that are imported from within the SACU region (that is, from BLNS countries) are not subject to customs duties and the 10% upliftment in value is not applied if the goods have their origin in a BLNS country. However, VAT is still payable on the importation of the goods into the RSA at the standard rate (currently 15%) on the value for customs purposes, unless the goods are specifically exempt from VAT on importation. The ATV in the case of imports from BLNS countries will therefore not include any customs duties or the 10% upliftment in the customs value as shown in **12.2.3**.



# VAT 404: Input tax on imported goods

- From 1 April 2015, the VAT Act has been amended to the effect that the VAT payable on importation of goods by a vendor may only be deducted during the tax period when the goods are released under the Customs and Excise Act.
- For purposes of deducting the VAT paid on the importation of goods, the vendor making the deduction must be in possession of the following documentation:
  - An “EDI Customs Status 1 Release Message”.
  - A valid bill of entry or other document prescribed by the Customs and Excise Act (for example, form SAD 500 and/or any additional SAD document that might be required).
  - The receipt number for the payment of such tax, that is the receipt issued on eFiling.
- In respect of goods imported on or after 1 April 2015 where the goods are imported by an agent acting on behalf of the vendor (being the principal), and the bill of entry or such other document prescribed by the Customs and Excise Act is held by the agent, the agent must furnish the vendor with a statement within 21 days of the end of the calendar month during which the goods were imported, containing the following particulars:<sup>147</sup>
  - The full and proper description of the goods.
  - The quantity or volume of the goods.
  - The value of the goods.
  - The amount of tax paid and the receipt relating to the payment of such tax, that is the receipt number issued on eFiling for such payment.
- **The vendor must be in possession of the aforementioned statement at the time the VAT return containing the deduction is submitted to SARS.** Furthermore, in addition to furnishing the statement, the agent must maintain sufficient records to enable the name, the address and VAT registration number of the vendor to be ascertained.



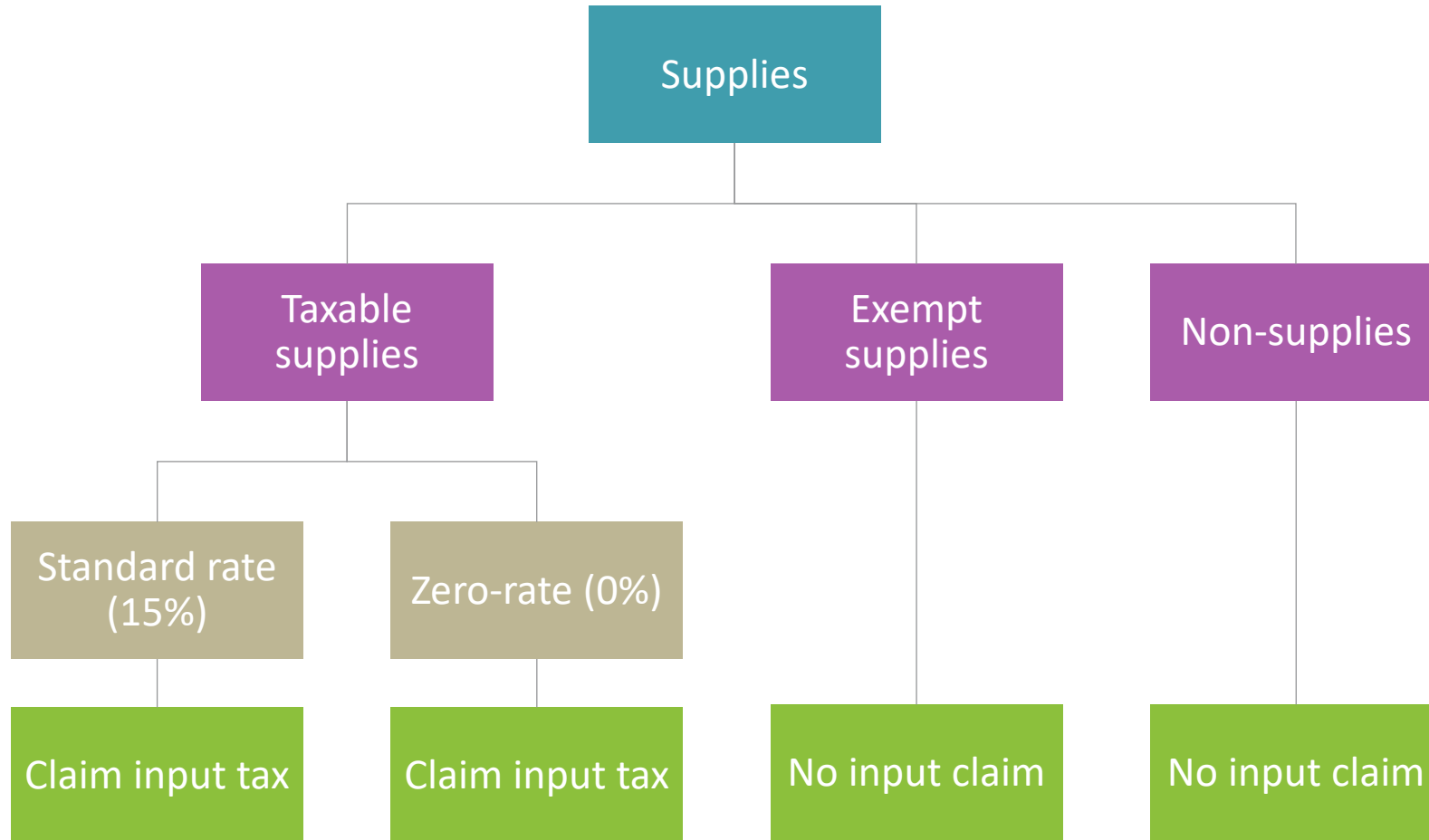


## Apportionment of input tax (s17(1))

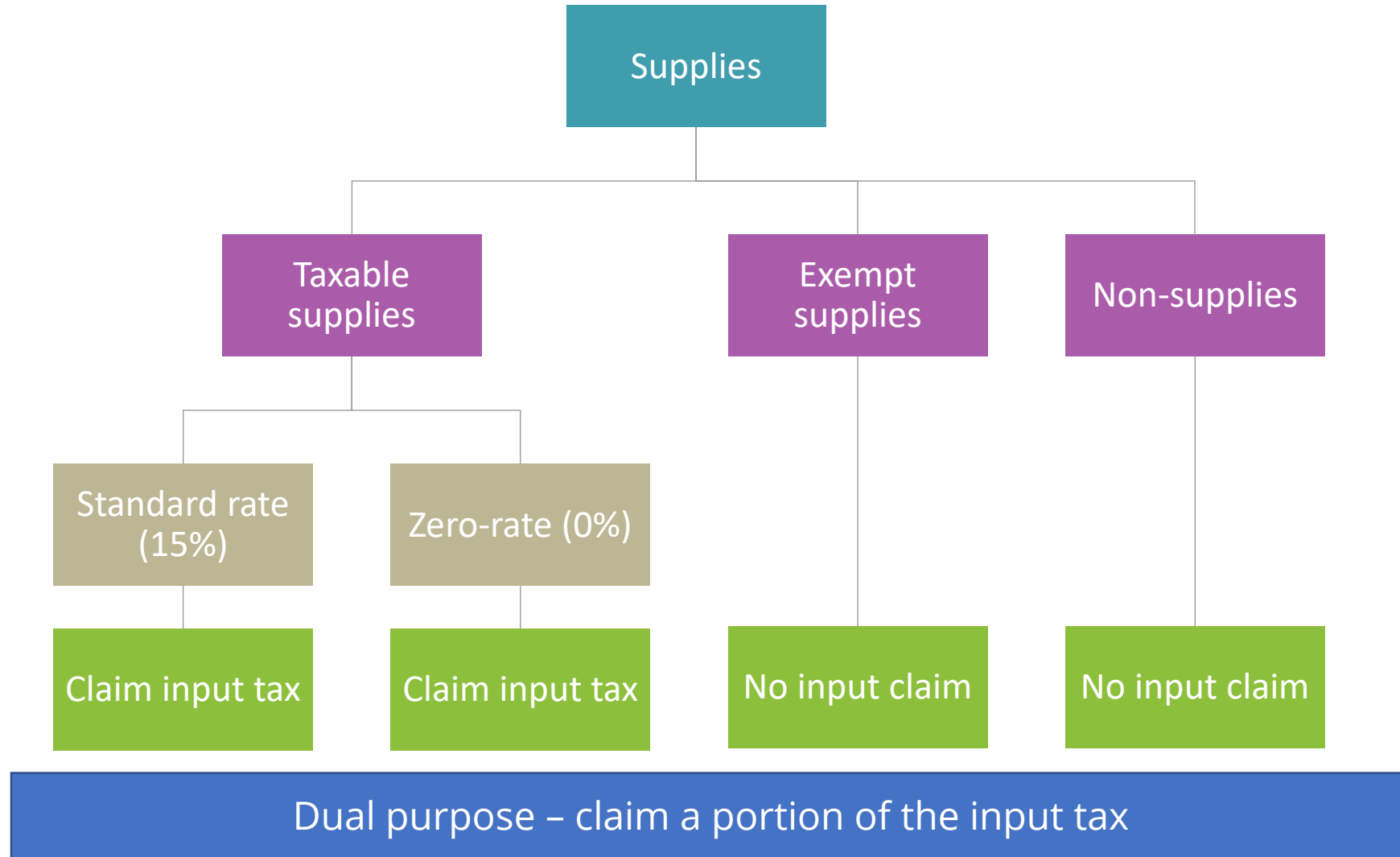




# Mechanics of VAT



# Mechanics of VAT



# VAT 404 guide

## 8.4.1 Introduction

- Generally, the full amount of VAT on goods or services acquired or imported by a vendor for the purposes of making taxable supplies may be deducted as input tax.
- However, where goods or services are imported or purchased locally for taxable and other non-taxable purposes (**mixed purposes**), only a **portion of the VAT or notional input tax in respect thereof (collectively referred to as VAT)** may be deducted.
- Therefore, when goods or services are not acquired exclusively for taxable supplies, you will be required to determine the part that relates to taxable supplies and deduct input tax only to that extent.



