STANDARD INTERPRETATION GUIDELINE 2024-15

VALUE ADDED TAX ACT 1991 – BUDGET AMENDMENTS 2023/2024

This Standard Interpretation Guideline (SIG) sets out Fiji Revenue and Customs Service's (FRCS) policy and operational practice in relation to the amendments to the Value Added Tax Act 1991 through the Value Added Tax (Budget Amendment) Act 2023 (Act No.6 of 2023).

The SIG is issued with the authority of the Chief Executive Officer (CEO) of FRCS.

All legislative references in this SIG are to the Value Added Tax Act 1991 and its Regulations (unless otherwise stated).

This SIG is in effect from 1 August 2023 and may need to be reviewed in the event of any relevant legislative amendments.

CONTENT

PURPOSE

1. This SIG is aimed at providing the CEO's interpretation on the effect of the change in the Value Added Tax (VAT) rate on the time of supply rules as a result of the 2023/2024 Budget amendments through Act No. 6 of 2023.

2. This SIG also explains the transitional rules applicable to transactions spanning the rate change.

INTRODUCTION

3. The 'time of supply' rules determine when a supply becomes taxable both from the point of view of the supplier and recipient (where the recipient is also required to account for VAT) and the return period in which a registered person must account for the tax.

4. Both input tax and output tax are accounted for in the taxable period in which the time of supply has occurred or is deemed to occur (special time of supply rules).

5. In the 2023-2024 National Budget Address, the Minister for Finance announced an alignment of the standard VAT rate to 15 percent (%).

6. For transactions that span the VAT rate change, the tax rate chargeable on the supply will be the prevailing rate at the time of supply determined for VAT purposes. That is:

   i. if the time of supply falls in a period before 1 August 2023, the VAT rate is 9%.
   ii. if the time of supply falls on or after 1 August 2023, the VAT rate is 15%.

7. The examples used throughout this SIG are merely illustrative. They do not cover the infinite number of factual scenarios that may arise. The relevant legislative provisions must be considered and applied to each case on its particular facts is, conclusions should not be drawn by determining whether the facts of a particulars case may be analogous with particular examples, but rather on the basis of applying the correct tests established by the law.

8. The full text of the legislative provisions is contained in the Appendix.

LEGISLATIVE ANALYSIS

9. With effect from 1 August 2023, the standard VAT rate on taxable supplies of goods and services by a VAT registered person is 15%.[1] This also applies to the importation of goods[2] (except for the VAT free imports).

10. Some supplies involve a change in tax rate from 9% to 15%, therefore it is necessary to establish the point at which the supply became taxable (time of supply).

[1] Act No 6 of 2023 Value Added Tax (Budget Amendment) Act 2023.
[2] Section 14(1) of the VAT Act 1991

11. The taxing points when transactions relating to a supply occur in both the periods before and after 1 August 2023, are explained in the following paragraphs.

Time of supply rules

12. The time of supply[3] determines when a supply is treated as taking place for VAT purposes. That is, when the liability to account for tax on the supply arises.

13. Under the general time of supply rules in Section 18(1), a supply is deemed to take place at the earlier of when:
    a. a tax invoice is issued by the supplier or the recipient:
       - normally issued by the supplier; and
       - in a self-billing situation may be issued by the recipient[4]; or
    b. any payment is received by the supplier:
       - time of supply occurs when any payment is received; and
       - on the payment of a deposit, the full supply is deemed to take place at that point; or
    c. the delivery of the goods and services takes place.

14. **Example 1 – Credit sales**

X is a supermarket that allows credit sales to customer Y.
The following shows how VAT is to be accounted for in the period before and after 1 August 2023:

Delivery date	Payment date	Tax invoice date	Time of supply	VAT rate
28 July 2023	30 September 2023	28 August 2023	28 July 2023 (date supplied)	9%
7 September 2023	7 July 2023	7 August 2023	7 July 2023 (date paid)	9%
1 August 2023	1 August 2023	30 July 2023	30 July 2023 (tax invoice date)	9%
3 August 2023	2 August 2023	2 August 2023	2 August 2023 (tax invoice/payment date)	15%

15. **Example 2 – Correcting an error**

X is a supplier of electricity. In October 2023, the service provider noticed that there was a billing error for the months of June to September 2023.

