

VAT 414

Value-Added Tax

Guide for Associations not for Gain and Welfare Organisations



www.sars.gov.za

FOREWORD

This guide is a general guide concerning the application of the VAT Act in respect of associations not for gain and welfare organisations in South Africa. Although fairly comprehensive, the guide does not deal with all the legal detail associated with VAT and is not intended for legal reference. Technical and legal terminology has also been avoided wherever possible.

All references to “the VAT Act” or “the Act” are to the Value-Added Tax Act, 1991 unless the context otherwise indicates. The terms “Republic”, “South Africa” or the abbreviation “RSA”, are used interchangeably in this document as a reference to the sovereign territory of the Republic of South Africa, as set out in the definition of “Republic” in section 1 of the VAT Act. You will also find a number of specific terms used throughout the guide which are defined in the Value-Added Tax Act, 1991 and listed in the **Glossary** in a simplified form for easy reference.

The information in this guide is based on the VAT legislation (as amended) as at the time of publishing and includes the amendments contained in the [Taxation Laws Amendment Act 17 of 2009](#) and the [Taxation Laws Second Amendment Act 18 of 2009](#) both of which were promulgated on 30 September 2009 (as per GG 32610 and GG 32611 respectively).

The following guides have also been issued and may be referred to for more information relating to the specific VAT topics:

- AS-VAT-08 - Guide for Registration of VAT Vendors
- Trade Classification Guide (VAT 403)
- Guide for Vendors (VAT 404)
- Guide for Fixed Property and Construction (VAT 409)
- Guide for Accommodation, Catering and Entertainment (VAT 411)
- Share Block Schemes (VAT 412)
- Deceased Estates (VAT 413)
- Diesel Refund Guide (VAT 415)
- Guide for the Small Retailers VAT Package (VAT 416)
- AS-VAT-10 - Quick Reference Guide (Small Vendors) (VAT 417)
- AS-VAT-02 - Quick Reference Guide (Diplomatic Refunds) (VAT 418)
- Guide for Municipalities (VAT 419)
- Guide for Motor Dealers (VAT 420)
- VAT treatment of entities affiliated to FIFA Part 2 entities
- VAT treatment of entities affiliated to FIFA Part 3 entities

The information in this guide is issued for guidance only and does not constitute a binding general ruling as contemplated in section 76P of the Income Tax Act, No. 58 of 1962 (the Income Tax Act) and sections 41A and 41B of the VAT Act unless otherwise indicated.

The previous edition of the Guide for Associations not for Gain and Welfare Organisations (VAT 414) is withdrawn with effect from 31 March 2010.

Should there be any aspects relating to VAT which are not clear or not dealt with in this guide, or should you require further information or a specific ruling on a legal issue, you may:

- contact your local South African Revenue Service (SARS) branch;
- visit the SARS website at www.sars.gov.za;
- contact your own tax advisors;
- if calling locally, contact the SARS National Call Centre on 0800 00 7277; or
- if calling from abroad, contact the SARS National Call Centre on +27 11 602 2093.

Comments and/or suggestions regarding this guide may be sent to the following e-mail address:
policycomments@sars.gov.za.

Prepared by
Legal and Policy Division
SOUTH AFRICAN REVENUE SERVICE
31 March 2010

CONTENTS

CHAPTER 1: INTRODUCTION	4
CHAPTER 2: DEFINITIONS	5
2.1 Association not for gain	5
2.2 Consideration	6
2.3 Donation	6
2.4 Enterprise	7
2.5 Supply	8
2.6 Welfare organisation	8
CHAPTER 3: RELATIONSHIP BETWEEN AN ASSOCIATION NOT FOR GAIN, A PUBLIC BENEFIT ORGANISATION (PBO) AND A WELFARE ORGANISATION	10
3.1 Associations not for gain, PBOs and welfare organisations explained	10
3.2 Summary of benefits	12
CHAPTER 4: REGISTERING AS A VENDOR	13
4.1 General rules	13
4.2 Separate activities	14
4.3 Special rule for welfare organisations	15
CHAPTER 5: OUTPUT TAX AND INPUT TAX	16
5.1 Output tax	16
5.2 Input tax	17
5.3 Apportionment of input tax	18
CHAPTER 6: SPECIAL PROVISIONS	19
6.1 Registration – separate activities	19
6.2 Accounting basis	19
6.3 Donations	19
6.4 Donated goods and services/manufactured goods	19
6.5 Grants and subsidies	20
6.6 Importation of certain goods not for resale	21
6.7 Accommodation	22
6.8 Entertainment	23
GLOSSARY	25
ANNEXURE A – DETERMINATION OF WELFARE ACTIVITIES: GG NO. 27235	29
CONTACT DETAILS	31

CHAPTER 1

INTRODUCTION

Non-profit organisations have a significant role to play in society as they address the social and development needs of the country, thereby relieving the State from the financial burden of providing much needed goods and services to the general public. Tax benefits in general are designed to assist non-profit organisations with the provision of resources and an enabling environment in which to achieve their objectives. For example, certain receipts and accruals derived from a trading activity or business undertaking by public benefit organisations are exempt from income tax.

With regard to VAT, associations not for gain also enjoy certain benefits that are not available to other vendors. However, many of these types of associations also carry on the same or similar types of trading activities as ordinary businesses. This ranges, for example, from the sale of festivity cards to the manufacture of clothing. While the occasional sale of goods or the provision of services should, in principle, not affect the special VAT treatment of an association not for gain, the regular supply of goods or services by these associations should not receive treatment which is more favourable than other businesses.

One of the difficulties in establishing the correct VAT treatment of supplies made by associations not for gain is the different terminology and definitions used in the Income Tax and VAT Acts. For example, a “recreational club” and “public benefit organisation” (PBO) are defined for income tax purposes, but not for VAT purposes. Similarly, the terms “association not for gain” and “welfare organisation” are only defined for VAT purposes as there are special provisions which apply to these organisations.

With regard to the relationship between a PBO, an association not for gain and a welfare organisation, it should be noted that a welfare organisation will always be a PBO, but an association not for gain does not necessarily qualify as a PBO. The relationship between a PBO, an association not for gain and a welfare organisation is discussed in **Chapter 3**.

In order to determine whether a welfare organisation carries on welfare activities for VAT purposes, a limited list of activities is used. For income tax purposes the list of approved public benefit activities (PBAs) are contained in the Part I of the Ninth Schedule to the Income Tax Act, 1962 (the Ninth Schedule). Unlike Part I of the Ninth Schedule that provides for 11 main headings of activities, the VAT list, which is contained in a separate regulation, only contains five headings of activities and typically excludes any activity that is exempt from VAT.

The terms “public benefit organisation”, “association not for gain” and “welfare organisation” can therefore not be used interchangeably as each one describes a specific kind of organisation. (*Refer to **Chapter 2** for a further discussion of these definitions and to **Chapter 3** for a discussion on the relationship between these types of organisations.*)

Please note that any reference to an “association not for gain” in this guide includes a reference to a “welfare organisation”, unless otherwise indicated.

CHAPTER 2

DEFINITIONS

2.1 ASSOCIATION NOT FOR GAIN

An association not for gain is:

- **Any religious institution of a public character.**
- **Any other organisation (except an educational institution) which does not carry on its activities for the purposes of profit or gain to any owner, member or shareholder.** The constitution of the organisation must require that any assets or income of the organisation must be used to further its aims and objectives. Any assets or income cannot be used to profit any person unless it is for reasonable payment for goods and/or services actually received. If the organisation is ever wound up or liquidated, any remaining assets must be transferred to another organisation with similar objectives.
- **Educational institutions of a public character.** The constitution of the institution must require that any assets or income of the institution must be used to further its aims and objectives. Assets or income cannot be used to profit any person unless it is for reasonable payment for goods and/or services actually received.

An association not for gain can therefore include societies formed for the promotion of culture and arts; charities, and public-interest groups.¹

The normal VAT registration rules apply to an association not for gain which means that **they do not automatically qualify** for VAT registration. To be eligible or required to register for VAT, such associations the association must conduct business activities which involve the making of taxable supplies for which a consideration (price) is charged.² In a case where the value of those supplies has exceeded R50 000³ in the past 12-month period, the association may **register voluntarily** for VAT. Where the value of taxable supplies has exceeded R1 million⁴ in the past 12-month period, the association will be **required to register**. An association not for gain may therefore not register for VAT to the extent that it makes supplies of goods or services for no consideration.

The benefit of qualifying as an association not for gain is that the VAT Act contains specific provisions which apply. The special provisions are as follows:

- Activities conducted in separate branches, divisions, or as separate enterprises may upon approval by the Commissioner, be treated as separate persons (*refer to **paragraph 4.2***).
- The payments basis of accounting is permitted (*refer to **paragraph 6.2***).
- Donations received are not subject to VAT (*refer to **paragraphs 2.3 and 6.3***).
- The supply of donated goods and services or manufactured goods consisting of 80% or more of donated goods or services are exempt from VAT (*refer to **paragraph 6.4***).
- Grants and subsidies received from the State or a municipality are generally subject to VAT at the zero rate⁵ (*refer to **paragraph 6.5***).
- The importation of donated goods is exempt from VAT (*refer to **paragraph 6.6***).

¹ A company formed in terms of section 21 of the Companies Act, 1973 does not necessarily qualify as an association not for gain.