# Section 17(1)

## 17. Permissible deductions in respect of input tax.—

- Where goods or services are acquired or imported by a vendor
- **partly** for consumption, use or supply (hereinafter referred to as the intended use) in the course of making taxable supplies and
- **partly** for another intended use,
- the **extent** to which any tax which has become payable in respect of the supply to the vendor or the importation by the vendor, as the case may be, of such goods or services or in respect of such goods under section 7 (3) or any amount determined in accordance with paragraph (b) or (c) of the definition of “input tax” in section 1, is input tax,
- shall be an amount which **bears to the full amount of such tax or amount, as the case may be, the same ratio (as determined by the Commissioner in accordance with a ruling as contemplated in Chapter 7 of the Tax Administration Act or section 41B) as the intended use of such goods or services in the course of making taxable supplies bears to the total intended use of such goods or services.** Provided that—
  - (i) where the intended use of goods or services in the course of making taxable supplies is equal to not less than **95 per cent** of the total intended use of such goods or services, the goods or services concerned may for the purposes of this Act be regarded as having been acquired wholly for the purpose of making taxable supplies



# VAT 404 guide

## 8.4.2 Direct attribution vs apportionment

Before attempting to apportion an expense, the first step is to determine if the expense can be directly attributed. Direct attribution means that you will be required to attribute the VAT expense according to the intended purpose for which the goods or services acquired will be used.

Direct attribution means that permissible expenses<sup>95</sup> are incurred either:

- Wholly for making taxable supplies, in which case the VAT can be deducted in full; or
- Wholly for making exempt supplies or other non-taxable purposes, in which case no VAT on the expense can be deducted as input tax.

It is only when an expense has been incurred partly for the purpose of consumption, use or supply in the course of making taxable supplies and partly for exempt and other non-taxable purposes, that the VAT must be apportioned. Once it is clear that the expense must be apportioned, the next step is to calculate the proportion of VAT which may be deducted as input tax. This is referred to as the apportionment ratio and is expressed as a percentage. Although there may be a few exceptions, the most common expenses that need to be apportioned are the general overheads of the business.



**Identify** the goods or services acquired as principal

Determine how the goods or services are applied

Wholly for making taxable supplies

Wholly for making exempt supplies

Wholly for other non-taxable activities

Partly for making taxable supplies and partly for exempt or other non-taxable purposes

Wholly applied

Partially applied

Deduct the full amount of VAT incurred as input tax

No input tax may be deducted

No input tax may be deducted

Deduct input tax as per the apportionment ratio (the extent of taxable supplies)

**DIRECT ATTRIBUTION**

**APPORTIONMENT**



## 8.4.3 Apportionment methodology

Once it has been established that the expense cannot be directly attributed wholly to taxable purposes or wholly to exempt or other non-taxable purposes, the second level of enquiry is to determine the portion of VAT which qualifies as input tax, based on the extent to which the intended use is for taxable purposes.

The apportionment ratio must be determined by using an approved apportionment method so that only a fair and reasonable proportion of VAT is deducted as input tax.

The only pre-approved method which may be used to apportion VAT incurred for mixed purposes without specific prior written approval from the Commissioner is the turnover-based method.

This method may be applied in the absence of a specific ruling obtained by the vendor to use another method.

However, in circumstances where the turnover-based method is inappropriate because it produces an absurd result, proves impossible to use, or does not yield a fair approximation of the extent of taxable application of the enterprise's VAT-inclusive expenses, the vendor must approach SARS to obtain approval to use an alternative method which yields a more accurate result.

Should a specific ruling that has been granted to the vendor turn out to be inappropriate, at a later stage, the vendor cannot make the choice to use the turnover-based method without requesting a further ruling from SARS to that effect.



## 8.4.3 Apportionment methodology (Continue)

In deciding whether the turnover-based method is appropriate, the vendor must apply a **common-sense approach** which would be applied by a reasonable person.

The method must therefore achieve a “fair and reasonable” result which is a proper reflection of the manner in which the vendor’s resources (business inputs) are applied for making taxable and non-taxable supplies respectively.

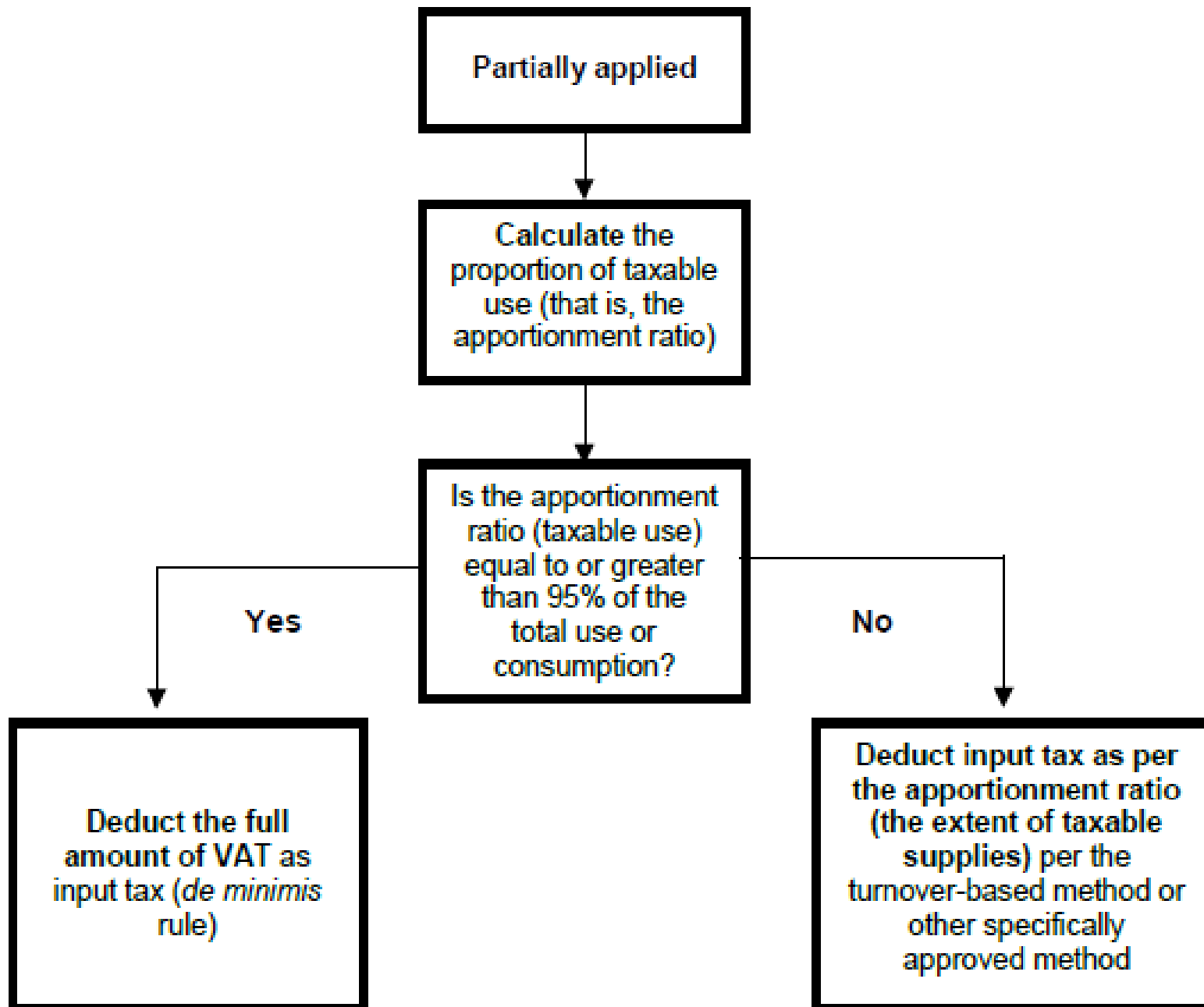
Although the term “fair and reasonable” will usually be perceived as a subjective concept, vendors applying the turnover-based method of apportionment should try to be objective and consider that the result must be perceived as “fair and reasonable” from the Commissioner’s perspective as well.

The result must also be capable of being justified as appropriate in the vendor’s circumstances. For example, where a company applies a method of apportionment and it undergoes a major restructuring, or the nature of the business changes so that the extent of taxable and non-taxable supplies are significantly different after that event, the vendor is required to approach the Commissioner to confirm whether the current method is still appropriate.

Alternatively, if it is clear from the outset that the apportionment method will not yield a fair and reasonable result after the changes, a ruling should be obtained to apply another method which results in a more fair and reasonable proportion of VAT being deducted as input tax in the year that the changes occur, and in any subsequent years.

The apportionment percentage should not be excessive or extreme so that either a 0% or 100% result is achieved. If an extreme result is achieved, it may be an indication that either the formula is inappropriate, or it is not being applied correctly.





## FORMULA: TURNOVER-BASED METHOD OF APPORTIONMENT<sup>98</sup>

$$\text{Formula: } y = \frac{a}{(a + b + c)} \times \frac{100}{1}$$

Where:

y = the apportionment ratio / percentage;

a = the value of all taxable supplies (including deemed taxable supplies) made during the period;

b = the value of all exempt supplies made during the period; and

c = the sum of any other amounts of income not included in "a" or "b" in the formula, which were received or which accrued during the period (whether in respect of a supply or not).

Notes:

1. The term "value" excludes any VAT component.
2. "c" in the formula will typically include items such as dividends and statutory fines (if any).
3. Exclude from the calculation the value of any capital goods or services supplied, unless supplied under a rental agreement / operating lease (that is, not a financial lease or ICA).<sup>99</sup>
4. Exclude from the calculation the value of any goods or services supplied where input tax on those goods or services was specifically denied.
5. The apportionment percentage should be rounded off to two decimal places.
6. Where the formula yields an apportionment ratio/percentage of 95% or more, the full amount of VAT incurred on mixed expenses may be deducted (referred to as the *de minimis* rule).