Period of supply (2023)	Amount payable	Due date (2023)	Payment date (2023)	Tax invoice date (2023)	Time of supply (service delivered)	VAT rate
16th May – 15th June	$85	3rd July	3rd July	16th June	15th June 2023	9%
16th June to 15th July	$85	3rd August	3rd August	16th July	15th July 2023	9%
16th July-15th August	$85	3rd September	3rd September	16th August	15th August 2023	15%
16thAugust-15th Sept	$85	3rd October	3rd October	16th September	15th September 2023	15%

[3] Section 18 VAT Act 1991
[4] Regulation 12 Value Added Tax Regulations 1991.

Adjustments included in the October bill – for services delivered before 1 August 2023, the tax rate is 9%.

Period of supply (2023)	Amount payable	Adjustment	Time of supply (service delivered)	VAT rate
16th May – 15th June	$85	$185	15th June 2023	9%
16th June to 15th July	$85	$220	15th July 2023	9%
16th July - 15th August	$85	$180	15th August 2023	15%
16th August - 15th September	$85	$178	15th September 2023	15%

Real estate

16. The time of supply for real estate is also established in terms of Section 18 (1).

17. Section 18 (1) (a) - The time of supply rules is triggered under section 18(1)(a) only when a tax invoice is issued by a supplier.

18. Section 18(1)(b) - the time of supply rules is triggered under section 18(1)(b) only when the payment is received by the supplier.

19. If a payment has been received by a stakeholder (e.g. solicitor) to keep in trust, the time of supply will not be triggered until the contract conditions have been met and the benefits of the payment can be applied to the supplier.[5]

20. **Example 3 – When deposit is paid to solicitor or vendor**

X purchased a property from Y on 5 June 2023.

Under the sale and purchase agreement, a 10% deposit was to be paid after which the vendor would be required to hand over vacant possession within 30 days.

Scenarios	Time of supply	Tax rate
Purchaser paid deposit on 15th July 2023 to solicitor. Purchaser took possession of property on 10 August 2023	10 August 2023	15% of the purchase price
Purchaser paid deposit on 15th July 2023 Solicitor transferred the deposit to vendor on 31 August 2023 Purchaser took possession of property on 10 September 2023	31 August 2023 - when the vendor receives the deposit	15% of the purchase price

[5] SIG 2018-11

Purchaser paid deposit on 15th July 2023 to solicitor. Solicitor transferred deposit to vendor on 31 July 2023 Purchaser took possession of property on 10 August 2023	31 July 2023 – when vendor receives the deposit	9% of the purchase price

Deemed supplies

21. The time of supply rules also apply to deemed supplies under section 3. Special rules apply for insurance indemnity payments under section 3(8) and section 3(8A) of the VAT Act.

22. The receipt of an indemnity payment is deemed to be payment for a supply of service made by the recipient of the payment under section 3(8) of the VAT Act.

23. **Example 4 – Accounting for deemed supply**

Taxpayer X's warehouse is insured with Y insurance company.

A fire occurred on 5 February 2023 and the final discharge for settlement and payment was sent to X (the insured) on 10 January 2024.

Under section 3 (8), if a registered person receives a payment under a contract of insurance, it is deemed to be consideration received for a supply of services performed by the registered person on the day the person receives the payment, and in the course or furtherance of the person's taxable activity.

Since X has received an indemnity payment (relating to a taxable activity) under an insurance contract, X is deemed to have made a supply of services on the day he receives the payment. Therefore, the time of supply will be triggered when X receives the amount. The value of the supply will be the actual amount received and X will account for VAT using the VAT fraction 3/23.

However, if the indemnity payment was received prior to 1st August 2023 then the applicable rate would have been 9% and X will account for VAT using the VAT fraction 9/109.

24. **Example 5 – Accounting for deemed supply**

On 10 May 2023, Y (an insurer) made an indemnity payment of $100,000 to X for a fire that occurred in 2021.

