

SOUTH AFRICAN REVENUE SERVICE

BINDING PRIVATE RULING: BPR 072

DATE: 26 January 2010

ACT : VALUE-ADDED TAX ACT, NO. 89 OF 1991 (the VAT Act)
SECTION : SECTION 13(3), ITEM 470.01/00.00/01.00 OF SCHEDULE 1 TO THE VAT ACT
SUBJECT : VAT IMPLICATIONS WITH REGARD TO QUALIFIED GOODS IMPORTED FOR PROCESSING AND THE SUBSEQUENT EXPORTATION OF THE END PRODUCTS

1. Summary

This ruling deals with the VAT implications for an entity relevant to the importation of refined products into the Republic of South Africa (the Republic) from another entity for purposes of being processed and the subsequent exportation of the end products to that other entity or customers of that other entity.

2. Relevant tax laws

This is a binding private ruling issued in accordance with section 41A of the VAT Act read with section 76Q of the Income Tax Act, No. 58 of 1962.

In this ruling all legislative references to sections are to sections of the VAT Act applicable as at 4 August 2008 and unless the context indicates otherwise, any word or expression in this ruling bears the meaning ascribed to it in the VAT Act.

This ruling has been requested under the provisions of section 13(3) read with Item 470.01/00.00/01.00 of Schedule 1 to the VAT Act.

3. Parties to the proposed transaction

The Applicant: A company incorporated in the Republic, registered as a vendor

The Co-Applicant: A company incorporated in a country other than the Republic and not registered as a vendor

4. Description of the proposed transaction

The Applicant is a wholly owned subsidiary of the Co-Applicant. The Co-Applicant proposes to enter into an agreement (the Draft Agreement) with the Applicant to process goods (refined products). The refined products will be shipped to the Republic by the Co-Applicant. Once the refined products are processed into end products, the end products will be exported by the Applicant to either the Co-Applicant or the customers of the Co-Applicant within twelve (12) months from the date on which the refined products were imported.

The refined products to be imported into the Republic and the end products to be exported will always remain the property of the Co-Applicant. The Co-Applicant and the customers of the Co-Applicant are both situated outside the Republic. The Co-Applicant will sell the end products to customers situated outside the Republic and the sale of the end products will be concluded outside the Republic.

5. Conditions and assumptions

This ruling is made subject to the conditions and assumptions that –

- (a) the proposed transaction, in respect of the importation of the refined products and the exportation of the end products, will be in accordance with the Draft Agreement; and
- (b) this ruling is not construed as confirming the VAT implications with regard to the processing fee to be charged by the Applicant to the Co-Applicant.

6. Ruling

The ruling made in connection with the proposed transaction is as follows:

- (a) The importation of the refined products by the Applicant, pursuant to the Draft Agreement, will qualify for the exemption from VAT, that is imposed under section 7(1)(b), in terms of section 13(3) read with item number 470.01/00.00/01.00 of Schedule 1 to the VAT Act, subject to the following –
 - (i) the refined products will remain the property of the Co-Applicant and not become the property of the Applicant;
 - (ii) the end products are to be exported within twelve (12) months from the date of importation of the refined products; and
 - (iii) where the Commissioner requires the Applicant to register a rate of yield and to make a provisional payment or bond to secure the tax, such requirements will be complied with.
- (b) The exportation of the end products by the Applicant to either the Co-Applicant or the customers of the Co-Applicant, who are both

situated outside the Republic, will, pertaining to the liability for output tax, not have any VAT implications for the Applicant.

7. Period for which this ruling is valid

This binding private ruling is valid for a period of three (3) years, as from 5 August 2008.

Issued by:

**Legal and Policy Division: Advance Tax Rulings
SOUTH AFRICAN REVENUE SERVICE**