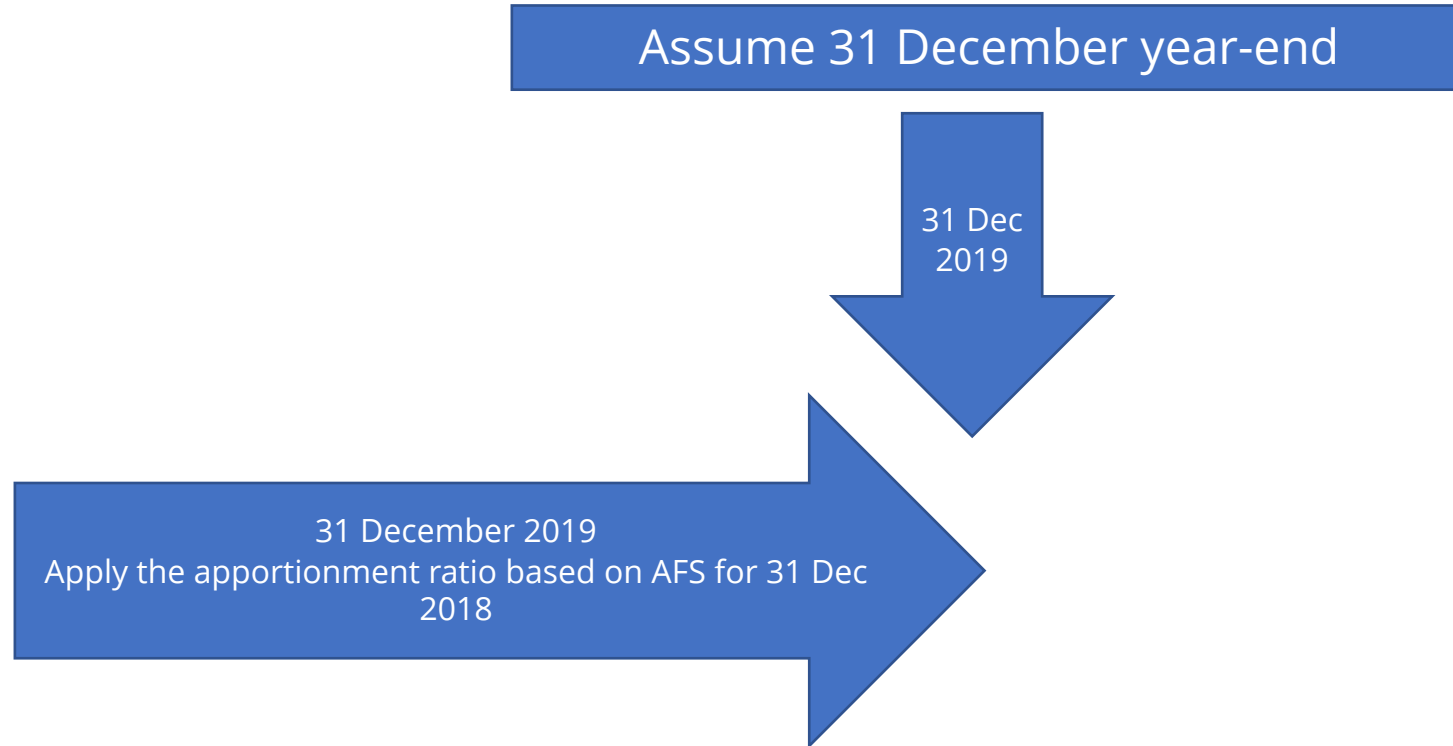


# When to do apportionment calculation

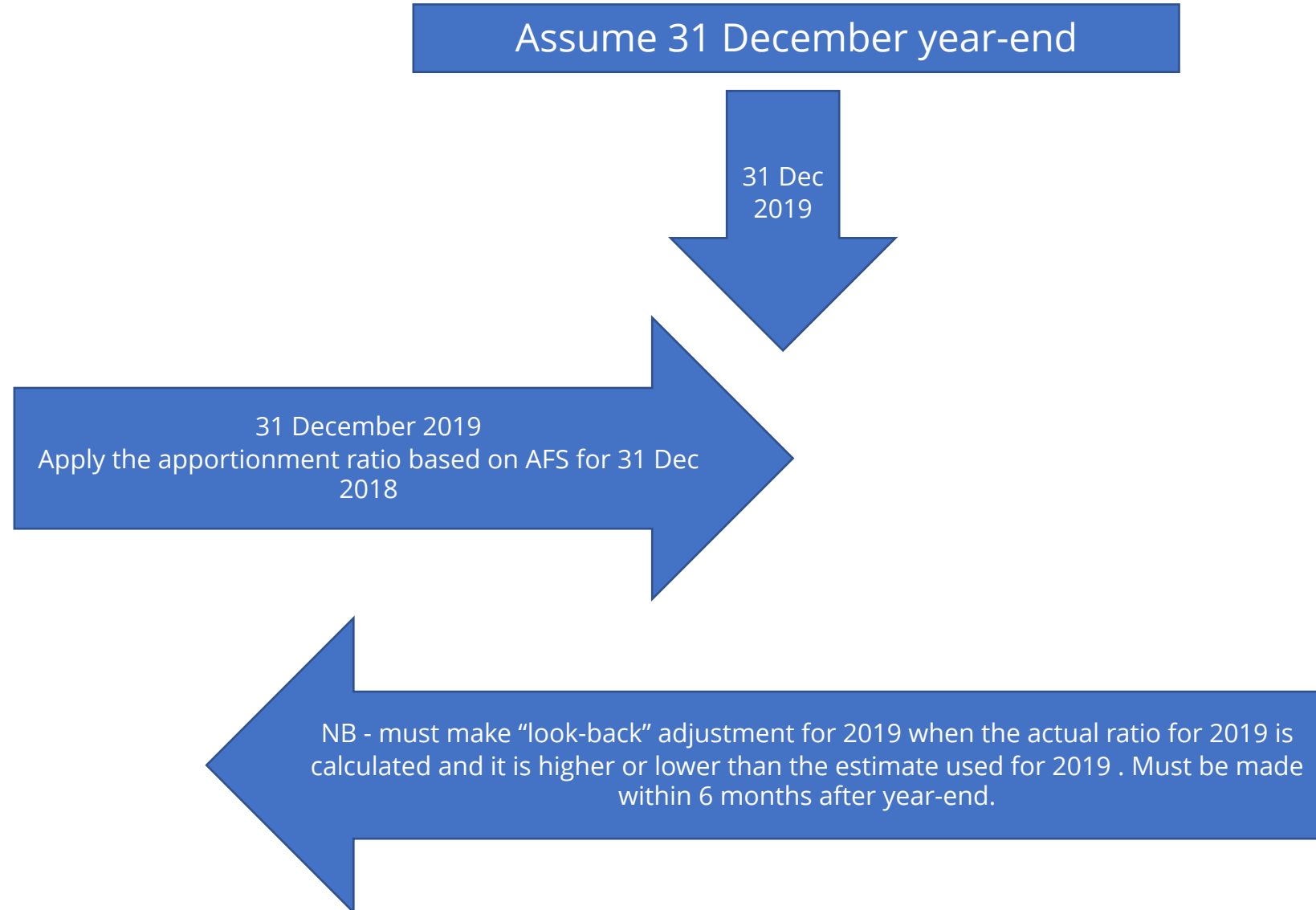
Assume 31 December year-end



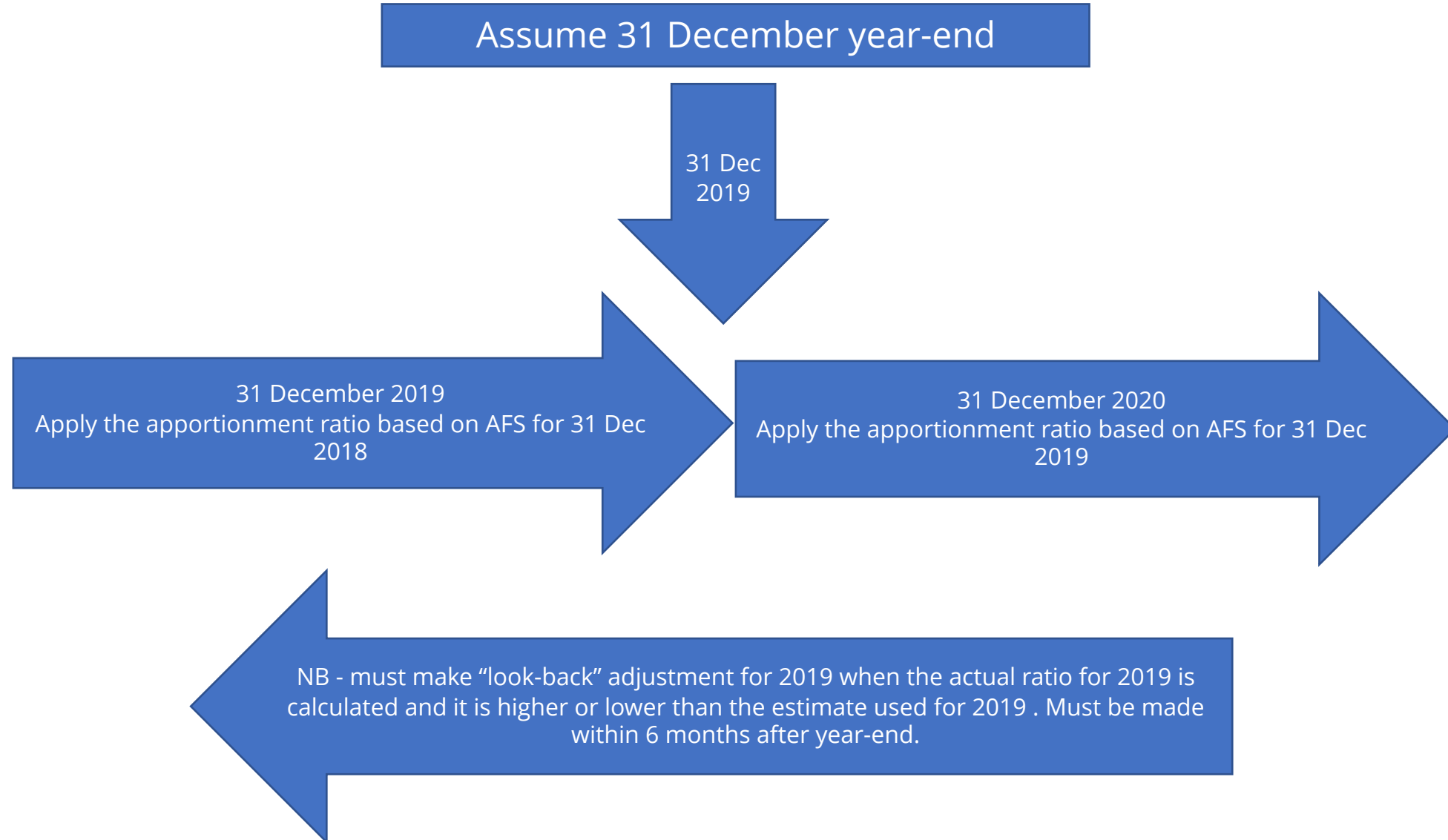
# When to do apportionment calculation



# When to do apportionment calculation



# When to do apportionment calculation



# VAT 404 Guide

- In terms of the VAT Act, a vendor is required to determine the apportionment percentage in respect of every tax period.
- However, in practice, it is often difficult to accurately determine the apportionment percentage according to the turnover-based method in each and every tax period as required.
- Therefore, vendors are allowed to calculate the estimated percentage using the turnover figures from the previous year's financial statements, and to apply that percentage for deducting input tax in each and every individual tax period for the current year.
- An adjustment must then be made for any shortfall or overestimation in the percentage used for the calculation, when the audited financial statements for the current financial year are available, and the actual percentage can be calculated. It should, however, be noted that this is merely a practical administrative arrangement and does not have the effect of altering any legal provisions in the VAT Act.
- For example, it does not extend the five-year period in terms of which a deduction of input tax may be made under section 16(3). This adjustment should be done within a period of six months after the financial year-end. If the audited financial statements have not been completed within that time, an adjustment should be made using the year-end trial balance figures. This would be followed by a final adjustment when the audited financial statements for that year are eventually finalised.
- For new enterprises with no past financial statements, an estimate based on expected taxable turnover according to the enterprise's business plan or sales/marketing forecasts could be used for each and every tax period. As in the situation above, an adjustment would be required within six months of the financial year-end to account for any differences between the estimated apportionment percentage used, and the actual extent of taxable supplies as determined from the audited financial statements.





## Denial of input tax





# General rule - entertainment

(2) Notwithstanding anything in this Act to the contrary, a vendor, shall not be entitled to deduct from the sum of the amounts of output tax and refunds contemplated in section 16 (3), any amount of input tax—

(a) in respect of goods or services acquired by such vendor to the extent that such goods or services are acquired for the purposes of **entertainment...**

**“entertainment”** means the provision of any food, beverages, accommodation, entertainment, amusement, recreation or hospitality of any kind by a vendor whether directly or indirectly to anyone in connection with an enterprise carried on by him;



# Exclusion for Restaurants etc.

(2) Notwithstanding anything in this Act to the contrary, a vendor, shall not be entitled to deduct from the sum of the amounts of output tax and refunds contemplated in section 16 (3), any amount of input tax—

(a) in respect of goods or services acquired by such vendor to the extent that such goods or services are acquired for the purposes of **entertainment**:

Provided that this paragraph shall not apply where—

(i) such goods or services are acquired by the vendor for making taxable supplies of entertainment in the ordinary course of an enterprise which—

(aa) continuously or regularly supplies entertainment to clients or customers (other than in the circumstances contemplated in item (bb)) for a consideration to the extent that such taxable supplies of entertainment are made for a charge which—

(A) covers all direct and indirect costs of such entertainment; or

(B) is equal to the open market value of such supply of entertainment,  
unless—

(i) such costs or open market value is for *bona fide* promotion purposes not charged by the vendor in respect of the supply to recipients who are clients or customers in the ordinary course of the enterprise, of entertainment which is in all respects similar to the entertainment continuously or regularly supplied to clients or customers for consideration; or

(ii) the goods or services were acquired by the vendor for purposes of making taxable supplies to such clients or customers of entertainment which consists of the provision of any food and a supply of any portion of such food is subsequently made to any employee of the vendor or to any welfare organization as all such food was not consumed in the course of making such taxable supplies;

(bb) supplies entertainment to any employee or office holder of the vendor or any connected person in relation to the vendor, to the extent that such taxable supplies of entertainment are made for a charge which covers all direct and indirect costs of such entertainment;



# Personal subsistence exclusion

(2) Notwithstanding anything in this Act to the contrary, a vendor, shall not be entitled to deduct from the sum of the amounts of output tax and refunds contemplated in section 16 (3), any amount of input tax—

(a) in respect of goods or services acquired by such vendor to the extent that such goods or services are acquired for the purposes of **entertainment**:

Provided that this paragraph shall not apply where— (ii)

- such goods or services are acquired by the vendor
- for the consumption or enjoyment by that vendor (including, where the vendor is a partnership, a member of such partnership), an employee, office holder of such vendor, or a self-employed natural person in respect of a meal, refreshment or accommodation,
- in respect of **any night** that such vendor or member is by reason of the vendor's enterprise or, in the case of such employee, office holder or self-employed natural person,
- he or she is by reason of the duties of his or her employment, office or contractual relationship,