Y exercised rights (known as rights acquired by subrogation) under the contract of insurance and recovered $110,000 from X as follows:

1) $100,000 – 30 June 2023
2) $5000 – 15 July 2023
3) $5000 – 15 August 2023

Under section 3 (8A), if an insurer recovers an amount in excess of the insurance payout, the insurer is deemed to have made a supply in the course of its taxable activity.
(a) the consideration for the deemed supply is the amount of the excess;

(b) the supply of services is deemed to be performed on:

- the day the insurer receives the amount; and
- if there is more than one such payment, on each such day.

Since Y has recovered an additional $10,000, it is deemed to have made a supply of services on the day the amount was received and will account for VAT as follows:

1) $5000 – 15 July 2023 - 9% (9/109)
2) $5000 – 15 August 2023 - 15% (3/23)

*Additional Note: $100,000 payment received on 30th June 2023 will be accounted for at 9% VAT rate (9/109).

Special time of supply rules

25. The special time of supply rules in Section 18(2) overrides the general rule. In such cases, a registered person is required to account for all the output tax and input tax on a supply in the period in which the supply is deemed to occur.

26. For transactions that span a VAT rate change, the transitional rules under section 88 of the VAT Act may affect the VAT rate chargeable on the supply.

Special rules - machines, meters etc.

27. The time of supply for the use of machines, meters and other similar devices operated by coin or token is covered in section 18(2)(a). The time of supply is the time any such coin or token is taken from that machine, meter, or other device by or on behalf of the supplier.

28. This will apply to devices such as parking meters, vending machines, arcade games etc.

29. **Example 6**

X has several vending machines for canned drinks located in several buildings around Suva.
The coins are collected at 3 – 4 pm on the 15th of every month.
Any purchases after this time will be collected in the next month.

X will account for VAT as follows:

Date machine used	Date coins collected	Time of supply	Tax rate
15 June 2023 to 15 July 2023	15 July 2023	15 July 2023	9%
15 July 2023 to 15 August 2023	15 August 2023	15 August 2023	15%

Supplies made under layby sales

30. Section 18(2)(b) provides the time of supply rules for layby sales and there are two main aspects to this.

31. The first is, the supply of goods takes place when the property (legal ownership) in the goods passes to the recipient. This is usually when the last payment is made, and possession and ownership is transferred.

32. **Example 7**

> X entered into a lay-by arrangement for the purchase of goods worth $2000 from Y on 1 June 2023. The payment arrangement was as follows:
> - 1 June 2023 - $500
> - 1 July 2023 - $500
> - 1 August 2023 - $500
> - 1 September 2023 -$500 (goods collected when last payment made)
>
> X accounts for VAT monthly
> Since the time of supply is 1 September 2023, Y is required to account for VAT $2000 at 15% and report this in the return for the taxable period September 2023.

33. The second aspect of lay-by sales relates to section 3 (9) (a) which deems that a supply of services takes place when a lay-by sale is cancelled, and the seller retains some of the money paid or recovers that amount. The time of supply for such a service is deemed to take place at the time of cancellation.

34. **Example 8**

> **Scenario 1** - X entered a lay-by arrangement in 2023 with Y for the purchase of goods on lay-by worth $2000. The payment arrangement was as follows:
> - 1 June - $500 (paid)
> - 1 July – 500
> - 1 August - $500
> - 1 September -$500
>
> X accounts for VAT on a quarterly basis.
>
> The lay-by was cancelled on 30 June 2023. Y retained $50 to cover costs.
>
> Since the cancellation was made on 30 June 2023, Y is required to account for VAT on $50 at 9% and report this in the return for the taxable period April to June 2023.
>
> **Scenario 2** – lay-by cancelled on 1 August 2023.
>
> Since the cancellation was made on 1 August 2023, Y is required to account for VAT on $50 at 15% and report this in the return for the taxable period July to September 2023.

Agreements to Hire

35. Section 18(2)(c) covers agreements to hire, and which is defined in Section 18(3).

36. Agreements to hire apply to:
   - goods supplied under an agreement for hire; or
   - services supplied under any agreement or enactment;

   which provides for periodic payments.

37. Those goods or services are deemed to be successively supplied for each part of the period of the agreement or enactment.

38. The time of supply for goods supplied under any such agreement is the earlier of:

a. when payment becomes due; or
b. when payment is received.

39. **Example 9**

A management consultancy company is employed to undertake a review of the structure of an accountancy firm. The contract provides for payment to take place at the completion of the review in equal amounts at monthly intervals.