² The only exception is when the association also qualifies as a “welfare organisation” in respect of any “welfare activities” conducted. In such cases, the exception applies only to the extent that those welfare activities are carried on.

³ Refer to **footnote 14**.

⁴ Refer to **footnote 13**.

⁵ Sections 8(5A) and 11(2)(f) of the VAT Act relating to the zero-rating of grants does not apply exclusively to associations not for gain and welfare organisations.

2.2 CONSIDERATION

“Consideration” in its simplest form means anything that is received in return for the supply of goods or services. It is a VAT-inclusive concept which means that any payment made in respect of a taxable supply includes an element of VAT, whether payment has been made in part, or in full. If payment for a supply is made in money, the amount of money is the consideration. Where payment is not in money, for example, in the case of goods or services exchanged in a barter transaction, the open market value of the goods or services received by each party is the consideration for the supply made. Consideration for a supply may also be a combination of monetary amounts, reciprocal supplies, favours or acts of forbearance. In such cases a value must be attributed to each component of the consideration and aggregated to determine the final VAT inclusive amount. Specifically excluded from the ambit of consideration is a donation made to an association not for gain (*refer to **paragraph 2.3***).

2.3 DONATION

As mentioned in **paragraph 2.3**, a donation made by a donor is not regarded as consideration, as it is not in respect of the supply of goods or services. Therefore, the donee does not account for any output tax on any money, goods or services received as a donation, nor will the donor be allowed to claim an input tax deduction thereon. The definition of “donation” is as follows:

*“...a **payment** whether in money or otherwise voluntarily **made to any association not for gain** for the carrying on or the carrying out of the purposes of that association and **in respect of which no identifiable direct valuable benefit arises or may arise** in the form of a supply of goods or services to the person making that payment or in the form of a supply of goods or services to any other person who is a connected person in relation to the person making the payment, **but does not include any payment made by a public authority or municipality**,” (emphasis added)*

The most common issues arising regarding donations are –

- to determine whether there is an “identifiable direct valuable benefit” to the donor, or a connected person in relation to the donor in the form of a supply of goods or services in return for making the donation; and
- the question as to whether input tax can be deducted on goods and services purchased from the funds which qualify as donations (*refer to **paragraph 5.2***).

Payments to an association not for gain can be categorised as follows:

- Payments where no benefit at all accrues to the donor. These payments are regarded as donations.
- Payments where it could be argued that some benefit accrues to the donor, but where it cannot be regarded as being an identifiable direct valuable benefit, arising in respect of the payment made, e.g. the mere acknowledgment of the donor in a document. These payments are also regarded as donations.
- Payments where the benefit is identifiable, direct and valuable, e.g. where a so-called “donation” is made, and in return, the donor is provided with some benefit, such as advertising or promotional services. Payments of this nature are not regarded as donations and output tax is payable on the receipt of the payment.

For a payment or a supply of goods or services to qualify as a “donation” it must be completely gratuitous. In other words the payment or supply must be made out of “disinterested benevolence” so that the donor does not receive anything more than mere acknowledgement by the recipient or a small token of gratitude. The token of gratitude, acknowledgement or benefit should not be of significant value otherwise it could constitute consideration for a taxable supply made by the recipient. Whether a benefit is an “identifiable direct valuable benefit” to the donor or a connected person in relation to the donor is determined by the circumstances of the particular case. For example, a requirement that the recipient must perform advertising or promotional services will clearly give rise to an “identifiable direct valuable benefit” to the person making the payment. This applies whether or not the advertising or promotional effort turns out to be successful. It is sufficient that the recipient is required to perform the services as a condition of receiving the payment. The payment in this case will not qualify as a donation.

Example 1

The Trust, an association not for gain and a vendor, holds a street collection to obtain funding to further its aims of supplying free food to indigent persons. All persons that make donations expect nothing in return from The Trust.

The Trust is not required to account for output tax in respect of the donations received.

Example 2

The Trust in Example 1 holds a fund-raising event during which donations are received. The donations were made by the donors without any conditions attached. The Trust acknowledges donors who donated more than R10 000 by mentioning their names on its website.

Although it could be argued that the acknowledgment of the donors by The Trust gives rise to a benefit, the donations were unconditional and are not sufficiently linked with any identifiable direct valuable benefits received by the donors. The payments therefore still constitute donations and The Trust must not account for output tax thereon.

Example 3

XYZ Bank, a vendor, makes a payment to The Trust in Example 1 each year to stage a musical production. The payment by the bank is subject to the condition that all tickets must have the logo of the bank printed on them and that the bank may display advertising banners at the event.

XYZ Bank is receiving an identifiable direct valuable benefit (advertising and promotional service) from The Trust. The payment will therefore not constitute a donation, but will be consideration (i.e. payment) for a taxable supply. The Trust must issue a tax invoice to the bank in respect of the service supplied and account for the output tax thereon. XYZ Bank may be entitled to input tax to the extent that the services can be attributed to making taxable supplies.

2.4 ENTERPRISE

A person will generally be considered to be carrying on an enterprise if **all** of the following requirements are met:

- An **enterprise or activity** must be carried on **continuously or regularly** by a **person in the Republic or partly in the Republic**.
- In the course of the enterprise or activity, **goods** or **services** must be **supplied** to another person.
- There must be a **consideration** payable for the goods or services supplied.

This is the general rule for all business activities which constitute taxable supplies, and includes any business activities in which an association not for gain or welfare organisation may be involved. However, to the extent that an association not for gain carries on non-business activities for which no consideration is received, that activity is not an enterprise activity. For example, the carrying on of religious activities by churches and other faith-based organisations which are associations not for gain does not constitute an “enterprise” activity.

Special provision is made in the VAT Act to regard **welfare organisations** as enterprises to the extent that they make supplies in the course of carrying out specific **welfare activities**, even if they do not charge a consideration for making those supplies. (Refer to **Annexure A** and **paragraphs 2.6** and **4.3** for more details in this regard.)

2.5 SUPPLY

Refer to the **Glossary** for the definition of “supply” which includes a sale, donation or barter transaction. For the purpose of this guide, it is necessary to distinguish between a “taxable supply”, an “exempt supply” and other non-taxable supplies.⁶

2.5.1 Taxable supply

The term “taxable supply” is any supply made by a vendor in the course or furtherance of an enterprise on which VAT should be levied, and includes supplies which are subject to VAT at the zero rate. The term also includes deemed supplies which are dealt with under specific provisions of the VAT Act, for example –

- the receipt of a grant from the State or a municipality for the purposes of making taxable supplies (refer to **paragraph 6.5**);
- the receipt of an indemnity payment under a contract of insurance; and
- the placing of a bet.

2.5.2 Exempt supply

Exempt supplies are not taxable supplies. Therefore no output tax is levied and no input tax can be deducted on any expenses incurred to make exempt supplies. This rule also applies if the person making the exempt supplies is registered for VAT in respect of other taxable activities. The value of exempt supplies does not form part of the taxable turnover and is not used to determine whether a person must register for VAT or not. If a person makes only exempt supplies, that person cannot register as a vendor (refer to **paragraph 5.2**).

Examples of exempt supplies include –

- financial services (e.g. interest on a loan; a life insurance policy and membership of a medical scheme, provident fund, pension fund or retirement annuity fund);
- donated goods or services sold by associations not for gain (e.g. the sale of donated goods or services by religious and welfare organisations at fundraising events) – refer to **paragraph 6.4**;
- renting of a dwelling for use as a private home (but not commercial accommodation) – refer to **paragraph 6.7**;
- passenger transport within South Africa by taxi, bus, or train;
- educational services provided by primary and secondary schools, universities, universities of technology (previously known as technikons) and other recognised educational institutions; and
- childcare provided at crèches and after-school care centres.

2.6 WELFARE ORGANISATION

To qualify as a “welfare organisation” for VAT purposes, the organisation must be a PBO that has been approved by SARS for income tax purposes.

A PBO as contemplated in the Income Tax Act is –

- a company incorporated under section 21 of the Companies Act, 1973;
- a trust; or
- an association of persons,

which carries on approved PBAs as set out in Part I of the Ninth Schedule and complies with section 30 of the Income Tax Act.

⁶ The term “other non-taxable supplies” refers to supplies which are not made in the course or furtherance of an “enterprise” as defined. Examples include supplies made for no consideration and supplies which are in connection with private activities.

Refer to the [Tax Exemption Guide for Public Benefit Organisations in South Africa](#), which is available on the [SARS website](#) for further information relating to PBOs.