- **obliged to spend away** from his or her usual place of residence and from his or her usual working-place.



# Examples

Example	Commentary
Company incurs lease cost of hospitality suite at Wanderers Cricket Stadium	No VAT claimable



# Examples

Example	Commentary
Company incurs lease cost of hospitality suite at Wanderers Cricket Stadium	No VAT claimable
Company buys furniture for hospitality suite	No VAT claimable



# Examples

Example	Commentary
Company incurs lease cost of hospitality suite at Wanderers Cricket Stadium	No VAT claimable
Company buys furniture for hospitality suite	No VAT claimable
Company buys a kettle, teaspoons, cups for coffee and tea for employees	No VAT claimable



# Examples

Example	Commentary
Company incurs lease cost of hospitality suite at Wanderers Cricket Stadium	No VAT claimable
Company buys furniture for hospitality suite	No VAT claimable
Company buys a kettle, teaspoons, cups for coffee and tea for employees	No VAT claimable
Company revamp a canteen in the building – the canteen is subsidised	No VAT claimable



# Examples

Example	Commentary
Company incurs lease cost of hospitality suite at Wanderers Cricket Stadium	No VAT claimable
Company buys furniture for hospitality suite	No VAT claimable
Company buys a kettle, teaspoons, cups for coffee and tea for employees	No VAT claimable
Company revamp a canteen in the building – the canteen is subsidised	No VAT claimable
Company revamp a canteen in the building – the canteen is not subsidised and charges recovers cost	VAT claimable





# Examples

Example	Commentary
Company incurs lease cost of hospitality suite at Wanderers Cricket Stadium	No VAT claimable
Company buys furniture for hospitality suite	No VAT claimable
Company buys a kettle, teaspoons, cups for coffee and tea for employees	No VAT claimable
Company revamp a canteen in the building – the canteen is subsidised	No VAT claimable
Company revamp a canteen in the building – the canteen is not subsidised and charges recovers cost	VAT claimable
Company buys toilet paper	VAT claimable



# Examples

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Company incurs lease cost of hospitality suite at Wanderers Cricket Stadium	No VAT claimable
Company buys furniture for hospitality suite	No VAT claimable
Company buys a kettle, teaspoons, cups for coffee and tea for employees	No VAT claimable
Company revamp a canteen in the building – the canteen is subsidised	No VAT claimable
Company revamp a canteen in the building – the canteen is not subsidised and charges recovers cost	VAT claimable
Company buys toilet paper	VAT claimable
Hotel has special canteen for employees - subsidised	No VAT claimable



# Examples

Example	Commentary
Company incurs lease cost of hospitality suite at Wanderers Cricket Stadium	No VAT claimable
Company buys furniture for hospitality suite	No VAT claimable
Company buys a kettle, teaspoons, cups for coffee and tea for employees	No VAT claimable
Company revamp a canteen in the building – the canteen is subsidised	No VAT claimable
Company revamp a canteen in the building – the canteen is not subsidised and charges recovers cost	VAT claimable
Company buys toilet paper	VAT claimable
Hotel has special canteen for employees - subsidised	No VAT claimable
Company provides a gym on the facilities for employees at no charge	No VAT claimable



# Examples

Example	Commentary
Company incurs lease cost of hospitality suite at Wanderers Cricket Stadium	No VAT claimable
Company buys furniture for hospitality suite	No VAT claimable
Company buys a kettle, teaspoons, cups for coffee and tea for employees	No VAT claimable
Company revamp a canteen in the building – the canteen is subsidised	No VAT claimable
Company revamp a canteen in the building – the canteen is not subsidised and charges recovers cost	VAT claimable
Company buys toilet paper	VAT claimable
Hotel has special canteen for employees - subsidised	No VAT claimable
Company provides a gym on the facilities for employees at no charge	No VAT claimable
Company provides creche at premises for employees	No VAT claimable (exempt)



# Examples

Example	Commentary
Company incurs lease cost of hospitality suite at Wanderers Cricket Stadium	No VAT claimable
Company buys furniture for hospitality suite	No VAT claimable
Company buys a kettle, teaspoons, cups for coffee and tea for employees	No VAT claimable
Company revamp a canteen in the building – the canteen is subsidised	No VAT claimable
Company revamp a canteen in the building – the canteen is not subsidised and charges recovers cost	VAT claimable
Company buys toilet paper	VAT claimable
Hotel has special canteen for employees - subsidised	No VAT claimable
Company provides a gym on the facilities for employees at no charge	No VAT claimable
Company provides creche at premises for employees	No VAT claimable (exempt)
Employee based in Jhb travels to Durban for the day - return on same day. Incurs VAT on lunch, coffee and refreshments	No VAT claimable



# Examples

Example	Commentary
Company incurs lease cost of hospitality suite at Wanderers Cricket Stadium	No VAT claimable
Company buys furniture for hospitality suite	No VAT claimable
Company buys a kettle, teaspoons, cups for coffee and tea for employees	No VAT claimable
Company revamp a canteen in the building – the canteen is subsidised	No VAT claimable
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Company buys toilet paper	VAT claimable
Hotel has special canteen for employees - subsidised	No VAT claimable
Company provides a gym on the facilities for employees at no charge	No VAT claimable
Company provides creche at premises for employees	No VAT claimable (exempt)
Employee based in Jhb travels to Durban for the day - return on same day. Incurs VAT on lunch, coffee and refreshments	No VAT claimable
Employee based in Jhb travels to Durban and stay over for one night. Incurs VAT on lunch, dinner, coffee, wine, accommodation and refreshments	VAT claimable