These dates will be the time of supply unless payment is actually made prior to the due date.

Scenario 1 – due dates

Due date	Time of supply	Tax rate
1 June 2023	1 June 2023	9%
1 July 2023	1 July 2023	9%
1 August 2023	1 August 2023	15%
1 September 2023	1 September 2023	15%

Scenario 2 – some payments made before the due date.

Due date	Date paid	Time of supply	Tax rate
1 June 2023	1 June 2023	1 June 2023	9%
1 July 2023	30 June 2023	30 June 2023	9%
1 August 2023	31 July 2023	31 July 2023	9%
1 September 2023	31 August 2023	31 August 2023	15%

Periodic Supply of Goods and Services with Period Payments

40. Section 18(2)(d) covers periodic payments.

41. Where goods and services are provided under an agreement which involves periodic supply of goods and services with periodic or progressive payments of the consideration for the supply, the time of supply is triggered whenever:
- any payment in respect of that supply becomes due;
- any payment is received; or
- a tax invoice relating only to that payment is issued
whichever occurs first.

42. The term 'periodic' refers to at least two payments made in a progressive manner.

43. In these agreements, it is necessary to establish that both the payment and the supply of the goods or services is periodic. Once this is established, all payments are to be treated in the same manner, even if it is described as a deposit.

44. **Example 10**

XY Ltd has entered into an agreement with BC Ltd for the supply of timber. The agreement relates to the supply of 10,000 tonnes of timber supplied in batches of 2,500 tonnes with $5,000 payable on each supply.

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The following occurs:

Delivery Date	Payment Date	Invoice Date	Time of Supply	VAT Rate
2500 supplied on 1st June 2023	2nd June 2023	3rd June 2023	1st June 2023	9%
2500 supplied on 7th July 2023	7th July 2023	9th July 2023	7th July 2023	9%
2500 supplied on 9th August 2023	9th August 2023	31st July 2023	31st July 2023	9%
2500 supplied on 1st September 2023.	4th September 2023	31st August 2023	31st August 2023	15%

Goods and Services Supplied in Construction Industry

45. Section 18(2)(e) applies to goods and services supplied directly in the construction, major reconstruction, manufacture or extension of a building, engineering work or land development.

46. Where these goods and services are supplied under an agreement or enactment, which provides for the consideration for that supply to be payable in instalments or periodically, in relation to the progressive nature of that work, the goods or services would be deemed to be supplied whenever:
- any payment in respect of that supply becomes due;
- any payment is received; or
- a tax invoice relating only to that payment is issued,
whichever is the earlier.

47. **Example 11**

X enters into an agreement with Home Improvement Ltd for the construction of a house. The terms of the agreement are made as such: Price $200,000 plus $18,000 VAT (9% x $200,000).

a) 10% payable on signing of agreement $21,800 VIP
b) 30% payable on construction of foundation $65,400 VIP
c) 30% payable on construction of walls and roof $65,400 VIP
d) 20% payable on completion of furnishings $43,600 VIP*
e) 10% payable on completion $21,800 VIP*

The following occurred throughout the construction period:

	Phase	Date	Date of invoice	Date of payment	Time of supply	VAT rate
A	Agreement Signed	15th March 2023	15th March 2023	16th March 2023	15th March 2023	9%
B	Construction of foundation	4th May 2023	5th May 2023	6th May 2023	4th May 2023	9%
C	Construction of walls and roof	17th July 2023	17th July 2023	15th July 2023	15th July 2023	9%
D	Completion of furnishings	2nd September 2023	2nd September 2023	2nd September 2023	2nd September 2023	15%
E	Completion	24th October 2023	1st November 2023	30th October 2023	24th October 2023	15%

*Since the time of supply for the last 2 payments occurs after 1 August 2023, the tax invoice issued for this supply must include the tax rate of 15%.

