



VAT Apportionment

The what, why and how

YOUR KEY TO THE TAX COMMUNITY

Some useful links

- www.sars.gov.za
 - Under “Legal & Policy” will find a current copy of the Act, all Practice Notes and all cases
- Specific to VAT
 - <https://www.sars.gov.za/types-of-tax/value-added-tax/>
 - SARS > Tax Types > VAT

Let's go back to what the
law says

Input VAT

- Apportionment (section 17(1))
 - When goods or services are acquired partly for the purpose of making taxable supplies and partly for another intended use.
 - Section 17(1) provides that the input tax incurred must be apportioned in the following ratio:
 - Total intended use of supply for taxable purposes(excluding vat)
 - Total intended use of supply (excluding vat)
 -
- Commissioner has the right to change/clarify this ratio under a Binding General Ruling

Proviso's

- When intended use for making taxable supplies is 95% or more - deemed to have been acquired wholly for the purpose of making taxable supplies.
- For successive supplies (think insurance premiums, rental agreements, etc)
 - Estimate for each month
 - Reconcile the actual usage at the end of the contract and correct for any over/under claims.
- Every taxpayer has the right to approach SARS to obtain their own specific method of apportionment based on what's reasonable for their circumstances.

Input VAT

- Example 1: Apportionment
- Using the turnover method of apportionment, calculate the input tax credit permitted on a computer costing R11 500 (incl. VAT)

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- Sales Analysis:
- Standard Rated
- Zero Rated
- Exempt Supplies
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	Scenario 1	Scenario2
	R 85 000	R 80 000
	R 10 000	R 10 000
	R 5 000	R 10 000
	R100 000	R100 000

Input VAT

- Solution
- Scenario 1: 95% deemed to be 100% ∴ R1 500
- Scenario 2: 90% x R1 500 = R1 260
- You may use last years audited figures for this year's VAT periods, and then adjust within 3 months of year end for actual figures.
- NB: Any method other than turnover apportionment requires prior approval from SARS. However if you apply turnover and the result is not “fair and reasonable” you are required to approach SARS with an alternative.
- Eg: Your turnover approach gives you a 90% ratio when industry norms are 50%.

Change in use adjustments - cont

- Change of use adjustments : Section 18(2) and 18(5)
 - Decrease (or increase) in the extent of taxable use or application of capital goods or services by a vendor.
 - Reduction = deemed supply = output tax
 - Increase = Input tax adjustment
 - Value (section 10(9) for 18(2) and section 18(5)) :
 - $\frac{15}{115}$ x lesser of cost or deemed cost (including VAT) and open market value x % change of use
 - Time (section 18(6)) :
 - End of the vendor's YOA (or Feb)
 - Exceptions :
 - No adj. if the cost < R40 000 (excl VAT)
 - No adj. % change <= 10%

Change in use adjustments - cont

Example

A vendor acquires computers for the business at a cost of R115 000 (including VAT). At the time of purchase the vendor made 75% taxable supplies and 25% exempt supplies.

At the end of the year of assessment the vendor now makes 63% taxable supplies and 37% exempt supplies and the open market value of the computers is

R91 200.

Solution

Section 18(2) adjustment = $\frac{15}{115} \times R91\,200 \times 12\% = R1\,427$ output tax **(the taxable use has decreased)**

Change in use adjustments - cont

- Change of use adjustments : Section 18(4)
 - Applies when :
 - Goods or services acquired prior to 30/9/91 wholly for non-taxable purposes
 - Acquired new or second-hand, on or after 30/9/91 and no input tax credit claimed
 - And subsequently applied to a taxable purpose
 - Value :
 - Input tax adjustment = $\frac{15}{115}$ x lesser of cost or deemed cost (including VAT) and open market value x % taxable use
 - If second-hand : remember rules
 - Time :
 - Tax period when change of use occurs
 - Rules :
 - If intended use is $\geq 95\%$ deemed 100%

Change in use adjustments - cont

Example

A hairdresser owns a residential home, which she lets to tenants. This house cost her R100 000 and she paid R10 000 transfer duty at the time of purchase. She never claimed an input tax credit. The hairdresser gave the tenant notice and moved in herself. She occupied 20% for residential use and 80% for her business. The market value at this time was R120 000.

Solution

Section 18(4) adjustment

$$= \frac{15}{115} \times R100\,000 \times 80\%$$

$$= R10\,435 \text{ input tax}$$

Simple enough, right?

BGR 7

- A lot more detail (18 pages vs 2 pages)
- Does look and feel similar, yet contains a lot more detail

Some basic notes

- The STB formula is the default method and applies to all vendors unless they possess an approved alternative.
- The BGR applies with effect from all financial years commencing on or after 1 January 2024.
- The previous BGR 16 (Issue 2) formula applies to all financial years preceding the above financial years.
- If an alternative method was previously approved but this BGR is regarded as fair and reasonable, vendors may approach SARS to have that method withdrawn, effective for financial years commencing on or after 1 January 2024.
- Vendors are required to make an adjustment within nine months after the end of the financial year (previously within six months) where they used the previous year's turnover to determine the current year's apportionment ratio. No adjustment is required where the apportionment is performed monthly.

When should it be used?