It is not sufficient for an association not for gain to be an approved PBO under the Income Tax Act to be regarded as a “welfare organisation” for VAT purposes. In order to qualify as a “welfare organisation”, the PBO must also carry on one or more of the welfare activities as determined by the Minister of Finance in [Government Notice No. 112 published in Government Gazette 27235 dated 11 February 2005](#) (Regulation 112) under the following headings:

- Welfare and humanitarian
- Health care
- Land and housing
- Education and development
- Conservation, environment and animal welfare. (Refer to **Annexure A.**)

Although derived from the PBAs in Part I of the Ninth Schedule, the welfare activities listed in Regulation 112 for VAT purposes are a lot more restrictive as they exclude activities that are exempt for VAT purposes. Other notable exclusions from the welfare activities listed in Regulation 112 are cultural and religious activities, as well as those associated with the promotion of belief systems and philosophy.⁷ It follows that to the extent that supplies are made for no consideration in furthering or promoting those causes, no enterprise is conducted. However, when a welfare organisation also carries on ordinary business activities where goods or services are supplied for a consideration, the normal VAT rules will apply to the extent.⁸

The benefit of qualifying as a welfare organisation is that in addition to the special VAT provisions applicable to an association not for gain, a welfare organisation is not required to supply goods or services for a consideration for it to be regarded as an enterprise. This means that a welfare organisation is entitled to register for VAT purposes and to deduct input tax in regard to any welfare activities which it carries on, even if it does not charge any consideration. It may also deduct input tax on entertainment expenses which are associated with its welfare activities. (Entertainment expenses are usually disallowed for other vendors.⁹)

The minimum threshold of R50 000¹⁰ for voluntary registration is therefore not applicable to a welfare organisation. However, a welfare organisation’s overall enterprise activities are not limited to the welfare activities listed above as it may also be conducting an enterprise to the extent that it carries on business activities, in which case, the normal VAT rules will apply.¹¹ In these cases, it is not necessary for the welfare organisation to have more than one VAT registration number, but if specifically requested, separate VAT registration numbers may be issued for each of its separately identifiable branches, divisions or enterprises.¹²

⁷ These are listed in paragraphs 5 and 6 of Part I to the Ninth Schedule.

⁸ Note that even if the organisation is liable to register, or if it registers voluntarily for VAT in respect of any taxable supplies made, this does not have the effect of converting exempt supplies into taxable supplies. Similarly, supplies made for no consideration in connection with activities conducted to promote culture, religious, or other belief systems remain non-taxable even if the welfare organisation registers for VAT.

⁹ Refer to **paragraph 6.8.**

¹⁰ Refer to **footnote 14.**

¹¹ Refer to **paragraph 2.4.**

¹² Refer to **paragraph 4.2.**

CHAPTER 3

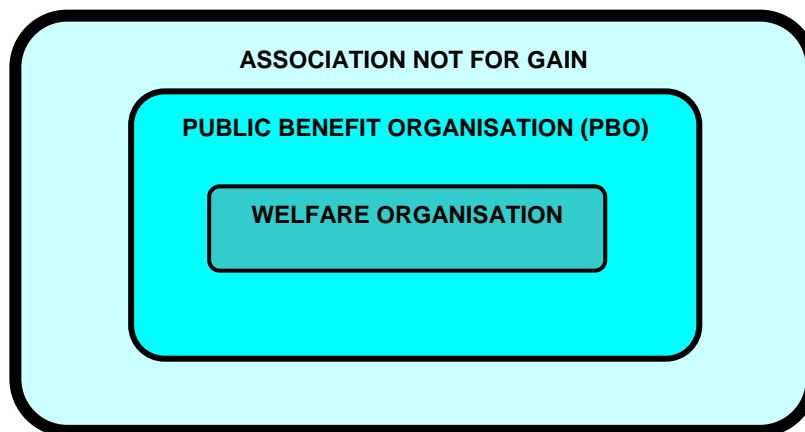
RELATIONSHIP BETWEEN AN ASSOCIATION NOT FOR GAIN, A PUBLIC BENEFIT ORGANISATION (PBO) AND A WELFARE ORGANISATION

3.1 ASSOCIATIONS NOT FOR GAIN, PBOs AND WELFARE ORGANISATIONS EXPLAINED

Different terminology is used for income tax and VAT purposes, so the relationship between the various terms must be analysed. For income tax purposes the terms “public benefit organisation” and “recreational club” are defined in sections 30 and 30A of the Income Tax Act respectively. The principal difference between these two organisations is that a PBO operates for the benefit of the general public, whereas a recreational club operates for the benefit of its members who come together by mutual consent to act jointly for a common purpose. A PBO predominantly relies on donations, grants or bequests in order to fund its objectives, while a club receives its income from its members who contribute by way of membership fees or subscriptions.

Clubs are formed for the mutual benefit of members who contribute to share the cost of providing a collective benefit, namely, the social or recreational facility. The common objective of clubs excludes personal financial gain for the individual members. Under this principle, the sharing of expenses by various taxpayers joining together based on mutuality, does not generate additional taxable income for the club, and it is to this extent that clubs should enjoy preferential tax treatment under the Income Tax Act. Clubs which operate for the financial gain of individual persons or members will not qualify for this preferential tax treatment.

The VAT legislation identifies organisations which fall within the definitions “association not for gain” and “welfare organisation” for similar preferential treatment under the VAT Act. The general relationship between an association not for gain, a PBO and a welfare organisation can be illustrated as follows:



An “**association not for gain**” as defined in the VAT Act means –

- any religious institution of a public character;
- any other organisation (except an educational institution) which does not carry on its activities for the purposes of profit or gain to any owner, member or shareholder; and
- educational institutions of a public character.

The definition covers a wide number of different entities and may therefore include societies, such as those formed for the promotion of culture and arts, charities and public-interest groups. As a result, the term “association not for gain” includes PBOs and welfare organisations. In other words, PBO’s and welfare organisations, by definition, fall within the meaning of the term “association not for gain”.

A “recreational club” is defined in the Income Tax Act as a company incorporated under section 21 of the Companies Act, a society, or an association which provides social and recreational amenities or facilities for its members. It follows, that a social, sporting or recreational club will qualify as an association not for gain, even though it may not qualify as a PBO or a welfare organisation. Note that a “recreational club” does not necessarily have to be approved under section 30A(2) of the Income Tax Act to be regarded as an “association not for gain” for VAT purposes.

Provided that an association not for gain carries on an “enterprise” and complies with the normal rules for VAT registration (*refer to **Chapter 4***), the organisation can benefit from the special VAT provisions. The activities of an association not for gain which are funded by levies, membership fees, entrance fees and charges for goods and services will usually qualify as “enterprise” activities, whether or not it operates on a not-for-profit basis. However, if the activities essentially constitute a hobby or private activity conducted in the form of an informal club or society where the exact expenses incurred as a group are shared by the participants, this is not regarded as an enterprise. An association not for gain must also be formally established and have a written constitution, otherwise it is regarded as an ordinary business and will not be entitled to any benefits which may be available to an association not for gain under the VAT Act.

A **PBO** is defined in the Income Tax Act as any organisation which is a company incorporated in the Republic under section 21 of the Companies Act, a trust formed in the Republic, or an association of persons established in the Republic which carries on a PBA and complies with section 30 of the Income Tax Act.

A PBO is therefore an income tax term which refers to entities that carry on approved PBAs which are listed in the Part I of the Ninth Schedule to the Income Tax Act. As PBOs fall within the wider definition of “association not for gain”, they are entitled to register for VAT and to benefit from the special VAT provisions applicable to associations not for gain. However, a PBO will not automatically qualify as “welfare organisation” for VAT purposes as this depends on whether the organisation also conducts any of the listed welfare activities for VAT purposes. As the list of welfare activities for VAT purposes is derived from the PBAs listed in the Part I of the Ninth Schedule to the Income Tax Act, it will be found in many cases that a PBO will also qualify as a welfare organisation. To the extent that a PBO carries on activities involving the supply of financial and educational services (which supplies are exempt from VAT) it will not qualify as a welfare organisation and will not be able to register for VAT.

A “**welfare organisation**” is an organisation which is a PBO as contemplated in section 30(1) of the Income Tax Act and must be approved by the Commissioner in terms of section 30(3) of that Act. The PBO must carry on, or intend to carry on any of the welfare activities determined by the Minister that fall under the headings –

- (a) welfare and humanitarian;
- (b) health care;
- (c) land and housing;
- (d) education and development; or
- (e) conservation, environment and animal welfare. (*Refer to **Annexure A***)

A welfare organisation must firstly be a PBO, which means that it will also be entitled to benefit from the special VAT provisions applicable to associations not for gain. By design, a welfare organisation conducts an enterprise for VAT purposes if it carries on any of the listed welfare activities for VAT purposes and may register for VAT voluntarily merely by the fact that it carries on those activities. A welfare organisation may register for VAT even if it supplies goods or services for no consideration. To the extent that a welfare organisation is engaged in business activities which involves the making of supplies for a consideration, the normal VAT rules will apply.

3.2 SUMMARY OF BENEFITS

3.2.1 Associations not for gain

An association not for gain is treated much like any other business if it makes taxable supplies, but in addition, the following special provisions apply:

- Different activities of associations not for gain can be regarded as separate persons for VAT purposes. This can be used to reduce the impact of VAT (*refer to **paragraph 4.2***).
- The association may be registered on the payments basis of accounting for VAT on supplies made. This assists those associations using very basic accounting systems (*refer to **paragraph 6.2***).
- No output tax is payable on any donations received, for example, where a person donates money to a soccer club to cover the costs of new kit and footballs to be used by the club (*refer to **paragraph 2.3***).
- The sale of any donated goods or services, or other manufactured goods are exempt from VAT if the donated goods and services constitute at least 80% of the value of the supply (*refer to **paragraph 6.4***).
- Certain goods imported which are forwarded free of charge to an association not for gain are exempt from VAT on importation if used exclusively for educational, religious or welfare purposes or for medical or scientific research (*refer to **paragraph 6.6***).

