Dear Sir/Madam

COMMENTS: DRAFT BINDING GENERAL RULING DEALING WITH DISCOUNTS, REBATES AND INCENTIVES IN MOTOR INDUSTRY

We thank you for the opportunity to provide input on the Draft Binding General Ruling (VAT): No 005. We set out below the SAICA VAT Sub-Committee’s (a Sub-Committee of SAICA’s National Tax Committee) submission comments.

1. General comments

1.1 The purpose of the draft binding general ruling (the ruling) is set out in paragraph one of the ruling as follows:

- To provide a legal framework for the treatment of discounts, rebates and incentives granted by motor manufacturers; and
- To provide guidelines in determining whether the manufacturer is required to issue a credit note, or receive a tax invoice for discounts, rebates and incentives granted.

1.2 While we appreciate the complexity of the subject matter and the resulting difficulty in developing a “one size fits all” solution, we respectfully submit that the second and most critical objective (providing a framework to distinguish between invoicing and credit note events), has not been addressed in the ruling. The current wording of the ruling still requires the manufacturer to make the determination without sound principles on which to base their decisions.

2. Recommendations

2.2 The least complex and preferred route to follow would be to regard all discounts, rebates and incentives as either invoice or credit note incidences. This would however require an amendment to section 21 of the VAT Act (potentially adding a paragraph (e) to section 21(1) of the VAT Act). We submit that section 72 of the VAT Act cannot be applied as the difficulty is more practical/operational than fundamental.
2.2 As an alternative to the above, we recommend that the classifications of rebates referred to in the ruling be classified as follows for VAT purposes:

<table>
<thead>
<tr>
<th>Rebate</th>
<th>Classification</th>
<th>Motivation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Qualitative rebates granted by manufacturers to dealers.</td>
<td>Invoice event</td>
<td>These rebates are more closely linked to general operational efficiencies than the actual purchase and sale of trading stock (general score card criteria). As such the nexus between the original sale and the rebate is sufficiently broken to link the rebate to a separately identifiable service.</td>
</tr>
<tr>
<td>Quantitative rebates granted by manufacturers to dealers.</td>
<td>Credit note event</td>
<td>It would appear that the primary focus of this category of rebate is to increase sales by the granting of various incentives and rebates. Due to the direct link between the sale of trading stock and the rebates granted, the rebates should generally fall within paragraph (c) of section 21(1) of the VAT Act.</td>
</tr>
<tr>
<td>Other rebates granted by manufacturers to dealers (storage, advertising, etc).</td>
<td>Invoice event</td>
<td>This category of rebates is not directly linked to historic sales. As such the nexus between a sale and the rebate is sufficiently broken to link the rebate to a separately identifiable service.</td>
</tr>
<tr>
<td>Rebates granted to finance companies by manufacturers</td>
<td>Credit note event</td>
<td>This is a direct discount against the sales price of trading stock. Due to the direct link between the sale of trading stock and the rebates granted, the rebates should be treated in terms of paragraph (c) of section 21(1) of the VAT Act.</td>
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Please do not hesitate to contact us, should you have any questions regarding the above.

Yours faithfully

Muneer Hassan CA(SA)

**PROJECT DIRECTOR: TAX**

*The South African Institute of Chartered Accountants*