# Examples

Example	Commentary
Company incurs lease cost of hospitality suite at Wanderers Cricket Stadium	No VAT claimable
Company buys furniture for hospitality suite	No VAT claimable
Company buys a kettle, teaspoons, cups for coffee and tea for employees	No VAT claimable
Company revamp a canteen in the building – the canteen is subsidised	No VAT claimable
Company revamp a canteen in the building – the canteen is not subsidised and charges recovers cost	VAT claimable
Company buys toilet paper	VAT claimable
Hotel has special canteen for employees - subsidised	No VAT claimable
Company provides a gym on the facilities for employees at no charge	No VAT claimable
Company provides creche at premises for employees	No VAT claimable (exempt)
Employee based in Jhb travels to Durban for the day - return on same day. Incurs VAT on lunch, coffee and refreshments	No VAT claimable
Employee based in Jhb travels to Durban and stay over for one night. Incurs VAT on lunch, dinner, coffee, wine, accommodation and refreshments	VAT claimable
Employee based in Jhb travels to Durban and stay over for one night. Incurs VAT on dinner for herself and the Durban based manager.	VAT only claimed on Jhb based employee – none on Dbn based employee

# Examples

Example	Commentary
<p>Company sponsors a golf day for marketing purposes for existing and target clients and incur the following costs:</p> <ul style="list-style-type: none"><li>• Rent of golf course</li><li>• Drinks, meals, water</li><li>• Marketing banners</li><li>• Branded Golf Shirts for each participant</li><li>• Fee for event planner</li></ul>	<p>No VAT claimable No VAT claimable VAT claimable VAT claimable No VAT claimable (uncertain)</p>





# Examples

Example	Commentary
<p>Company sponsors a golf day for marketing purposes for existing and target clients and incur the following costs:</p> <ul style="list-style-type: none"><li>• Rent of golf course</li><li>• Drinks, meals, water</li><li>• Marketing banners</li><li>• Branded Golf Shirts for each participant</li><li>• Fee for event planner</li></ul>	<p>No VAT claimable No VAT claimable VAT claimable VAT claimable No VAT claimable (uncertain)</p>
<p>Company runs a canteen at its office. The canteen is outsourced to an external services provider and the company pays a management fee to this company.</p>	<p>VAT may not be claimed on the management fee.</p>



# Examples

Example	Commentary
<p>Company sponsors a golf day for marketing purposes for existing and target clients and incur the following costs:</p> <ul style="list-style-type: none"><li>• Rent of golf course</li><li>• Drinks, meals, water</li><li>• Marketing banners</li><li>• Branded Golf Shirts for each participant</li><li>• Fee for event planner</li></ul>	<p>No VAT claimable No VAT claimable VAT claimable VAT claimable No VAT claimable (uncertain)</p>
<p>Company runs a canteen at its office. The canteen is outsourced to an external services provider and the company pays a management fee to this company.</p>	<p>VAT may not be claimed on the management fee.</p>
<p>An audit firm based in Pretoria has a client in Nelspruit. The accommodation cost of the audit team is incurred by the client.</p>	<p>VAT not claimable by the audit client</p>



# Examples

Example	Commentary
<p>Company sponsors a golf day for marketing purposes for existing and target clients and incur the following costs:</p> <ul style="list-style-type: none"> <li>• Rent of golf course</li> <li>• Drinks, meals, water</li> <li>• Marketing banners</li> <li>• Branded Golf Shirts for each participant</li> <li>• Fee for event planner</li> </ul>	<p>No VAT claimable            No VAT claimable            VAT claimable            VAT claimable            No VAT claimable (uncertain)</p>
<p>Company runs a canteen at its office. The canteen is outsourced to an external services provider and the company pays a management fee to this company.</p>	<p>VAT may not be claimed on the management fee.</p>
<p>An audit firm based in Pretoria has a client in Nelspruit.            The accommodation cost of the audit team is incurred by the client.</p>	<p>VAT not claimable by the audit client</p>
<p>An audit firm based in Pretoria has a client in Nelspruit.            The accommodation cost of the audit team is incurred by the audit firm.</p>	<p>VAT is claimable by the audit firm.</p>



# Recreational and sport clubs

(2) Notwithstanding anything in this Act to the contrary, a vendor, shall not be entitled to deduct from the sum of the amounts of output tax and refunds contemplated in section 16 (3), any amount of input tax—

(b) in respect of any fees or subscriptions paid by the vendor in respect of membership of any club, association or society of a sporting, social or recreational nature;



# Motor Car: General Rule

(2) Notwithstanding anything in this Act to the contrary, a vendor, shall not be entitled to deduct from the sum of the amounts of output tax and refunds contemplated in section 16 (3), any amount of input tax—

(c) in respect of any motor car supplied to or imported by the vendor...



**“motor car”** includes a motor car, station wagon, minibus, double cab light delivery vehicle and any other motor vehicle of a kind normally used on public roads, which has three or more wheels and is constructed or converted **wholly or mainly** for the carriage of passengers,

but does not include—

- (a) vehicles capable of accommodating only one person or suitable for carrying more than 16 persons, or
- (b) vehicles of an unladen mass of 3 500 kilograms or more; or
- (c) caravans and ambulances;
- (d) vehicles constructed for a special purpose other than the carriage of persons and having no accommodation for carrying persons other than such as is incidental to that purpose;
- (e) game viewing vehicles (other than sedans, station wagons, mini-buses or double cab light delivery vehicles) constructed or permanently converted for the carriage of seven or more passengers for game viewing in national parks, game reserves, sanctuaries or safari areas and used exclusively for that purpose, other than use which is merely incidental and subordinate to that use; or
- (f) vehicles, constructed as or permanently converted into hearses for the transport of deceased persons and used exclusively for that purpose



# Motor Car: Exclusions

Provided that—

- (i) this paragraph shall not apply where that motor car is acquired by the vendor exclusively for the purpose of making a taxable supply of that motor car in the ordinary course of an enterprise which continuously or regularly supplies motor cars, whether that supply is made by way of sale or under an instalment credit agreement or by way of rental agreement at an economic rental consideration;
- (ii) for the purposes of this paragraph a motor car acquired by such vendor for demonstration purposes or for temporary use prior to a taxable supply by such vendor shall be deemed to be acquired exclusively for the purpose of making a taxable supply;



# Examples

Example	Commentary
A Jhb based employee is required to travel to Cape Town for business purposes. He rents a Renault Duster from Imperial Car Rental for 2 days in Cape Town.	No VAT on car rental component. VAT is claimable in insurance component.





# Examples

Example	Commentary
A Jhb based employee is required to travel to Cape Town for business purposes. He rents a Renault Duster from Imperial Car Rental for 2 days in Cape Town.	No VAT on car rental component. VAT is claimable in insurance component.
A motor car dealer buys a Mercedes Benz GLE. It is used by the Dealer Principal as a company car for 6 months after which it is sold by the Dealer.	Input VAT claimable VAT in fringe benefit – 0.6% x determined value



# Examples

Example	Commentary
A Jhb based employee is required to travel to Cape Town for business purposes. He rents a Renault Duster from Imperial Car Rental for 2 days in Cape Town.	No VAT on car rental component. VAT is claimable in insurance component.
A motor car dealer buys a Mercedes Benz GLE. It is used by the Dealer Principal as a company car for 6 months after which it is sold by the Dealer.	Input VAT claimable VAT in fringe benefit – 0.6% x determined value
A motor car manufacturer sells vehicles with a warranty. Whenever extended repairs under warranty is required, the motor car manufacturer rents a car from AVIS car rental and provides it to the customer.	No VAT claimable on car rental unless it is a bakkie.



# Examples

Example	Commentary
A Jhb based employee is required to travel to Cape Town for business purposes. He rents a Renault Duster from Imperial Car Rental for 2 days in Cape Town.	No VAT on car rental component. VAT is claimable in insurance component.
A motor car dealer buys a Mercedes Benz GLE. It is used by the Dealer Principal as a company car for 6 months after which it is sold by the Dealer.	Input VAT claimable VAT in fringe benefit – 0.6% x determined value
A motor car manufacturer sells vehicles with a warranty. Whenever extended repairs under warranty is required, the motor car manufacturer rents a car from AVIS car rental and provides it to the customer.	No VAT claimable on car rental unless it is a bakkie.
An Insurance Company provides insurance to the public. Whenever extended repairs under insurance contract is required, the Insurance Company rents a car from Tempest car rental and provides it to the customer.	No VAT claimable on car rental unless it is a bakkie.



# What about subsequent supply of items for which deduction was denied?

## Section 17(3)

Notwithstanding anything in section 16 (4), where a vendor has made a supply of goods as contemplated in section 8 (10) and in respect of the acquisition thereof by the vendor a deduction of input tax under section 16 (3) was denied in terms of subsection (2) of this section, the vendor shall not be required to account for output tax in relation to such supply.



# Tax Invoices – Section 20(4)

**Example 39 – Full tax invoice (consideration more than R5 000)**

RM Vehicles  
t/a NZ Motors  
RiversEdge Road  
Mount Edgescombe  
Movenber Hills  
VAT No.: 4111252081

Invoice No.: 2019/ 510

DATE: 30 April 2019

**TAX INVOICE**

To : DC  
456 Pale water Drive  
Glen Fields  
Johannesburg  
VAT No. : 4740123987

Date	Quantity	Description	VAT	R
30/04/2019	1	2009 BMW motorbike (second-hand goods)	28 000,00	228 000,00
	1	Alarm System	420,00	3 420,00
			Total	<b>231 420,00</b>
			VAT included @ 15%	<b>30 185,00</b>

Quantity of goods or services supplied.

Name, address and VAT registration number of the supplier.

Serialised tax invoice number and date of the invoice.

The words "tax invoice" or "VAT invoice" or "invoice" must appear on the document.

Name, address and VAT registration number of the recipient.

Proper description of the goods or services supplied.