3.2.2 Welfare organisations

In addition to the benefits available to an association not for gain as set out above, a welfare organisation may enjoy the following benefits:

- There are specific rules that apply to a welfare organisation with regard to registering for VAT. Whereas the normal rules for VAT registration require the supply of goods or services to be made for a consideration, this is not a requirement for a welfare organisation. If an organisation carries on one or more of the listed welfare activities and it is an approved PBO for income tax purposes, it can register for VAT voluntarily and deduct input tax in connection with the carrying on of those welfare activities, even if those supplies are made for no consideration.
- Generally, vendors are not permitted to deduct input tax in respect of any goods or services acquired for the purpose of supplying entertainment. However, a welfare organisation is entitled to deduct input tax where the entertainment expenses are incurred for the purpose of providing entertainment which is integral to the carrying on of a welfare activity. For example, the provision of food and accommodation to needy children constitutes the supply of “entertainment” and is also a welfare activity as contemplated in Regulation 112. Input tax may therefore be deducted by the welfare organisation on the VAT-inclusive costs of supplying such entertainment.

*Refer to **paragraph 4.3** for more details.*

3.2.3 PBOs

The benefits available to a PBO will depend on whether the organisation is merely an “association not for gain” (in which case the benefits as per **paragraph 3.2.1** will apply), or whether it qualifies as a “welfare organisation” (in which case the additional benefits as per **paragraph 3.2.2** will also apply).

CHAPTER 4

REGISTERING AS A VENDOR

4.1 GENERAL RULES

Section 23 of the VAT Act requires that a person must register as a VAT vendor if an enterprise is carried on, and the total value of all taxable supplies made by that person exceeds, or is likely to exceed the compulsory VAT registration threshold of R1 million¹³ in any 12-month consecutive period. A person may also register voluntarily if the value of taxable supplies in the past 12-month period has exceeded R50 000,¹⁴ but is less than R1 million.

When a person only makes supplies for no consideration or only donations are received, the person may not register for VAT. (Refer to **paragraph 5.2.3** for an exception to this rule which applies when an association not for gain also qualifies as a welfare organisation.)

Example 4

Save Our Souls, is an association not for gain which carries on the activity of providing meals to the aged and also operates a crèche and after-care facility for school-going children. Save Our Souls is not an approved PBO and therefore does not qualify as a “welfare organisation”. The following payments are received in regard to the activities conducted:

	R
Meals to the aged (taxable supplies)	750 000
Crèche and after-care (exempt supplies)	<u>300 000</u>
Total turnover for the past 12-month period	<u>1 050 000</u>

Is Save Our Souls required to register for VAT purposes?

Although the association receives consideration for the crèche and after-care services which it provides, it does not carry on an enterprise in regard to those activities, as they are exempt from VAT.¹⁵ As the total value of taxable supplies made by the association for the provision of meals to the aged does not exceed the compulsory VAT registration threshold of R1 million, it is not required to register as a vendor. However, the association may register voluntarily as the value of its taxable supplies is more than R50 000 in the past 12-month period.

If Save Our Souls chooses to register voluntarily, VAT must be charged on the meals supplied and it will then be entitled to deduct input tax on the VAT-inclusive expenses incurred to make those supplies. No output tax will be declared on any charges for the crèche and after-care services, nor may any input tax be deducted, as the services remain exempt, even if the association is registered for VAT.

On 1 March 2009 a Turnover Tax was introduced. The Turnover Tax essentially consists of a simplified method of taxing small businesses based on their turnover, as a substitute for income tax, capital gains tax (CGT), secondary tax on companies (STC) and VAT. Qualifying businesses with an annual turnover of up to R1 million will have the option of choosing between the Turnover Tax and the existing income tax and VAT systems. However, associations not for gain such as recreational clubs, PBOs and welfare organisations do not qualify to register for Turnover Tax.

¹³ Before 1 March 2009, the threshold for compulsory VAT registration was R300 000.

¹⁴ Before 1 March 2010, the entry level threshold for voluntary VAT registration was R20 000. Note also that in the case of persons that supply “commercial accommodation”, the minimum threshold is R60 000 and not R50 000.

¹⁵ Refer to section 12(j).

4.2 SEPARATE ACTIVITIES

An association not for gain which carries on its enterprise in branches or divisions, or carries on separate enterprises, may apply in writing for any of those branches, divisions or enterprises to be regarded as separate persons, and to register separately for VAT.¹⁶ Application for the registration of separate activities must be made in writing to SARS, and will only be allowed where the separate branch, division or enterprise –

- maintains an independent accounting system (i.e. separate records to identify the income and expenses); and
- can be separately identified by the nature of its activities or its geographic location.

The practical implication is that an association not for gain can apply the registration threshold value of R1 million (or the R50 000¹⁷ threshold for voluntary registration) to each of its branches, divisions or enterprises in order to determine which of them must, or could be registered. The association not for gain could therefore end up registering and accounting for VAT only in respect of certain specific activities if it so wished, as opposed to all of them. This provision is not available to other vendors.

Example 5

The Sunshine Society for the Aged, a welfare organisation, conducts its activities in different divisions at different locations and maintains independent accounting records for each division. It received the following income for the past 12-month period:

	R
Division A: Rental income from offices:	190 000
Division B: Supply of commercial accommodation to the aged:	70 000
Division C: Supply of food and beverages at a soup kitchen:	10 000
Division D: Investment income (dividends):	380 000

The association is considering VAT registration for some, or all, of its activities. It applies to the local SARS office for permission to treat the separate divisions as separate persons for VAT purposes.

What are the VAT implications and options available to the organisation if the permission is granted?

Division A: The income is less than R1 million. The association is not required to register this division for VAT. However, it can register the division voluntarily if it chooses.

Division B: The organisation can register this division voluntarily as the value of taxable supplies exceeds R60 000 (which is the minimum threshold for voluntary registration for vendors that supply commercial accommodation).

Division C: The organisation can register this division voluntarily for VAT on the basis that it is a welfare activity that is conducted. The fact that its income is less than the R50 000 minimum threshold required for voluntary registration is irrelevant (*refer to paragraph 4.3*).

Division D: Exempt supplies are conducted by this division. The organisation can therefore not register this division for VAT in respect of this activity under any circumstances.

To summarise, the organisation can choose to register the activities of Divisions A, B and C, or any one or more of them under one VAT registration number. Alternatively, it can register one or more of Divisions A, B or C separately. It may not register Division D for VAT.

¹⁶ Refer to section 23(5) of the VAT Act.

¹⁷ Refer to **footnote 14**.

4.3 SPECIAL RULE FOR WELFARE ORGANISATIONS

The general rule regarding the minimum voluntary registration threshold of R50 000¹⁸ as described in **paragraph 3.1**, does not apply to welfare organisations, as a special provision in the definition of “enterprise” allows a welfare organisation to apply for registration even where (taxable) supplies are made for no consideration. This special rule is only applicable in respect of the welfare activities listed in Regulation 112 which are conducted by a welfare organisation (*refer also to **paragraph 2.4** and **Annexure A***). The benefit to a welfare organisation of registering for VAT is that it will be entitled to deduct input tax in respect of expenses related to its welfare activities, even where no consideration is charged on supplies and no output tax is declared.

Registration will, however, not be allowed to the extent that the organisation makes exempt supplies. Exempt supplies are listed in section 12 of the VAT Act and include supplies like financial services, residential accommodation in a dwelling, and the supply of donated goods and services. Registration will also not be allowed in so far as the activities involve the making of supplies for no consideration in pursuance of religious, philosophical or other belief systems, as these do not qualify as “welfare activities”.¹⁹ Consequently, these supplies are non-taxable and no input tax may be deducted on expenses incurred to make those supplies. The principle to be applied in this regard is that exempt supplies or other non-taxable activities are not re-characterised as taxable, even in a case where the organisation is registered for VAT and qualifies as a “welfare organisation” for other “welfare activities” which it may carry on.

Example 6

The Centre for Abused Animals is an association not for gain and an approved PBO for income tax purposes. It carries on activities in connection with the rehabilitation of abused and neglected animals as a service to the general public without receiving any payment. The activities are funded exclusively from donations, inheritances and bequests.

Does the organisation qualify as a “welfare organisation” and can it register for VAT?

As the organisation is an association not for gain and an approved PBO, it can qualify as a “welfare organisation” to the extent that it carries on any of the approved “welfare activities” listed in Regulation 112. Under the heading “Conservation, environment and animal welfare” in the Regulation, paragraph 4(b) indicates that “the care of animals, including the rehabilitation, or prevention of the ill-treatment of animals” is a welfare activity. Since the activities of The Centre for Abused Animals matches this description, it will qualify as a “welfare organisation” to the extent that it carries on that welfare activity. Consequently, it may apply for voluntary VAT registration in that regard which will enable it to deduct input tax and obtain a refund of the VAT which it incurs in carrying on the welfare activity, even though the value of its taxable supplies is nil.

¹⁸ Refer to **footnote 14**.

¹⁹ This principle applies no matter how benevolent or altruistic the objectives of the organisation may seem.

CHAPTER 5

OUTPUT TAX AND INPUT TAX

5.1 OUTPUT TAX

“Output tax” is defined in section 1 of the VAT Act as the VAT charged on taxable supplies of goods or services in the course of conducting any enterprise. The term “taxable supplies” includes supplies which are subject to VAT at either the standard rate or zero rate, as well as certain supplies that are deemed to have been made in the course or furtherance of the enterprise. No output tax is payable on the consideration charged in respect of any exempt supplies, other non-taxable supplies, or on the receipt of any donations (*refer to paragraphs 2.3 and 2.5.2 respectively*).

