



Update on eServices

Indirect Tax | VAT
Perspective **⇒** everything

Introduction

In line with the 2018/19 National Budget, National Treasury (NT) released draft legislation which will significantly impact the VAT treatment of electronic services in South Africa.

NT, together with SARS and various stakeholders discussed the draft legislation during a workshop on 25 May 2018. According to the NT, the draft legislation reflects its policy in respect of electronic services and how these should be taxed in South Africa from a VAT perspective.

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Update

Broadening of the electronic services definition

The current definition of electronic services has created uncertainty and left electronic services suppliers with little guidance as to what qualifies as electronic services. NT indicated that the draft legislation aims to expand the definition of electronic services in order to cater for an industry that evolves at a rapid pace. Essentially the new legislation will capture all services provided by means of an

electronic agent, electronic communication or the internet, for any consideration.

NT made it clear that as per the current legislation there will be no Business to Business ("B2B") and Business to Consumer ("B2C") distinction.

The role of the intermediary

The draft legislation has introduced the concept of an intermediary. Intermediaries are deemed to be the suppliers of the electronic services and are required to account for VAT where it facilitates the supply of the electronic services, is responsible for issuing the invoices and collecting payment for the supply. SARS has agreed to engage with industry to understand the complexities faced by electronic services suppliers with regard to the role of the intermediaries. The registration threshold will apply to the aggregate of supplies made by an intermediary.

Requests from stakeholders

Stakeholders raised various concerns and specific practical issues relating to the draft legislation, which NT agreed to consider further.

*Stakeholders requested that there be an increase in the registration threshold from ZAR50 000 to ZAR 1 million (in a 12 month period) for electronic services suppliers. This would align the registration threshold requirement for foreign electronic services suppliers to their local counterparts.

*It was also emphasized that industry requires adequate time in order to implement the proposed changes and that the proposed implementation date of 1 October 2018 is not feasible. Various stakeholders stated that these changes generally require a minimum of 6 months from the date that the legislation is promulgated.

*Stakeholder requested that if a B2B distinction is not made, that intergroup supplies be excluded. This would, however, require the drafting and inclusion of a definition of "intergroup".

*There was also a request for clarification of the exclusion of educational services provided by a person that is regulated by an educational authority in that export country.

Key Deloitte Contacts

Should you require further clarification or assistance regarding the above matters or any Indirect Tax matters in general, please contact any of us at the numbers and or email addresses below.

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