Total selling price charged including VAT. The VAT amount must either be separately quoted or the tax invoice must contain a statement that the total consideration includes VAT @ 15%.

# Tax Invoices – Section 20(4)

(4) Except as the Commissioner may otherwise allow, and subject to this section, a tax invoice (full tax invoice) shall be in the currency of the Republic and shall contain the following particulars:

- (a) The words “tax invoice”, “VAT invoice” or “invoice”;
- (b) the name, address and VAT registration number of the supplier;
- (c) the name, address and, where the recipient is a registered vendor, the VAT registration number of the recipient;
- (d) an individual serialized number and the date upon which the tax invoice is issued;
- (e) full and proper description of the goods (indicating, where applicable, that the goods are second-hand goods) or services supplied;
- (f) the quantity or volume of the goods or services supplied;
- (g) either—
  - (i) the value of the supply, the amount of tax charged and the consideration for the supply; or
  - (ii) where the amount of tax charged is calculated by applying the tax fraction to the consideration, the consideration for the supply and either the amount of the tax charged, or a statement that it includes a charge in respect of the tax and the rate at which the tax was charged:

Provided that the requirement that the consideration or the value of the supply, as the case may be, shall be in the currency of the Republic shall not apply to a supply that is charged with tax under section 11.



# Abridged tax Invoices – Section 20(5)

(5) Notwithstanding anything in subsection (4), where the consideration in money for a supply does not exceed R5 000, a tax invoice (abridged tax invoice) shall be in the currency of the Republic and shall contain the particulars specified in that subsection or the following particulars:

- (a) The words “tax invoice”, “VAT invoice” or “invoice”;
- (b) the name, address and VAT registration number of the supplier;
- (c) an individual serialized number and the date upon which the tax invoice is issued;
- (d) a description of the goods (indicating, where applicable, that the goods are second-hand goods) or services supplied;
- (e) either—
  - (i) the value of the supply, the amount of tax charged and the consideration for the supply; or
  - (ii) where the amount of tax charged is calculated by applying the tax fraction to the consideration, the consideration for the supply and either the amount of the tax charged, or a statement that it includes a charge in respect of the tax and the rate at which the tax was charged:

Provided that this subsection shall not apply to a supply that is

## Example 40 – Abridged tax invoice (Consideration less than R5 000)

### TAX INVOICE

BD (Pty) Ltd  
Highfield Building  
80 Club Avenue  
Norwood  
2192

Tax Invoice No: 2016/1235  
VAT Registration No: 4321123450

Date: 15 February 2019

DATE	DESCRIPTION OF GOODS / SERVICES	R
15/02/2019	6 pack of soda x 200	3 000
	VAT @ 15%	450
	<b>Total</b>	<b>3 450</b>

(6) Notwithstanding any other provision of this Act, a supplier shall not be required to provide a tax invoice if the total consideration for a supply is in money and does not exceed R50

# Debit Notes and Credit Notes

- Similar requirements as for tax invoices
- When can it be issued?
- What about early settlement discounts?





# Tax invoices, debit notes and credit notes: Acquisition of business as going concern

(5A) Notwithstanding anything to the contrary in [subsections \(4\)](#) and [\(5\)](#), where

- a vendor acquires an enterprise from another vendor and
- as a result of that acquisition,
- the supplying vendor immediately ceases to be a vendor,
- and the purchasing vendor, within a period of six months from the date of the acquisition, issues or receives a tax invoice in respect of the acquired enterprise,
- that tax invoice may reflect the name, address and VAT registration number of the supplying vendor.



# Repossession: VAT 404

## 13.6.2 Repossession or surrender of goods supplied under an instalment credit agreement

It is impractical in circumstances where goods supplied under an ICA are subsequently repossessed or where such goods are surrendered by the debtor, to require the debtor to issue an invoice or tax invoice to the financier. Therefore, if the goods –

- are repossessed from, or surrendered by, a vendor, the person exercising the right of repossession (normally a bank or other financier who is also a vendor), is required to create and furnish a tax invoice to the debtor; and
- are repossessed from, or surrendered by, a non-vendor, the person exercising the right of repossession, namely the vendor is required to keep details as mentioned in **13.6.1** relating to the second-hand goods (for example, the VAT264 declaration).



# SARS discretion

(7) Where the Commissioner is satisfied that there are or will be sufficient records available to establish the particulars of any supply or category of supplies, and that it would be impractical to require that a full tax invoice be issued in terms of this section, the Commissioner may, subject to such conditions as the Commissioner may consider necessary, direct—

- (a) that any one or more of the particulars specified in [subsection \(4\)](#) or [\(5\)](#) shall not be contained in a tax invoice; or
- (b) that a tax invoice is not required to be issued; or
- (c) that the particulars specified in [subsection \(4\)](#) or [\(5\)](#) be furnished in any other manner.



# The Tax Faculty



## Bad debts and repossessions

[www.taxfaculty.ac.za](http://www.taxfaculty.ac.za)



# Section 22(1): General Rule

## 22. Irrecoverable debts.—

(1) Subject to [subsection \(6\)](#), where a vendor—

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

(b) has **furnished a return in respect of the tax period** for which the output tax on the supply was payable and has properly accounted for the output tax on that supply as required under this Act; and

(c) has **written off** so much of the said consideration as has become irrecoverable,

the vendor may make a deduction in terms of section 16 (3) of that portion of the amount of tax charged in relation to that supply as bears to the full amount of such tax the same ratio as the amount of consideration so written off as irrecoverable bears to the total consideration for the supply, the deduction so made being deemed for the purposes of the said section to be input tax...



## Section 22(6) – special rules “100% group of companies”

- (6)(a) Where a vendor which is a member of a group of companies makes a taxable supply to another vendor which is a member of the same group of companies, the vendor who made the taxable supply may not make a deduction in terms of [subsection \(1\)](#) read with section 16 (3) of any amount of tax that has become irrecoverable for as long as both vendors are members of the same group of companies.
- (b) For the purposes of [paragraph \(a\)](#) and [subsection \(3A\)](#), a “group of companies” means a group of companies as defined in section 1 of the Income Tax Act if any other company would be part of the same group of companies as that company if the expression “at least 70 per cent of the equity shares of” in [paragraphs \(a\)](#) and [\(b\)](#) of that definition were replaced by the expression “100 per cent of the equity shares of”.



# Section 22(1): Instalment credit agreement

## 22. Irrecoverable debts.—

Provided that—

- (i) where tax charged in respect of a supply of goods under an instalment credit agreement has become irrecoverable, any deduction in terms of section 16 (3) as provided for in this section, shall be restricted to the tax content of the amount which has become irrecoverable in respect of the cash value of such supply, as applicable in respect of that agreement in terms of section 10 (6);
- (ii) the amount which has become irrecoverable in respect of such cash value shall be deemed to be an amount equal to the balance of the cash value remaining after deducting therefrom so much of the sum of the payments made by the debtor in terms of the said agreement as, on the basis of an apportionment in accordance with the rights and obligations of the parties to the said instalment credit agreement, may properly be regarded as having been made in respect of the cash value;
- (iii) the said tax content shall be an amount calculated by applying the tax fraction, as applicable at the time the supply under the said instalment credit agreement was in terms of section 9 (3) (c) deemed to have taken place, to the amount deemed as aforesaid to be irrecoverable in respect of such cash value;



# Transfer of debts

## 22. Irrecoverable debts.—

Provided that—

- (iv) a vendor who has transferred an account receivable at face value on a—
  - (aa) non-recourse basis to any other person, shall not make any deduction in respect of such transfer in terms of this subsection; or
  - (bb) recourse basis to any other person, may make a deduction in terms of this subsection only when such account receivable is transferred back to him and he has written off so much of the consideration as has become irrecoverable:





# Repossessions

“input tax”, in relation to a vendor, means—

- (c) an amount equal to the tax fraction of the consideration in money deemed by section 10 (16) to be for the supply (not being a taxable supply) by a debtor to the vendor of goods repossessed under an instalment credit agreement or a surrender of goods: Provided that the tax fraction applicable under this paragraph shall be the tax fraction applicable at the time of supply of the goods to the debtor under such agreement as contemplated in section 9 (3) (c)

## Section 8(10)

(10) For the purposes of this Act—

- (a) where any goods are repossessed; or
- (b) where there is a surrender of goods,

under an instalment credit agreement, a supply of such goods shall be deemed to be made by the debtor under such instalment credit agreement to the person exercising the person's right or obligation of possession under such instalment credit agreement, and where such debtor is a vendor the supply shall be deemed to be made in the course or furtherance of the vendor's enterprise unless such goods did not form part of the assets held or used by the vendor for the purposes of the vendor's enterprise.

## Section 10(16)

Where a supply of goods is deemed by section 8 (10) to be made by a debtor, the consideration in money for that supply shall be deemed to be an amount equal to the balance of the cash value of the goods (being the cash value thereof applied under [subsection \(6\)](#) in respect of the supply of the goods to the debtor under the said agreement) which has not been recovered on the date on which the supply of the goods by the debtor is deemed by section 9 (8) to be made: Provided that the said balance shall be deemed to be the amount remaining after deducting from the cash value so much of the sum of the payments made by the debtor under the said agreement as, on the basis of an apportionment in accordance with the rights and obligations of the parties to the said instalment credit agreement, may properly be regarded as having been made in respect of the cash value.





## Payment not made in 12 months



## Sections 22(3) 22(3A), 22(4) and 22(6)

- 3) *Subject to subsection (3A), where a vendor who is required to account for tax payable on an invoice basis in terms of section 15—*
- (a) has made a deduction of input tax in terms of section 16 (3) in respect of a taxable supply of goods or services made to him; and*
  - (b) has, within a period of 12 months after the expiry of the tax period within which such deduction was made, not paid the full consideration in respect of such supply, an amount equal to the tax fraction, as applicable at the time of such deduction, of that portion of the consideration which has not been paid shall be deemed to be tax charged in respect of a taxable supply made in the tax period following the expiry of the period of 12 months: Provided that—*
    - (i) the period of 12 months shall, if any contract in writing in terms of which such supply was made provides for the payment of consideration or any portion thereof to take place after the expiry of the tax period within which such deduction was made, in respect of such consideration or portion be calculated as from the end of the month within which such consideration or portion was payable in terms of that contract;*



## Sections 22(3) 22(3A), 22(4) and 22(6)

- (3A) Subject to subsection (6) (a), subsection (3) shall not be applicable in respect of a taxable supply made by a vendor which is a **member of a group of companies**, to another vendor which is a member of the same group of companies for as long as both vendors are members of the same group of companies.
- (4) If a vendor who has accounted for tax payable in accordance with subsection (3) at any time thereafter pays any portion of the consideration in respect of the supply in question, he may in terms of section 16 (3) make a deduction of input tax of an amount equal to the tax fraction, as applicable at the time of the deduction contemplated in paragraph (a) of the said subsection (3), of that portion of the consideration so paid.



