



A new tax is born

In South Africa, like many other countries, we are now familiar with value-added tax (VAT) on electronic services, introduced in 2014. The measures aim to tax consumption of services provided electronically from outside South Africa to a South African recipient.

The rules were amended significantly in 2019 and we anticipate will be further refined to cater for this rapidly changing and agile environment. Of particular interest is the interpretation of the group company exclusions and the complexities created by intermediary services.

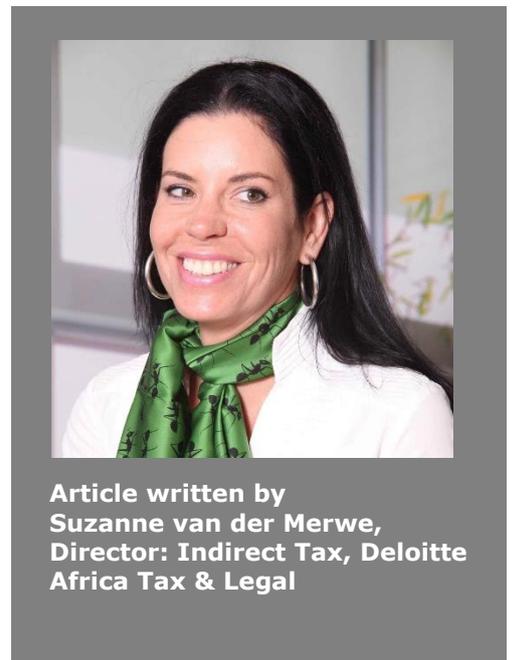
There is also much debate regarding the extent of human intervention required for a service to fall outside the ambit of that of an electronic service for VAT purposes. Another area worthy of an electronic tweet or two is whether business to business (B2B) transactions as well as business to consumer (B2C) transactions should be governed by the South African electronic services VAT legislation. Some jurisdictions have opted for an election process where the local business in a B2B transaction self-accounts for the VAT on the electronic service it receives.

These are just some of the concepts that have to be analysed when determining whether to levy VAT on transactions that take place in the digital economy.

VAT on electronic services should, however, be distinguished from digital services tax (DST). France became one of the first countries to introduce DST. Although the legislation is not subject to any time limitation, it is temporary since the DST will be applicable only until a consensus is reached at the Organisation for Economic Cooperation and Development (OECD) level.

The 3% French DST applies to revenue derived from the provision of, for example, online placement of advertising and the sale of collected user data, the facilitation and provision of underlying supplies of goods or services directly between users, etc. This is in some ways very similar to the VAT base and looks to levy tax based on the location of the customer. The above digital tax will remain in place and will accrue until an international agreement in this regard is reached.

The nature of business has changed dramatically and the digital economy is impacting us all, individuals and businesses alike. The way in which value chains operate and how value is created has transformed significantly. As can be seen from the above, this makes determining taxing rights extremely complex. Tax legislation needs to cater for the pace set by this rapidly changing landscape, which requires significant consensus, collaboration and consideration.



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