Tabled below is how the 15% tax rate will be applied on the last 2 instalments:

Installment	Find the VEP	Apply the new rate	Tax invoice details
Completion of furnishings	VEP = VIP – (VIP x 9/109) = $43,600 – ($43,600 x 9/109) = $43,600 – 3,600 = $40,000	VIP = $40,000 + ($40,000 x 15%) = $40,000 + 6,000 = $46,000	VIP $46,000 VAT (15%) $6,000
Completion	VEP = VIP – (VIP x 9/109) = $21,800 – ($21,800 x 9/109 = $21,800 – 1,800 = 20,000	VIP = $20,000 + ($20,000 x 15%) = $20,000 + 3,000 = $23,000	VIP $23,000 VAT (15%) $3,000

Whole of Consideration Is Not Determined at Time of Appropriation

48. Section 18(2)(f) applies where goods and services are used under an agreement by the recipient in circumstances where the whole of the consideration is not determined at the time those goods are used. VAT is to be accounted for whenever any payment in respect of any supply:
- becomes due,
- is received, or
- any invoices relating only to that payment is issued,

whichever occurs first.

49. **Example 12**

Cane farmer Z is required under an agreement to supply sugar cane to a miller Y. The correct value of sales is not known until a later date, usually at the end of a season (sometimes later). The following events take place: 1. Z delivers x tonnes of sugar cane to Y on 4 January 2024 2. Payment is due on 3 February 2024 3. Payment is made on 8 February 2024 4. A tax invoice is issued on 17 February 2024 The time of supply is deemed to take place on 3 February 2024.

Employee Benefits to Employees

50. Section 18(2)(g) applies when a registered person, in the course or furtherance of its taxable activity may provide an employee benefit for income tax purposes to another person. In such an event the provision of the employee benefit is deemed to be a taxable supply under section 3(10) of the VAT Act unless the provision of the employee benefit has arisen due to a supply of an exempt good or service.

51. The supply occurs the time the benefit is provided by the registered person to the employee for the purposes of the fringe benefits tax imposed under the *Income Tax Act* 2015.

52. **Example 13**

X allows employee Y to use its business vehicle (2000 cc) for private purposes.

Y used the motor vehicle for private purposes for the whole or part of each month therefore X is required to account for VAT at the respective rates in each monthly return:

- January – July 2023 9%
- August – December 2023 15%

If X accounts for VAT on a quarterly basis, the time of supply for the taxable period July to September 2023 is as follows:

Time of supply	Tax rate
1 - 31 July 2023	9%
1 - 31 August 2023	15%
1 - 30 September 2023	15%

Transitional provisions

53. Section 88(6) and section 88(7) set out the rules in relation to the inclusion of VAT in the price of goods and services.

54. Section 88(6) provides that where any supply is charged with tax or becomes charged with tax, the amount of any increase in consideration due to the tax charged on that supply, is recoverable by the supplier from the recipient of the taxable supply.

55. **Example 14**

X is a registered person and supplies goods in a supermarket. 9% VAT was included in the price of non-zero-rated supplies up to 31 July 2023. **Since X is required to recover VAT at the prevailing rate from customers (recipients of goods) it is responsible for increasing prices to reflect the VAT increase from 1 August 2023.**

56. **Example 15**

X is a registered person and has an agreement with Y for the supply of goods and services. Under the contract, VAT at 9% will apply on the gross monthly payments of $500. From 1 August 2023 the VAT amount was increased to 15% . **Therefore, X will be required to recover the tax from Y, the recipient of services by making a change to the VAT portion of the contract amount.** If no change is made to the contract amount, X will still be required to account for VAT as follows: <u>From 1 August 2023</u> $500 x 3/23 <u>Up to 31 July 2023</u> $500 x 9/109

57. Section 88(7) provides that where there is an increase or decrease in the percentage of VAT under the VAT Act, such increase in the percentage of VAT shall apply in respect of any VAT inclusive fee, charge or other amount prescribed under any other written law.

58. In this regard, where a government fee or charge is VAT inclusive, the government department or agency will account for VAT on the change.

59. **Example 16**

A government service fee is $500 VEP. From 1 August 2023 the VAT amount is deemed to be increased to 15%. The government department will be required account for VAT as follows: <u>From 1 August 2023</u> $500 x 3/23

<u>Up to 31 July 2023</u> $500 x 9/109

60. FRCS has issued a Standard Interpretation Guideline on the time of supply rules which is available on the website at the following link:

https://www.frcs.org.fj/wp-content/uploads/2018/07/SIG-TOS.pdf

61. For further information and clarification in regard to this SIG, please email us at tipu@frcs.org.fj

APPENDIX 1: Act No. 6 of 2023 (National Budget Amendment 2023/2024)

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ACT NO. 6 OF 2023

I assent.