Examples of supplies on which output tax is payable are –

- the sale of keyrings, mugs and other paraphernalia;
- the provision of membership in an organisation for which a membership fee is payable;
- the making available of facilities for functions, for example rental of a hall;
- raffle tickets sold;
- entrance fees paid for entrance to a museum or sporting event; and
- tour guide service, for which a fee is charged.

Example 7

Mr G took his dog to Animal Care for immunisation and paid R114. Animal Care is an association not for gain which is registered for VAT.

As Animal Care is making a taxable supply of services, it must account for R14 output tax ($R114 \times 14/114$). The R114 paid by Mr G is not a donation, but consideration for the immunisation services rendered.

Example 8

A welfare organisation holds a raffle and in order to participate, persons must buy a ticket for R100. Mrs B buys a ticket and pays R150 to the welfare organisation. Mrs B regards the additional R50 as a donation.

The welfare organisation must pay output tax of R12.28 ($R100 \times 14/114$) on the sale of the raffle ticket as the VAT-inclusive price paid for the raffle ticket bought by Mrs B is R100 and not R150. No additional goods or services have been supplied in regard to the extra R50 donated, and therefore no output tax must be declared on that receipt.

Example 9

The Home Care Centre is a welfare organisation and is registered for VAT. A building that was used in the course of carrying on a welfare activity burns down in a fire which was caused by an electrical fault. The Home Care Centre subsequently receives an indemnity payment (i.e. insurance payment) of R228 000 from its insurer to repair the building.

The indemnity payment is deemed to be consideration received by the Home Care Centre for a supply of services performed by it in the course or furtherance of its enterprise. The Home Care Centre must account for output tax at the standard rate of 14% on the indemnity payment received. However, it may deduct input tax on the VAT costs incurred to repair the damage to the building.

5.2 INPUT TAX

5.2.1 General rules

“Input” tax is the VAT incurred by a vendor in the course of making taxable supplies. It also includes VAT deemed to have been incurred on second-hand goods acquired under a non-taxable supply, for example, where the goods were acquired from a non-vendor. This VAT is generally referred to as “*notional input tax*” and is calculated by applying the tax fraction to the purchase price. The normal rules for deducting input tax that apply to all vendors are also applicable to associations not for gain. Remember that input tax may not be deducted on goods and services acquired for making exempt supplies or supplies which are outside the scope of VAT. When any VAT is incurred on expenses for both taxable and non-taxable purposes, the input tax must be apportioned. (Refer to Chapter 7 of the [VAT 404 - Guide for Vendors](#) on the [SARS website](#) for more information.)

5.2.2 Soliciting of donations

If an association not for gain (not being a welfare organisation) incurs VAT on expenses in soliciting donations, it may not deduct the VAT incurred as input tax. This is because the expenses are not incurred by the association for the purpose of making taxable supplies for a consideration. However, a welfare organisation is entitled to deduct the VAT incurred in soliciting donations as input tax, as this activity is integral to the welfare activities which falls within the ambit of its taxable supplies (or “enterprise”), which includes the making of taxable supplies for no consideration.

Example 10

A mining company (vendor) donates R100 000 in cash to the Animal Rescue Society, an association not for gain (vendor). The society does not declare output tax on the donation. Should the donated cash be spent on enterprise activities or used to buy goods for the purpose of making taxable supplies, the society will be able to deduct input tax on those purchases subject to the normal rules for deducting input tax. However, the society may not deduct input tax on expenses incurred to obtain the donation, e.g. printing, postage, entertainment, etc.

Example 11

A welfare organisation (vendor) incurs advertising and printing costs in securing a donation. The welfare organisation may deduct input tax paid even though output tax will not be declared on the donation received.

Example 12

In addition to its religious activities, a church (association not for gain) conducts trading activities, in respect of which it is registered as a vendor. It incurs printing, administration, stationery and other incidental costs (including VAT) in soliciting donations from its members and holding street collections. The donations are to be used to build a new church. Since the conducting of religious activities is not a welfare activity or an “enterprise” activity, the church may not deduct any input tax on the expenses incurred in soliciting donations, nor may it deduct input tax on the costs of building the new church.

5.2.3 Special benefits enjoyed by welfare organisations

Welfare organisations enjoy input tax benefits that are not available to other vendors. These benefits include the ability to deduct input tax in respect of its welfare activities (including costs associated with soliciting donations as discussed under **paragraph 5.2.2**), even if those supplies are not made for a consideration. Furthermore, a welfare organisation is not subject to the general disallowance of input tax claims on entertainment expenses where the entertainment is acquired for welfare purposes (e.g. accommodation and meals for street children).

5.3 APPORTIONMENT OF INPUT TAX

When an association not for gain makes both taxable and non-taxable supplies, the VAT incurred on any expenses to make those supplies must be directly attributed to the appropriate taxable or non-taxable supplies. As mentioned in **paragraph 5.2.1**, the VAT included in the expenses incurred wholly for making taxable supplies may be deducted in full, and if the expense is wholly for exempt or other non-taxable activities, no input tax may be allowed as a deduction.

In a case where the expense cannot be directly attributed wholly to either taxable or non-taxable supplies, but is attributable to both, the input tax must be apportioned²⁰ on a reasonable basis which is acceptable to SARS. The turnover-based method is the only standard method that can be used for apportioning input tax without prior approval. All special methods require written approval by the local SARS office where the vendor is on register before they may be used.²¹

Example 13

An association not for gain is engaged in the following activities from which it earned the annual income specified:

	R
- Rental of office space (taxable supply)	400 000
- Commercial accommodation supplied to the aged (taxable supplies)	200 000
- Supply of residential accommodation (dwellings) to the aged (exempt supplies)	<u>400 000</u>
	<u>1 000 000</u>

$$\text{Apportionment \%} = \frac{\text{value of all taxable supplies}}{\text{value of all supplies (including any other income)}} \times \frac{100}{1}$$

The input tax apportionment percentage is therefore calculated as follows:

$$\frac{\text{R}400\,000 \text{ (rental of office space)} + \text{R}200\,000 \text{ (commercial accommodation)}}{\text{R}1\,000\,000 \text{ (total value of all supplies and any other income)}} \times \frac{100}{1} = \mathbf{60\%}$$

The association not for gain has incurred the following expenses (including VAT) during a tax period:

	R
- Electrical repairs to the office	11 400
- Security gates fitted to the dwellings	5 570
- Paint used for all the buildings	114 000
- Garden services for the entire premises	9 120

The amount of input tax deductible by the association not for gain for the tax period in respect of the listed expenses is calculated as follows:

	R
- Electrical repairs to the office (wholly for taxable supplies: R11 400 x 14/114)	1 400
- Security gates fitted to the dwellings (wholly for exempt supplies)	nil
- Paint used for all the buildings (mixed supplies: R114 000 x 14/114 x 60%)	8 400
- Garden services for the entire premises (mixed supplies: R9 120 x 14/114 x 60%)	<u>672</u>
Input tax	<u>10 472</u>

²⁰ Refer to section 17(1) of the VAT Act.

²¹ Refer to paragraph 7.4 of the [VAT 404 - Guide for Vendors](#) on the [SARS website](#) for the ruling regarding the standard method and a discussion on other methods of apportionment. Note also that the discussion in this paragraph refers to apportionment of input tax. If the extent to which the goods or services are later applied in the enterprise increases or decreases, an adjustment may be required at that later date.

CHAPTER 6

SPECIAL PROVISIONS

As already mentioned in this guide, there are various special provisions in the VAT Act that apply to associations not for gain and welfare organisations. This chapter takes a closer look at some of these and also the special provisions relating to the supply of accommodation. **Paragraphs 6.1 to 6.7** are applicable to both associations not for gain and welfare organisations, whereas **paragraph 6.8** is only applicable to welfare organisations.

Where the aspect has already been dealt with in the guide, the reader will be referred to the relevant paragraph.

6.1 REGISTRATION – SEPARATE ACTIVITIES

Refer to **paragraph 4.2**.

6.2 ACCOUNTING BASIS

As a general rule, vendors are required to account for tax on an invoice basis, unless authority for the payments basis has been granted by SARS.²² An association not for gain may apply to the local SARS office to account for VAT on the payments basis, regardless of the value of its taxable supplies. This means that output tax on supplies made is generally accounted for in the tax period that payment is received from the purchaser, and input tax on purchases is accounted for in the period that payment is made to the supplier.

6.3 DONATIONS

Refer to **paragraph 2.3**.

6.4 DONATED GOODS AND SERVICES/MANUFACTURED GOODS

If an association not for gain receives donated goods or services and on-supplies the goods, that subsequent supply of the donated goods is exempt from VAT²³ and therefore no output tax will be payable thereon. The same exemption applies where the association not for gain makes or manufactures any other goods which it supplies, if at least 80% of the value of the materials used consists of donated goods.

An association not for gain may not deduct input tax in respect of costs incurred to make these exempt supplies.

Example 14

The Society for the Physically Challenged, an association not for gain and a vendor, arranges a cake sale to raise funds and obtains a donation of 50 cakes from a local bakery which are to be sold at the event. Because the cakes were donated, the society may not levy VAT on the sale of the cakes, as these constitute exempt supplies. They will also not be entitled to deduct any input tax on any costs incurred to hold the cake sale. For example, if they hired trestle tables, or rented space at a flea market for the sale, the VAT incurred thereon cannot be deducted as input tax.