## Sections 22(3) 22(3A), 22(4) and 22(6)

- (6)(a) *Where a vendor which is a member of a group of companies makes a taxable supply to another vendor which is a member of the same group of companies, the vendor who made the taxable supply may not make a deduction in terms of subsection (1) read with section 16 (3) of any amount of tax that has become irrecoverable for as long as both vendors are members of the same group of companies.*
- (b) *For the purposes of paragraph (a) and subsection (3A), a “group of companies” means a group of companies as defined in section 1 of the Income Tax Act if any other company would be part of the same group of companies as that company if the expression “at least 70 per cent of the equity shares of” in paragraphs (a) and (b) of that definition were replaced by the expression “100 per cent of the equity shares of”.*



# VAT Case 1247: *The facts and the dispute*

- [2] In 2008, C (Pty) Ltd ('C') became the sole shareholder of the appellant, which became its wholly owned subsidiary. During 2009 the appellant made land owned by it available to C. On the land, C undertook the development of residential property units in a development known as 'The Quadrant' and commercial property in Library Gardens, Claremont, Cape Town. By agreement between C and the appellant during the development process, *C funded the appellant's cash flow requirements on loan account via inter-company shareholder loans to avoid external finance to fund business operations being obtained.*
- [3] On 2 April 2009 C issued tax invoice number 152 ('the invoice') to the appellant in respect of a taxable supply of R82 095 000, inclusive of VAT at the rate of 14%, in respect of the development of the residential component of phase 2 of the Quadrant development, including the pool, gym and other infrastructure. There is no dispute that C was obliged to invoice the appellant for VAT in terms of section 15 of the Act. Following receipt of the invoice, *the appellant claimed an input tax deduction in respect of the VAT in the amount of R10 081 842.10* and received payment of this amount from SARS. ... SARS was not out of pocket in that the invoice gave rise to output tax obligations on the part of C and enabled the appellant to claim an input tax deduction equal to the amount for which C was obliged to account to SARS.
- [4] *Both C and the appellant considered that the liability under the invoice had been paid after C's loan account was credited.* The February 2010 annual financial statements of the appellant and C recorded the amount as neither a current liability nor current asset. In the appellant's financial statements it was converted to a long-term debt, while in C's financial statements it was dealt with as a non-current asset on the understanding that the long-term debt liability would be paid as and when the development properties were sold through increasing and decreasing the loan accounts between the two companies. Given the agreed funding arrangement, the amount could not have been claimed by C as a bad debt for VAT purposes, or any other purpose. *Had the appellant been required to pay C the amount invoiced, it would have had to borrow the funds from C to do so, in which case C's loan account in the books of the appellant would have been credited with the same amount.*



# VAT Case 1247: *The facts and the dispute*

- [9] ... Mr Gary Moore, the managing director of C and a director of the appellant, confirmed that C is the holding development company, sole shareholder and sole funder of the appellant and that the invoice raised by C reflected the total development cost of the project. *His evidence was that it had been agreed that the appellant would receive funds by a loan account from C, that C's invoice would be settled by crediting its loan account and that this was intended as payment.* For this reason, he signed C's financial statements of 28 February 2010 in which sundry creditors were recorded as nil.
- [10] *The evidence of Mr Leonard Williams, who undertook the assessment for SARS, was that there was no evidence that payment of the invoice had been made and that in spite of there being no loss to the fiscus, the provisions of s 22(3) were not discretionary.* With no payment made, s 22(3) had not been complied with and the assessment was accordingly made on this basis.



# VAT Case 1247: The key question for consideration

- *[11] The appeal in this matter turns on whether, having regard to the provisions of s 22(3), the crediting of a loan account constitutes payment of full "consideration" within a period of 12 months after the appellant claimed an input tax deduction for the VAT component of the invoice raised by C as a related company or not.*
- *[13] It is the appellant's case that the crediting of C's loan account by the appellant in the context of the funding arrangement between these two group companies constituted "payment made" "in respect of" and "in response to...the supply" of the "goods or services" reflected in the invoice given that it was funded by C via agreed inter-company loan accounts. In addition, it is material that both the appellant and C consider the crediting of the loan account to constitute payment given the funding arrangement agreed between the two group companies.*
- *[14] SARS takes a different view of the matter, on the basis that given the definition of an "invoice" in the Act, being a document notifying of an obligation to make payment, the effect of the tax invoice issued was that the appellant was obliged to pay the amount invoiced to C. Recording the amount in the loan account of C in the books of the appellant and as a non-current liability, as was contended for SARS, did not constitute "payment" of the full consideration in that it remained a debt on the books, justifying the provisions of s 22(3) being invoked.*





# VAT Case 1247: The finding

- *The court found in favour of the taxpayer as follows:*
- *[17] The commercial transaction in the current matter arose **within the context of an agreed funding arrangement between the appellant and C as group companies**, confirmed by the appellant's witnesses. The legitimacy of this agreement could not be called into question.*
- *[18] Given this funding arrangement, had C's loan account not been credited in the manner it was, C would have been required to advance funds to the appellant in order for its own invoice to be settled. C could not have sued the appellant for a cash payment of the invoice, nor could it have claimed the amount in question as a bad debt for VAT or other tax purposes given the funding arrangement in place. It follows that both C and the appellant did not expect that C would be paid in cash for the relevant supply, as was confirmed by the appellant's witnesses in evidence. What was rather contemplated was that the invoice would be settled by crediting the loan account of the holding company C in the books of the appellant as its wholly-owned subsidiary.*
- *[19] Crediting the loan account did not however extinguish the appellant's liability to C. What it did was to move the liability from a current one to a long-term liability in the books of the appellant. This distinguished what the appellant owed on loan account from what it had owed on the invoice, with the loan account –*  
*'...the formal record in the company's ledger of credits and debits relating to moneys lent to the company; but in its usual business connotation it is the shareholder's claim against the company for the amount standing to his credit on loan account.'*



# VAT Case 1247: The finding

- **[20] The dispute turns on whether in adjusting the liability to a long-term one, the appellant complied with s 22(3)(b) insofar as it “paid the full consideration in respect of such supply” which was the subject of the invoice it received from C.**
- *[23] While none of the decisions referred to considered whether the crediting of a loan account in circumstances such as arise in this matter constitutes payment of an invoice raised, it appears to me that as in Guiseppe Brollo Properties the enquiry turns on the overriding purpose of the loan account liability incurred. The undisputed evidence for the appellant in this matter is that the purpose of the loan liability incurred was to discharge the invoice debt. The result was, in the words of counsel for the appellant, that what was owing by the appellant under the loan account was a different “animal” to what was owing under the invoice. In issue then is with this being the purpose whether the conversion of the liability from one arising from an invoice into a loan liability constitutes payment of consideration for purposes of s 22(3).*
- *[24] In relation to the supply of goods and services to any person “consideration” includes “any payment made or to be made” whether “in money or otherwise, or any act or forbearance”. To the extent that payment amounts to the discharge of an obligation to another, there is no reason as to why an obligation under an invoice may not be discharged through the creation of another liability such as one under a loan... **The effect is to discharge one obligation through the creation of another.***
- *[27] It follows therefore that the crediting of C’s loan account by the appellant in the context of the funding arrangement between the two companies amounted to payment of “consideration” in relation to the supply of goods and services invoiced.*
- *[28] The appeal should therefore succeed given that the jurisdictional fact required for the application of section 22(3), being non-payment of the consideration within 12 months was not satisfied. It is only reasonable that costs follow the result.*



# The Tax Faculty



## Change in use adjustments



# Change in use: VAT 404

- A vendor must make an adjustment to output or input tax (as the case may be),
  - if the extent to which capital goods or services used by the vendor to make taxable supplies
  - increases or decreases, or
  - goods or services are applied wholly for a different to the intended purpose when acquired, manufactured, assembled, constructed or produced.
  - This includes stock items or capital assets taken from the business for own use, or for exempt or other non-taxable purposes.



## 9.5 Change in use or application

An adjustment to **output tax** will be required where –

- goods or services acquired for making taxable supplies are subsequently applied **wholly for private**, exempt or other non-taxable purposes; or
- there is a ***decrease*** of more than 10% in the extent of taxable use or application by the vendor of capital goods or services which have an adjusted cost of R40 000 or more.

An adjustment to **input tax** may be permitted where –

- goods or services applied wholly or partly for exempt or private purposes are subsequently applied **wholly or partly** for making taxable supplies; or
- there is an ***increase*** of more than 10% in the extent of taxable use or application by the vendor of the capital goods or services concerned.



## 9.5.2 Change in use from taxable to non-taxable purposes

- If you bought or imported any goods or services (including capital goods or services) for your business and deducted input tax, and later, applied the goods or services for your own use, for exempt supplies, or for other non-taxable purposes (that is wholly for another purpose), you will have to pay output tax on the OMV of those goods or services.
- The adjustment must be made at the time that the goods or services are applied wholly for non-taxable purposes.
- An output tax adjustment must also be made if you donate any stock or other enterprise assets on which input tax was previously deducted if you do not receive anything in return.



### 9.5.3 Decrease in extent of taxable use of capital goods or services

An adjustment is required to a vendor's **output tax** in those circumstances where there is a decrease of more than 10% in the extent to which **capital goods or services** are used or applied in the course of making taxable supplies. The adjustment is made on an annual basis.