W. KATONIVERE
President

[14 July 2023]

AN ACT

TO AMEND THE VALUE ADDED TAX ACT 1991

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

1.—(1) This Act may be cited as the Value Added Tax (Budget Amendment) Act 2023.

(2) This Act comes into force on 1 August 2023.

(3) In this Act, the Value Added Tax Act 1991 is referred to as the "Principal Act".

Section 14 amended

2. Section 14 of the Principal Act is amended by—

(a) in subsection (1), deleting "9%" and substituting "15%"; and

(b) deleting subsection (1B).

Section 15 amended

3. Section 15 of the Principal Act is amended by—

(a) in subsection (1), deleting "9%" and substituting "15%"; and

(b) deleting subsection (1A).

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Part 4A deleted

4. The Principal Act is amended by deleting Part 4A.

Schedule 2 amended

5. Schedule 2 to the Principal Act is amended after paragraph 16 by inserting the following new paragraph—

"17. The supply of any prescription medicine or prescription drugs.".

Schedule 2A deleted

6. The Principal Act is amended by deleting Schedule 2A.

Passed by the Parliament of the Republic of Fiji this 14th day of July 2023.

APPENDIX 2: Section 15 – Imposition of tax on supply

PART 4 IMPOSITION OF TAX ON SUPPLY
(Sections 15–21)

[Section 15] Imposition of tax on supply

(1) Subject to the provisions of this Act, the tax shall be charged in accordance with the provisions of this Act at the rate of 15% on the supply (but not including an exempt supply) in Fiji of goods and services on or after 1 July 1992, by a registered person in the course or furtherance of a taxable activity carried on by that person, by reference to the value of that supply.

APPENDIX 3: Section 18 Time of supply

(1) Subject to this Act, a supply of goods and services shall be deemed to take place at the time—

a) a tax invoice is issued by the supplier or the recipient; or

b) any payment is received by the supplier; or

c) the delivery of the goods and services takes place,

whichever is the earlier.

(2) Notwithstanding anything in subsection (1), a supply of goods and services shall be deemed to take place—

a) where the supply is for a consideration in money received by the supplier by means of any machine, meter or other device operated by a coin or token, at the time any such coin or token is taken from that machine, meter or other device by or on behalf of the supplier;

b) where that supply is a supply to which section 3(9) refers, at the time at which the property in the goods is transferred to the buyer, provided that in any case in which a supply of services is deemed to take place pursuant to the proviso to, section 3(9), that supply of services shall be deemed to take place at the time that the layby sale is cancelled pursuant to Part 4 of the Sale of Goods Act 1979;

c) where goods are supplied under an agreement for hire or services are supplied under any agreement or enactment which provides for periodic payments, those goods or services shall be deemed to be successively supplied for successive parts of the period of the agreement or enactment and each of the successive supplies shall be deemed to take place when a payment becomes due or is received, whichever is the earlier;

d) where and to the extent that goods and services are supplied progressively or periodically pursuant to any agreement or enactment 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 and services, those goods and 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 that supply becomes due, is received or a tax invoice relating only to that payment is issued, whichever is the earlier;

e) where and to the extent that goods and services supplied directly in the construction, major reconstruction, manufacture or extension of a building, engineering work or land development are supplied pursuant to any agreement or enactment which provides for the consideration for that supply to become due and payable in instalments or periodically in relation to the progressive nature of that construction, manufacture or extension, engineering work or land development, those goods and services shall be deemed to be successively supplied and each successive supply shall be deemed to take place whenever any payment in respect of that supply becomes due, is received or any tax invoice relating to that payment is issued, whichever is the earlier;

f) where goods are supplied under an agreement, other than an agreement for hire and the goods or part of them are appropriated under that agreement by the recipient in circumstances where the whole of the consideration is not determined at the time those goods are appropriated, that supply shall be deemed to take place when and to the extent that any payment under the agreement is due or is received or a tax invoice relating to the supply is issued by the supplier or the recipient, whichever is the earlier;

g) the supply of goods and services which is deemed to be made by a registered person pursuant to section 3(10) shall be deemed to take place at the time that that registered person is liable to deduct income tax from the value of the employee benefit in terms of the Income Tax Act 2015.