²² Refer to section 15(2)(a) of the VAT Act.

²³ Refer to section 12(b) of the VAT Act.

Example 15

An association not for gain (vendor) has as its main objective, the provision of care for the physically disabled. The association also manufactures and sells wooden furniture which is made primarily from donated materials (90% of the value). The association purchases the remaining 10% of the materials, such as glue and screws, required to manufacture the furniture.

The sale of the furniture is exempt from VAT as more than 80% of the value of the materials is donated. The VAT paid by the association on the 10% of the material purchased may not be deducted as input tax, regardless of whether the furniture was sold at a profit or at a loss. The same rules apply if the furniture is given away for no consideration. The VAT incurred on general overheads such as electricity which are for taxable supplies as well as for exempt supplies must be apportioned.

Example 16

Ms F purchased a trailer from Help Your Friend, a welfare organisation and a vendor. The trailer was donated to Help Your Friend during the previous month by a business in the area.

The supply of the trailer by Help Your Friend will qualify as an exempt supply because it is the supply of goods which were donated to the organisation. As a result, no output tax is charged on the sale.

6.5 GRANTS AND SUBSIDIES

A “grant” means any appropriation, grant-in-aid, subsidy or contribution transferred, granted or paid to a vendor by a public authority or municipality or constitutional institution. However, the payment concerned may not be in respect of an actual supply of any goods or services procured by the public authority, municipality or constitutional institution making the payment. Usually grants or “subsidies” as they are sometimes called, are given by government bodies to vendors such as PBOs and welfare organisations if they carry on activities which are in the general public interest.

When an association not for gain or a welfare organisation is a vendor and it receives a grant for the purposes of making taxable supplies to other persons, that vendor is **deemed** to supply a service to the person making the payment (e.g. the State or a municipality). This deemed supply of a service is subject to VAT at the zero rate, and therefore no output tax is payable on the grant or subsidy received.

Example 17

Second Chances Rehabilitation Centre is a welfare organisation and a vendor which provides rehabilitation care to drug addicts. It receives a subsidy of R600 000 from a municipality which is used to cover expenses related to the provision of services to patients who have booked into the facility for treatment. In order to generate additional funds the centre also operates a clothing shop from which taxable sales totalling R91 200 (including VAT) were made in the previous 12-month period.

The centre will have to account for output tax as follows:

		R
Standard rate supplies (clothing shop):	R91 200 x 14/114	11 200
Zero-rate supplies (subsidy):	R600 000 x 0%	<u>nil</u>
Total output tax:		<u>11 200</u>

As is the case with the standard rated supplies, any VAT incurred in carrying out the welfare activities for which the subsidy (“grant”) was intended may be deducted as input tax.

Example 18

The Pine Crest Children’s Home, a welfare organisation and a vendor, receives a monthly subsidy of R3 000 from the State to assist it to pay for the medicine supplied for no consideration to homeless children. As the deemed supply on the receipt of the subsidy is zero-rated for VAT purposes output tax on the amount is declared at the zero rate as in Example 17. The home will nevertheless be entitled to deduct the VAT incurred on any medicines purchased to treat the homeless children, as the expense is incurred in the course of carrying on the welfare activity (“enterprise”), and in the course of which, taxable supplies are made.

Refer to [Interpretation Note No. 39 - VAT Treatment of Public Authorities, Grants and Transfer Payments](#) on the [SARS website](#) for more details in respect of the treatment of grants.

6.6 IMPORTATION OF CERTAIN GOODS NOT FOR RESALE

Goods which have been donated by a non-resident to an association not for gain and imported by that association under conditions prescribed by the International Trade Administration Commission (ITAC), are exempt from VAT on importation.²⁴ The Customs and Excise Act also provides for a rebate of customs duty on goods imported in similar circumstances. However, the importation of clothing and foodstuffs are specifically excluded under certain rebate items.²⁵ The exemption is also subject to the conditions mentioned below.

The association not for gain must satisfy SARS that the goods will be used exclusively –

- for educational or welfare purposes; or
- in the furtherance of that association’s objectives relating to the provision of educational, medical or scientific research; or
- for issue to indigent persons at no charge.

All of the following documents and information must be submitted to SARS in respect of each donation received to obtain an exemption:

- A letter from the donor confirming that the goods were donated.
- A letter from the recipient organisation confirming the donation, stating how the goods will be used and that the goods are not for resale.
- Proof that the organisation to whom the donation is made is an association not for gain, e.g. proof of registration as a “section 21 company”.
- A copy of the relevant shipping documentation (for example, the Post Office Collection Slip, Air Waybill or Bill of Lading).
- In the case of second-hand goods, a copy of the specific import permit issued by ITAC. Tel. +27(0) 12 304 3609/3672; Fax: +27(0) 12 394 0517; E-mail: importcontrol@itac.org.za.
- The nature, volume and mass of the goods.
- The estimated commercial value thereof.

All applications must be forwarded to –

The Commissioner for the South African Revenue Service
 Customs Operations
 Private Bag X923
 Pretoria
 0001

The application can also be faxed to 086 563 8651 or e-mailed to jhendricks@sars.gov.za.

²⁴ Refer to paragraph 5 of Schedule 1 to the VAT Act.

²⁵ Rebate item 405.04.00.00.05.00/05 excludes clothing and rebate item 405.04.00.00.06.09 excludes clothing and foodstuffs.

6.7 ACCOMMODATION

6.7.1 Exempt accommodation (supply of a “dwelling”)

The supply of accommodation in a dwelling under an agreement for the letting and hiring of the dwelling is exempt from VAT. Therefore, no output tax must be accounted for and no input tax may be deducted on the making of the supplies. A dwelling is typically regarded as a house or flat used for private residential purposes. Examples include –

- the letting of a flat under a rental agreement;
- the letting of a room in a house under a rental agreement; and
- the purchase of a life right in a unit in a retirement village.

6.7.2 Taxable accommodation (“commercial accommodation”)

Board and lodging is not always taxed on the full amount of consideration. This is an attempt to treat people living in commercial accommodation on a similar basis as those living in their own or rented homes.

When a person stays for longer than **28 days** in any hotel, guesthouse, inn, boarding house, retirement home, or similar establishment, **only 60% of an all inclusive charge** for accommodation and domestic goods or services will be subject to VAT. Domestic goods and services include the provision of meals, and certain facilities or amenities such as furniture, fittings, telephone, television, radio, cleaning, maintenance, electricity, gas, air conditioning and heating, where it is included in the price, and as part of the accommodation supplied.

Any domestic goods and services, or other goods and services which are charged or supplied **separately**, and which are not included in the tariff, will attract VAT at 14%. VAT is calculated on the full tariff **only** if the person stays for 28 days or less (*refer to **Example 19** below*). However, if a person books in for a continuous unbroken period of longer than 28 days, VAT is levied on only 60% of the charge from **the first day**.²⁶

Example 19

After going on pension on 1 October 2008, Mr D moves into a government subsidised retirement home²⁷ as his new permanent residence. The monthly charge is R4 000 (before VAT is calculated) which includes all meals. The home charges a separate amount of R100 for birthday teas which are not included in the monthly all-inclusive charge for the accommodation and other domestic goods and services provided to the residents. If Mr D’s birthday tea is held in October 2008, his account for the month would be as follows:

	R
Accommodation for October 2008:	4 000
R4 000 x 60% = R2 400	
VAT @ 14% on R2 400	336
Birthday Tea	100
VAT @ 14 % on additional charge of R100	<u>14</u>
Total payable (including VAT)	<u>R4 450</u>

²⁶ Refer to the [VAT 411 - Guide for Entertainment Accommodation and Catering](#) on the [SARS website](#) for more information on this topic and “entertainment”.

²⁷ If the State subsidises the establishment (vendor) which supplies the commercial accommodation, that vendor is deemed to supply a service to the State **in respect of the grant received**. This **deemed service** is subject to VAT at the zero rate. However, any **consideration charged** to Mr D for **any actual supplies** made, would attract VAT at the standard rate in the normal manner, whether the enterprise is subsidised or not. It is also of no relevance whether Mr D pays for his accommodation from any State pension received or not. Should Mr D pass away during the first month of his stay, the account may still be calculated at 60% from the first day as his intention was to reside in the home as his dwelling.

Example 20

The Sunshine Children's Home is an association not for gain that provides board and lodging (commercial accommodation) to 20 children. It is registered as a vendor under Category C tax period (monthly). It receives R1 000 per month from five parents who pay for their children to stay at the home, and an allowance (grant) from the State of R700 per month for each of remaining 15 children. In addition, it raises R2 000 from the sale of donated goods, earns R500 interest on investments, R570 rent for an advertising board on the premises and collects R7 000 in donations. All the children stay at the home for periods in excess of 28 days. Where a fee is charged for the child to stay at the home, the fee includes all domestic goods and services such as laundry, food, the use of furniture and amenities.

The cost of goods and services acquired to make taxable supplies of commercial accommodation and domestic goods and services for the tax period amounted to R22 800 (inclusive of VAT).