- If it's fair and reasonable to the vendor's business activities.
 - If not – ask the Commissioner for an alternative method.
- How do we approach SARS?
 - The vendor submits to vatrulings@sars.gov.za the following information on an annual basis at the time the annual adjustment referred to in N7 is reflected in the VAT201 return:
 - The vendor's name
 - VAT registration number
 - Apportionment method and formula used
 - Apportionment ratio for the year. The first time that this formula is applied, the method and apportionment ratio for the past three (3) years must be submitted.

When should it never be used?

- If there is an industry approved alternative apportionment method
- If an alternative method has been approved by SARS for the taxpayer.

Revised formula

$$\bullet \quad y = \frac{A}{a + b + c} \times 100$$

- Where, having regard to the exclusions and adjustments listed below:
- “y” = the apportionment ratio or percentage.
- “a” = the value of all taxable supplies (including deemed supplies) made during the period.
- “b” = the value of all exempt supplies made during the period.
- “c” = the sum of any other amounts of income not included in “a” or “b” which was received or accrued during the period, whether in respect of a supply or not.

But wait – that’s exactly like the old version??

- Yes – but with 15 pages of additional detail on what you include and exclude from those 3 little letters...

Items specifically excluded

- E1 Foreign exchange differences that do not form part of any hedging activities. (aka – unrealised non cash item)
- E2 Accounting entries, such as fair value adjustments, resulting in income reflected in the AFS to ensure compliance with relevant Regulatory Frameworks. (aka – unrealised non cash item)
- E3 The supply of capital assets. (once off, distortive transactions)

Items specifically excluded

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- E4 Extraordinary income. (once off, distortive transactions)
- E5 The value of any goods or services supplied where input tax on those goods or services was specifically denied under section 17(2). (eg: entertainment or motor vehicles)
- E6 Specific to the provision of finance:
 - • The cash value of goods supplied under an ICA.
 - • The portion of a rental payment relating to the capital value of goods supplied under a rental agreement which is entered into as a mechanism of finance.
 - • Capital value of loans.

Items specifically excluded

- E7 Change-in-use adjustments under sections 18, 18A, 18C and 18D. (these are changes based on actual use rather than intended use)
- E8 Indemnity payments received as envisaged under section 8(8) to the extent that the indemnity payments relate to extraordinary income or capital assets. (once off, distortive transactions)
- E9 Manufactured interest and dividends received by the borrower of a securities lending transaction. (financing transaction)
- E10 The value of equities, debentures or bonds issued as a manner of raising funds. (financing transaction)
- E11 Interest earned from – (incidental to the intent to earn a profit)
 - the vendor's current account (meaning, the account used for day-to-day business operations); and
 - the South African Revenue Service (SARS).

Adjustments

- A1 Interest, other than the interest excluded from the formula in E11:
 - Interest from sections 8F and 8FA instruments must be regarded as dividends for apportionment purposes and be included in the formula by applying the (prime rate – JIBAR) proxy as set out in A3 below, to such interest.
 - Net interest must be included on funds that are borrowed with the objective to on-lend. Refer to the discussion on A1 in Annexure A on what “net interest” entails. Notes to the net interest adjustment:
 - If actual values are not available to determine the net interest value to be included, the following proxies must be used:
 - Proxy 1 – If no interest is received on the loan – use loan value × prime interest rate
 - Proxy 2 – If there is no interest paid value – use loan value × JIBAR
 - If the lending arrangement is between “connected persons” – the higher of the interest using actual values or the loan value × (prime rate – JIBAR) must be used.
 - Interest received on any investments, including savings accounts, must be included as follows:
 - Interest received for the year × (prime rate – JIBAR)

Adjustments

- A2 Trading in financial assets Include a 3-year moving average of the gross trading margin (selling value – buying value) on the trading of financial assets.
- A3 Dividends
 - Dividends from sections 8E and 8EA3 instruments must be regarded as interest for apportionment purposes and be included in the formula by applying the (prime rate – JIBAR) proxy as set out in A1 above, to such dividends.
 - Dividends received from investment activities (including investments held in subsidiaries, associates, ad-hoc or minority investments) must be included by applying the following formula:
 - 3-year moving average of dividends received/accrued during the year \times (prime rate – JIBAR)

Adjustments

- A4 Profit share from joint venture or partnership The amount to be included in the formula must be determined using the following formula:
 - 3-year moving average of a profit share received/accrued during the year \times (prime rate – JIBAR)
- A5 Debt securitisation transactions The amount to be included in the formula must be determined using the following formula:
 - Proceeds on the sale of debts under a securitisation transaction during the year \times (prime rate – JIBAR)
 - Note to this adjustment: In addition to the above, a proxy equal to the origination fees charged on the loan must be included in the apportionment formula to ensure that the exempt supply of granting credit is appropriately reflected, only where the loan is sold immediately after origination and before the vendor earning any interest or other consideration in relation to this exempt supply.

In or out?

- Purchase of laptop computer
 - Your business is a hardware retailer
 - Your business is a restaurant
- Loan received from bank
- Dividends received from subsidiary
- No dividend received from subsidiary
- Taxpayer has borrowed money to onlend it at a profit.
- A property developer starts renting out some property resulting in a change in use charge.

That's a mouthful – how has this worked out in practice?

- <https://www.sars.gov.za/legal-counsel/interpretation-rulings/published-binding-rulings/>

Disclaimer

- This seminar is presented for information purposes only and does not constitute tax advice. Please contact your tax practitioner for advice tailored to your specific circumstance