(3) For the purposes of subsection (2), the term "agreement for hire" means an agreement for the bailment of goods for hire and includes a lease of goods and a rental agreement but excludes an agreement under which the property in goods passes to the bailee or which expressly contemplates that the property in the goods will pass to the bailee.

APPENDIX 4: Section 3 (8), 3(8A), 3 (8B) Meaning of supply

(8) Subject to this section, except for subsection (8A), if a registered person receives a payment under a contract of insurance, whether or not the person is a party to the contract of insurance, the payment is, to the extent that it relates to a loss incurred in the course or furtherance of the registered person's taxable activity, deemed to be consideration received for a supply of services performed by the registered person—

a) on the day the registered person receives the payment; and

b) in the course or furtherance of the registered person's taxable activity,

provided that this subsection shall not apply in respect of any payment received as compensation—

i i. under the Accident Compensation Act 2017 pursuant to a contract of insurance where the supply of that contract of insurance was—

ii A. exempted;

iii B. zero rated; or

iv C. in respect of an entitlement for loss of earnings within the meaning of the Workmen's Compensation Act 1964 or accidental personal injury or damages;

v ii. pursuant to a contract of parametric insurance

(8A) For the purposes of this section, where, in relation to a claim made under a contract of insurance an insurer recovers an amount, other than aggravated or exemplary damages, as a result of the exercise of rights acquired by subrogation under the contract of insurance and that amount exceeds the amount paid out by the insurer to the insured person in relation to the claim, then the insurer is deemed to have performed a supply of services in the course of its taxable activity and the consideration for the deemed supply is the amount of the excess and the supply of services is deemed to be performed on the day the insurer receives the amount and if there is more than one such payment, on each such day. -

(8B) Notwithstanding anything in subsections (8) and (8A), where an insurer receives an amount under a contract of reinsurance, that amount is not deemed to be consideration received for a supply of services performed by the insurer.

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APPENDIX 5: Section 88 Transitional rules

[Section 88] Effect of imposition of tax

(6) Where any supply is or becomes charged with tax pursuant to this Act, the amount of any increase in consideration in respect of that supply attributable to the tax charged on that supply shall be recoverable by the supplier from the recipient of the taxable supply.

(7) Where there is an increase or decrease in the percentage of VAT under this Act, such increase in the percentage of VAT shall apply in respect of any VAT inclusive fee, charge or other amount prescribed under any other written law.

Legislative History:
Act 22 of 2015 (s6) – from 1 January 2016 – Section 88(7) was inserted

APPENDIX 6: Tax fraction

VAT Fraction

For VAT inclusive prices (VIP) at 9% , the rate change is made by applying the VAT fraction[6] :

$$\frac{\text{Rate of tax}}{100 + \text{rate of tax}}$$

to find the VAT exclusive price (VEP), then applying the new rate.

Example

XCo is a registered person and is a supplier of laptops.
The price for one laptop $2,180 VIP was based on the VAT rate of 9%.

How will the change in tax rate be applied?

CEO's position

Step 1 - Find the VAT fraction for 9%.

$$\frac{\text{Rate of tax}}{100 + \text{rate of tax}} = \frac{9}{109}$$

Step 2 – Find the VEP on $2,180

VEP = VIP – (VIP x 9/109)
= $2,180 – (VIP x 9/109
= $2,180 – 180
= $2,000

Step 3 Apply the new tax rate.

VIP = $2,000 + ($2,000 x 15%)
= $2,000 + 300
= $2,300

The VAT fraction for the 15% VAT rate is as follows:

$$\frac{\text{Rate of tax}}{100 + \text{rate of tax}} = \frac{15}{115}$$

= 3/23 (simplified)

and can be used to find the VAT component for VIP

[6] Section 2 of the VAT Act 1991

Example

Y purchased a computer for $2,300 (VIP) on 15 September 2023 and can apply the VAT fraction for 15% tax to find the VAT component VEP = VIP x 3/23 = $2,300 x 3/23 = $300