Output Tax is as follows:

Standard-rated:	R
Advertising board R570 x 14/114	70.00
Accommodation: 5 children x R1 000 each = R5 000 x 60% x 14/114	<u>368.42</u>
<i>(Only 60% of the value rate is subject to VAT as the children stay for periods in excess of 28 days at an all-inclusive charge of R1 000.)</i>	438.42
Zero-rated:²⁸	
Child allowance (State grant): R700 x 15 children = R10 500 x 0%	<u>NIL</u>
TOTAL OUTPUT TAX	438.42

Input tax is as follows:

VAT paid on purchases (for commercial accommodation): R22 800 x 14/114	<u>2 800.00</u>
VAT REFUNDABLE BY SARS	<u>2 361.58</u>

Notes:

1. Sale of donated goods (R2 000) is exempt from VAT.
2. The donation received (R7 000) is not subject to VAT as it is not consideration for a taxable supply.
3. Interest earned (R500) is exempt from VAT.
4. The child grants accrue to the home as guardian and not to the children and are therefore subject to VAT at the zero rate (*refer to paragraph 6.5*).
5. Apportionment of input tax is not required as the expenses incurred by the association can be directly attributed to taxable supplies (i.e. providing commercial accommodation).

6.8 ENTERTAINMENT

"Entertainment" includes the provision of any food, beverages and accommodation by a vendor to another person. Generally, vendors can only deduct input tax in respect of entertainment expenses incurred if they supply that type of entertainment at a charge that covers both the direct and indirect costs thereof. Therefore, if a vendor incurs entertainment expenses and provides it free of charge to other persons, that vendor is generally not entitled to input tax on the acquisition of the entertainment.

²⁸ Although there is no actual output tax to be paid in respect of zero-rated supplies, vendors are nevertheless required to declare any amounts which have been received in the form of grants or subsidies, or other amounts which are subject to VAT at the zero rate in field 2 of the VAT 201 return.

The VAT Act provides a special rule for welfare organisations (i.e. not all associations not for gain) which entitles them to deduct input tax on entertainment expenses incurred, if the goods or services are acquired for the purpose of making taxable supplies in the furtherance of its listed welfare activities (*refer to Annexure A*). This applies even if the goods or services are supplied free of charge to another person.

A welfare organisation may, for example, be entitled to input tax in respect of the following:

- The acquisition of food for supply to homeless children (Welfare and humanitarian activity).
- The provision of meals and accommodation in a clinic to poor and needy persons (Health care activity).

Example 21

The Soul Trust, which is a vendor and a welfare organisation, provides free meals to indigent persons. It spends R15 000 (inclusive of VAT) in acquiring food and other entertainment goods in order to carry on the welfare activities.

The Soul Trust is entitled to input tax of R1 842.11 ($R15\,000 \times 14/114$), even though the meals are supplied free of charge.

This rule is only applicable to welfare organisations.

GLOSSARY

Association not for gain	<p>Any religious institution, society or organisation which is carried on, otherwise than for profit and in terms of its written constitution which governs it –</p> <ul style="list-style-type: none"> • is required to use any property or income solely in the furtherance of its aims; • is prohibited to transfer any portion of property or income to any person, except as reasonable remuneration for services provided; and • is obliged, at its winding-up or liquidation to give or transfer its assets after satisfaction of debts, to another similar society. <p>It can also be an educational institution of a public character which –</p> <ul style="list-style-type: none"> • is carried on not for profit; • is in terms of its memorandum which governs it required to use any property or income solely in the furtherance of its aims; and • is prohibited to transfer any portion of property or income to any person, except as reasonable remuneration for services rendered. <p>Welfare organisations and PBOs are types of associations not for gain.</p>
Commercial accommodation	<p>The supply of lodging, or board and lodging –</p> <ul style="list-style-type: none"> • together with domestic goods and services, in any house, flat, apartment, room, hotel, motel, inn, guesthouse, boarding house, residential establishment, holiday accommodation unit, chalet, tent, caravan, camping site, houseboat, or similar establishment, • in a home for the aged, children, physically, or mentally handicapped persons, • in a hospice. <p>The accommodation must be regularly or systematically supplied and the total annual receipts in respect thereof must exceed (or must reasonably be expected to exceed) R60 000 in any 12-month consecutive period.</p> <p>A dwelling supplied in terms of an agreement for letting and hiring thereof is not regarded as commercial accommodation.</p> <p>Also refer to “domestic goods and services” below in respect of values.</p>
Consideration	<p>This is generally the total amount of money (including VAT) received for a supply. For barter transactions where the consideration is not in money, the consideration will be the open market value of goods or services (including VAT) received for making the taxable supply. Section 10 of the VAT Act determines the value of supply or consideration for VAT purposes for different types of supplies.</p> <p>Any act of forbearance whether voluntary or not for the inducement of a supply of goods or services will constitute consideration, but it excludes any donation made to an association not for gain. A “deposit” is also not consideration unless and until it is applied as such. Deposits are usually paid to secure a future supply of goods or services or as a security for borrowed goods until their safe return to the owner. A security deposit only constitutes “consideration” as defined, if is later applied as such. Any prepayment for a supply constitutes consideration and is different from a security deposit.</p> <p>A supply for no consideration has a value of “nil”, except in certain cases when the supply is between connected persons.</p>

Domestic goods and services	<p>This <i>includes</i> –</p> <ul style="list-style-type: none"> • cleaning and maintenance; • electricity, gas, air conditioning or heating; • a telephone, television set, radio or other similar article; • furniture and other fittings; • meals; • laundry; or • nursing services, <p>when supplied together with commercial accommodation.</p> <p>If a person stays for longer than 28 days in any hotel, guesthouse, inn, boarding house, retirement home, or similar establishment, only 60% of an all-inclusive charge for accommodation and domestic goods or services will be subject to VAT. <i>Refer to section 10(10) of the VAT Act for more information.</i></p>
Donation	<p>A payment made voluntarily to any association not for gain for the carrying out of its objectives. The person making the payment must not receive any identifiable direct valuable benefit as a result of the gift.</p>
Dwelling	<p>Except where used in the supply of commercial accommodation, any building, premises, structure or any other place, or any part thereof, used or intended for use predominantly as a place of residence for any natural person, including all fixtures and fittings.</p>
Exempt supplies	<p>An exempt supply is a supply on which no VAT may be charged (even if the supplier is registered for VAT). Persons making only exempt supplies may not register for VAT and may not recover input tax on purchases to make exempt supplies.</p> <p>Section 12 of the VAT Act contains a list of exempt supplies.</p> <p><u>Examples:</u></p> <ul style="list-style-type: none"> • Certain financial services. • Supplies by any "association not for gain" of certain donated goods or services. • Rental of accommodation in any "dwelling" including employee housing. • Certain educational services. • Services of employee organisations e.g. Trade unions. • Certain services to members of a sectional title, share block or retirement housing scheme funded out of levies. (Not applicable to timeshare schemes). • Public road and railway transport for fare-paying passengers and their luggage. • Childcare services in a crèche or after school care centre.

Goods	<p>Includes –</p> <ul style="list-style-type: none"> • corporeal (tangible) movable things, goods in the ordinary sense (including any real right in those things); • fixed property, land & buildings (including any real right in the property, e.g. servitudes, mineral rights, notarial leases etc); • sectional title units (including timeshare); • electricity; • shares in a share block company; • postage stamps; and • second-hand goods. <p>Excludes –</p> <ul style="list-style-type: none"> • money, i.e. notes, coins, cheques, bills of exchange etc (except when sold as a collectors item); • value cards, revenue stamps etc. which are used to pay taxes (except when sold as a collectors item); and • any right under a mortgage bond.
Grant	<p>An amount for which a public authority, constitutional institution or municipality has budgeted, and is paid over to other institutions or persons. The relevant public authority, constitutional institution or municipality may not, however, receive any goods or services in return for these payments.</p>
Person	<p>The entity which is liable for VAT registration and includes –</p> <ul style="list-style-type: none"> • sole proprietor, i.e. a natural person; • company/close corporation; • partnership/joint venture; • deceased/insolvent estate; • trusts; • incorporated body of persons e.g. an entity established under its own enabling Act of Parliament; • unincorporated body of persons, e.g. club, society or association with its own written constitution; • foreign donor funded project; and • municipalities/public authorities.
SARS	<p>The acronym for the South African Revenue Service.</p>
Services	<p>The term “services” is very broad and includes –</p> <ul style="list-style-type: none"> • the granting, assignment, cession, surrender of any right; • the making available of any facility or advantage; and • certain acts which are deemed to be services in terms of section 8 of the VAT Act. <p>The term excludes –</p> <ul style="list-style-type: none"> • a supply of “goods”; • money; and • any stamp, form or card which falls into the definition of “goods”. <p><u>Examples:</u></p> <ul style="list-style-type: none"> • Commercial services - electricians, plumbers, builders. • Professional services - doctors, accountants, lawyers. • Advertising agencies. • Intellectual property rights - patents, trade marks, copy rights, know-how. • Restraint of trade. • Cover under an insurance contract.