No adjustment is applicable where –

- the adjusted cost is less than R40 000 (excluding VAT); or
- the vendor is a public authority or constitutional institution and the capital goods or services were acquired before 1 April 2005; or
- the vendor is a municipality and the capital goods or services were acquired before 1 July 2006; or
- there is a transfer of any assets, liabilities, rights and obligations as a result of a municipal boundary change.<sup>108</sup>



## 9.5.4 Change in use from non-taxable to taxable purposes

- A vendor is entitled to make an **input tax deduction** where goods or services are held for exempt, private or other non-taxable purposes and subsequently applied by the vendor for consumption, use or supply in the course of making taxable supplies.
- The deduction will not apply in respect of any goods or services for which a deduction of input tax is denied.
- The amount of the deduction will depend on the extent of the intended use of the goods or services in relation to the total intended use.
- The vendor may deduct input tax in the tax period in which the goods or services are actually used for making taxable supplies.
- The amount of the adjustment is calculated by applying the tax fraction (15/115) to the lesser of the adjusted cost (including VAT), or the OMV of the relevant goods or services.





## 9.5.5 Increase in the extent of taxable use of capital goods or services

An input tax adjustment may be made by a vendor in circumstances where there is an increase of more than **10%** in the extent to which capital goods or services are used or applied in the course of making taxable supplies. This adjustment is made on an annual basis.

No adjustment is applicable where –

- the adjusted cost is less than R40 000 (excluding VAT); or
- the vendor is a public authority or constitutional institution and the capital goods or services were acquired before 1 April 2005; or
- the vendor is a municipality and the capital goods or services were acquired before 1 July 2006.



## **9.5.6 Subsequent sale or disposal of goods or services partly applied for taxable supplies**

A vendor that acquires goods or services which are used partly for making taxable supplies and thereafter supplies those same goods or services in the course of the enterprise is required to account for output tax on the full consideration for the supply.

In order to eliminate double taxation, the vendor is entitled in these circumstances to deduct the portion of VAT that was originally disallowed on the acquisition of the goods or services.



# The Tax Faculty



## Agency agreements



# Section 54

- (1) For the purposes of this Act, where an agent makes a supply of goods or services for and on behalf of any other person who is the principal of that agent, that supply shall be deemed to be made by that principal and not by that agent:

Provided that, where

- that supply is a taxable supply and
- that agent is a vendor,
- the agent may, notwithstanding anything to the contrary in this Act,
- issue a tax invoice or a credit note or a debit note in relation to such supply as if the agent had made a taxable supply,
- and to the extent that that tax invoice or credit note or debit note relates to that supply, the principal shall not also issue a tax invoice or a credit note or a debit note, as the case may be:
- Provided further that where an agent issues a tax invoice on behalf of a principal, such tax invoice must be issued within 21 days of the date of that supply by that agent.

- (2) For the purposes of this Act, where any vendor makes a taxable supply of goods or services to an agent who is acting on behalf of another person who is the principal for the purposes of that supply, that supply shall be deemed to be made to that principal and not to such agent:

Provided that such agent may nevertheless request that he be provided with a tax invoice and the vendor may issue a tax invoice or a credit note or debit note as if the supply were made to such agent.



# VAT 420 Guide

- In order to correctly apply the VAT legislation to the concept of agents, it is necessary to identify and understand the concept of an “agent” as understood in common law.
- An agency is a contract whereby one person (the agent) is authorised and required by another person (the principal) to contract or to negotiate a contract with a third person, on the principal’s behalf.
- The agent in representing the principal, creates, alters or discharges legal obligations of a contractual nature between the principal and the third party.
- The agent therefore provides a service to the principal and normally charges a fee (generally referred to as “commission” or “agency fee”) but does not acquire ownership of the goods and/or services supplied to or by the principal.
- This agent/principal relationship may be expressly construed from the wording of a written agreement or contract concluded between the parties. Where a written agreement or contract does not exist, the onus of proof is on the person who seeks to bind the principal and demonstrate that the relationship was that of a principal and agent. An understanding of the relationship between the parties is therefore a requirement in understanding the VAT treatment of supplies made by the parties.



# VAT 420 Guide

Agent	Principal
<p>The agent will not be the owner of any goods or services acquired on behalf of the principal.</p>	<p>The principal is the owner of the goods or services acquired on the principal's behalf by the agent.</p>
<p>The agent will not alter the nature or value of the supplies made between the principal and third parties.</p>	<p>The principal may alter the nature or value of the supplies made between the principal and third parties.</p>
<p>Transactions on behalf of the principal do not affect the agent's turnover, except to the extent of the commission or fee earned on such transactions.</p>	<p>The total sales represent the principal's turnover. The commission or fee charged by the agent forms part of the principal's expenses.</p>
<p>An agent only declares the commission or fee for Income Tax and VAT purposes.</p>	<p>The principal declares gross sales as income for Income Tax and VAT purposes, and may be allowed to claim a deduction for the commission or fee charged by the agent.</p>

# The Tax Faculty



## The IT 14SD



**Client Name****IT 14SD for period ending****Information per VAT 201**

Description	R	R
Output VAT per VAT return - Including Capital goods - Block 13		
Total supplies (excluding zero rated supplies)		-
Total zero rated supplies		
Total exempt and non-supplies		
Total supplies per VAT 201		-

**Information per ITR 14**

Detail	R
Gross Sales (excluding credit notes) - Foreign Connected	
Gross Sales (excluding credit notes) - Other than foreign connected	
Total Sales per ITR 14	-

**Difference between VAT 201 to ITR 14**

Detail	R
Difference per the above	-

**Reconciliation of VAT 201 to ITR 14**

Detail	R
Turnover per AFS	-
<b><u>Items on which output VAT was paid per the VAT 201 but is not included in Sales per AFS</u></b>	
Value of capital supplies	
<b><u>Items included in AFS Sales but not included in output VAT per VAT 201</u></b>	
Other: Immaterial	
Various small timing differences	
	Accuracy level #DIV/0!
Total value of supplies per VAT 201	-





## Information per VAT 201

Description	R
Input VAT per VAT returns field 19 - Including Capital goods	
Total purchases on which input VAT was claimed	-

## Information per ITR 14

Detail	R
Opening Stock	
Add: Credit notes on sales	
Add: Purchases - Foreign connected (excluding rebates)	
Add: Purchases - Other than Foreign connected (excluding rebates)	
Less: Rebates on purchases	
Less: Closing Stock	
Less: Inventory adjustments (Previous year's stock provision reversed)	
Add: Inventory adjustments (Current year's stock provision/obsolete/slow moving)	
<b>Total Cost of Sales per ITR 14</b>	

## Difference between VAT 201 to ITR 14

Detail	R
Difference per the above	-

## Reconciliation of VAT 201 to ITR 14

Detail	R
<b>Amounts on which input VAT is claimed per AFS</b>	
Credit notes on sales	Only if disclosed as input VAT on VAT return
Purchases - Foreign connected (excluding rebates)	-
Purchases - Other than Foreign connected (excluding rebates)	-
Rebates on purchases	Only if disclosed as input VAT on VAT return
<b>Items on which input VAT was claimed per the VAT 201 but is not included in cos per AFS</b>	
VAT included in admin and operational expenses and disclosed below the line in AFS	
10% Upliftment in Customs Value for Imports	
<b>Items included in AFS cost of sales but on which no VAT is claimable</b>	
Less: Purchases of zero rated goods	
Other - mainly due to purchases from non VAT registered vendors, timing differences and zero rated purchases.	<b>Accuracy level</b> #DIV/0!
Total value of supplies per VAT 201	-



# Typical RFI

Description
Consulting, legal and professional fees per ITR14: Include description of each expense/why expense was incurred: and 3 largest invoices (legal only)
Description
Accruals and provisions (per Trade and other payables note)
Earn-in bonus provision (current liability)
Description
Turnover per VAT returns of [redacted] (for 201607 to 201706 periods) exceeded the VAT turnover of [redacted] declared on the IT14SD (further reconciling difference)
Detailed breakdown of Other Expenses total claimed per the ITR14
Income not taxable by virtue of a double taxation agreement: Explanation as to which DTA was relied upon and the specific provision of the DTA used to claim exemption
Proof that Foreign Income has been included in Taxable Income
Schedule and the Foreign tax certificates (certificates should be issued by the country of origin) for Foreign Tax Credit claimed, containing the following information:

- A detailed breakdown for the following reconciling difference(s) as reflected on the IT14SD submitted and provide reasons as to why the amount should not be included in taxable income.

Description	Amount
Deferred revenue	
Other Income subject to VAT	
Admin fees subject to VAT	
Intercompany invoicing not in revenue	

Consider:  
VAT, Income Tax, PAYE,  
CGT, DTA and foreign  
taxes

IT 14SD descriptions  
were not well thought  
through – now leads to  
RFI questions on  
Income Tax



# Guidance by SARS

-  IN-57 - Sale Enterprise Part Going Concern
-  LAPD-Intr-IN-2012-30 - Documentary Proof Movable Goods Consignment Address Export Country
-  LAPD-Intr-IN-2012-31 - Documentary Proof Zero Rating Goods Services
-  LAPD-Intr-IN-2012-41 - Application VAT Gambling Industry
-  LAPD-LPrep-Draft-2014-16 - Draft IN on VAT Treatment of Bets
-  LAPD-LPrep-EM-2019-01 - Explanatory Memorandum on Regulations prescribing electronic Services 18 March 2019
-  LAPD-LSec-Reg-2014-05 - Regulation R316 GG 37580 2 May 2014
-  LAPD-VAT-G02 - VAT 404 Guide for Vendors
-  LAPD-VAT-G03 - VAT 409 Guide for Fixed Property and Construction
-  LAPD-VAT-G04 - VAT 411 Guide for Entertainment Accommodation and Catering
-  LAPD-VAT-G07 - VAT 414 Guide for Associations not for Gain and Welfare Organisations
-  LAPD-VAT-G09 - VAT 420 Guide for Motor Dealers
-  LAPD-VAT-G10 - VAT 421 Guide for Short Term Insurance
-  LAPD-VAT-G16 - VAT FAQs Supplies of electronic services
-  Notice 429 GG42316 - 18 March 2019 - Electronic Services
-  VAT215 - Record in respect of Imported Services - External Form
-  VAT-CF-01-POL-G01 - VAT Refunds in terms of VAT Export Regulation No 316 - External Guide





# Questions

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