Supply	This term is defined very widely. It 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.
Taxable supplies	<p>These are supplies which are chargeable with tax under the VAT Act. There are two types of taxable supplies, namely –</p> <ul style="list-style-type: none"> • those which attract the zero rate (listed in section 11 of the VAT Act); and • those on which the standard rate of 14% must be charged. <p>A taxable supply does not include any exempt supply listed in section 12 of the VAT Act, even if supplied by a registered vendor.</p>
VAT	The acronym for value-added tax.
Vendor	<p>This includes any person who is registered, or is required to be registered for VAT. Any person that makes taxable supplies in excess of the compulsory VAT registration threshold prescribed in section 23 of the VAT Act is a vendor, whether that person has actually registered for VAT or not. From 1 March 2009 a person that makes taxable supplies in excess of R1 million in any 12-month consecutive period is required to register for VAT. Before 1 March 2009 the threshold was R300 000.</p> <p>A person can also register voluntarily as a vendor if the value of taxable supplies made is in excess of R50 000 in any 12-month consecutive period. Before 1 March 2010 the voluntary registration threshold was R20 000. For persons that supply “commercial accommodation”, the voluntary registration threshold is R60 000.</p> <p>A welfare organisation may register as a vendor to the extent that it carries on “welfare activities” even if it makes supplies in that regard for no consideration.</p>
Welfare activities	Welfare activities for VAT purposes are listed in the Regulation No. 112 in the <i>Government Gazette</i> No. 27235 issued on 11 February 2005. Welfare activities must be carried on by an association not for gain which is an approved PBO for income tax purposes before the organisation may qualify as a welfare organisation.
Welfare organisation	<p>This is any public benefit organisation that has been approved by the Commissioner in terms of section 30(3) of the Income Tax Act, 1962 which carries on a welfare activity determined by the Minister to be of a philanthropic or benevolent nature, under the following headings:</p> <ol style="list-style-type: none"> (a) Welfare and humanitarian. (b) Health care. (c) Land and housing. (d) Education and development. (e) Conservation, environment and animal welfare. <p>The VAT Act contains specific benefits which apply to welfare organisations. The main benefit is that it can register for VAT and obtain a refund of VAT that it incurs to the extent that it carries on welfare activities, even if those supplies are made for no consideration.</p>

ANNEXURE A

DETERMINATION OF WELFARE ACTIVITIES FOR PURPOSES OF THE DEFINITION OF “WELFARE ORGANISATION” IN SECTION 1 OF THE VALUE-ADDED TAX ACT, 1991

Published as Regulation No. 112 in the *Government Gazette* No. 27235 on 11 February 2005.

1. WELFARE AND HUMANITARIAN

- (a) The care or counselling of, or the provision of educational programmes relating to abandoned abused neglected, orphaned or homeless children.
- (b) The care or counselling of poor and needy persons where more than 90 per cent of those persons to whom the care or counselling are provided are over the age of 60.
- (c) The care or counselling of, or the provision of educational programmes relating to physically or mentally abused and traumatised persons.
- (d) The provision of disaster relief.
- (e) The rescue or care of persons in distress.
- (f) The provision of poverty relief.
- (g) Rehabilitative care or counselling or education of prisoners, former prisoners and convicted offenders and persons awaiting trial.
- (h) The rehabilitation, care or counselling of persons addicted to a dependence-forming substance or the provision of preventative and educational programmes regarding addiction to dependence-forming substances.
- (i) Conflict resolution, the promotion of reconciliation, mutual respect and tolerance between the various peoples of South Africa.
- (j) The promotion or advocacy of human rights and democracy.
- (k) The protection of the safety of the general public.
- (l) The promotion or protection of family stability.
- (m) The provision of legal services for poor and needy persons.
- (n) The provision of facilities for the protection and care of children under school-going age of poor and needy parents, other than the services contemplated in section 12(j) of the Value-Added Tax Act, 1991.
- (o) The promotion or protection of the rights and interests of, and the care of, asylum seekers and refugees.
- (p) Community development for poor and needy persons and anti-poverty initiative, including-
 - (i) the promotion of community-based projects relating to self-help, empowerment, capacity building, skills development and anti-poverty;
 - (ii) the provision of training, support or assistance to community-based projects contemplated in item (i); or
 - (iii) the provision of training, support or assistance to emerging micro enterprises to improve capacity to start and manage businesses, which may include the granting of loans on such conditions as may be prescribed by the Minister by way of regulation.
- (q) The promotion of access to media and a free press.

2. HEALTH CARE

- (a) The provision of health care services to poor and needy persons.
- (b) The care or counselling of terminally ill persons or persons with a severe physical or mental disability, and the counselling of their families in this regard.
- (c) The prevention of HIV infection, the provision of preventative and educational programmes relating to HIV/Aids.
- (d) The care, counselling or treatment of persons afflicted with HIV/Aids, including the care or counselling of their families and dependants in this regard.
- (e) The provision of blood transfusion, organ donor or similar services.
- (f) The provision of primary health care education, sex education or family planning.

3. LAND AND HOUSING

- (a) The development, construction, upgrading, conversion or procurement of housing units for the benefit of persons whose monthly household income falls within the housing subsidy eligibility requirements of the National Housing code published pursuant to section 4 of the Housing Act, 1997 (Act No 107 of 1997).
- (b) The development, servicing, upgrading or procurement of stands, or the provision of building materials, for purposes of the activities contemplated in subparagraph (a).
- (c) Building and equipping of clinics, crèches, community centres, sports facilities or other facilities of a similar nature for the benefit of the poor and needy.
- (d) The protection, enforcement or improvement of the rights of poor and needy tenants, labour tenants or occupiers, to use or occupy land or housing.

4. EDUCATION AND DEVELOPMENT

- (a) The provision of school buildings or equipment for public schools and educational institutions engaged in exempt activities contemplated in section 12(h) of the Value-Added Tax Act, 1991, for the benefit of the poor and needy and physically disabled.
- (b) Career guidance and counselling services provided to persons for purposes of attending any school or higher education institution as envisaged in section 12(h)(i)(aa) and (bb) of the Value-Added Tax Act, 1991.
- (c) Programmes addressing life skill needs of children at schools, pre-schools or educational institutions as envisaged in section 12(h) of the Value-Added Tax Act, 1991.
- (d) Educational enrichment, academic support, supplementary tuition or outreach programmes for the poor and needy.
- (e) Training for unemployed persons with the purpose of enabling them to obtain employment.

5. CONSERVATION, ENVIRONMENT AND ANIMAL WELFARE

- (a) Engaging in the conservation, rehabilitation or protection of the natural environment, including flora, fauna or the biosphere.
- (b) The care of animals, including the rehabilitation, or prevention of the ill-treatment of animals.
- (c) The promotion of, and education and training programmes relating to environmental awareness, greening, clean-up or sustainable development projects.

CONTACT DETAILS

The [SARS website](#) contains contact details of all SARS branch offices and border posts.

Contact details appearing on the website under “Contact Us” (other than branch offices and border posts) are reproduced below for your convenience.

SARS Head Office

Physical Address

South African Revenue Service
Lehae La SARS
299 Bronkhorst Street
Nieuw Muckleneuk
0181
Pretoria

Postal Address

Private Bag X923
Pretoria
0001
South Africa

SARS website

www.sars.gov.za

Telephone

(012) 422 4000

SARS Fraud and Anti-Corruption hotline

0800 00 28 70

SARS Large Business Centre (LBC) Head Office

Physical Address

Megawatt Park
Maxwell Drive
Sunninghill
Johannesburg

Postal Address

Private Bag X170
Rivonia
2128
South Africa

Telephone

(011) 602 2010

email

LBC@sars.gov.za

For the contact details of regional LBC offices and each LBC sector go to “Contact Us” on SARS’ website the go to “SARS Large Business Centre”.

SARS Service Monitoring Office

Telephone

0860 12 12 16

Postal Address

PO Box 11616
Hatfield
0028
South Africa

Fax

(012) 431 9695

Website

www.sars.gov.za/ssmo

email

ssmo@sars.gov.za

e-Filing

Sharecall

0860 709 709

Cellular

082 234 8000

Fax

(011) 6025312

email

eFilingAssist@sars.gov.za

Website

www.efiling.gov.za

National Call Centre / SARS Contact Centres

- You may contact SARS by phone, email, fax or visiting a SARS Branch:
- Call our SARS Contact Centre on 0800 00 7277
- International Callers may contact our Contact Centre on +27 11 602 2093
- National eFiling email address for specific eFiling enquiries: eFilingAssist@sars.gov.za
- Email or fax one of our dedicated four contact centres:

Area	Telephone	Fax	email
Northern South Africa Vendors residing in Gauteng north (including Centurion and Pretoria), North West, Mpumalanga and Limpopo.	0800 00 7277	012 6706880	Contact.north@sars.gov.za
Central South Africa Vendors residing in Gauteng south (including Midrand, the Greater Johannesburg area, Kempton Park, Boksburg, Vereeniging and Springs), the Free State and Northern Cape.	0800 00 7277	010 2085005	Contact.central@sars.gov.za
Eastern South Africa Vendors residing in KZN and northern parts of the Eastern Cape (up to and including East London).	0800 00 7277	031 3286018	Contact.east@sars.gov.za
Southern South Africa Vendors residing in the Eastern Cape, south of East London and the Western Cape.	0800 00 7277	021 4138905	Contact.south@sars.gov.za

2010 FIFA World Cup

Please use the contact details below only for 2010 FIFA World Cup enquiries.

Query Type	Telephone	email
VAT registrations and VAT refunds	+27 (0) 10 208 1006	vadams@sars.gov.za
	+27 (0) 10 208 1038	acbotha@sars.gov.za
Customs	+27 (0) 12 422 7214	spadiachy@sars.gov.za
General enquiries	+27 (0) 12 422 6561	2010@sars.gov.za