



Finalised Amendments to eServices legislation in South Africa

Indirect Tax | VAT

Perspective  everything

Introduction

As detailed in our VAT newsletter of June 2018, draft legislation was released which will significantly impact the VAT treatment of electronic services in South Africa, when promulgated.

The draft legislation has now been finalised.

The most significant change from the first draft regulation is the exclusion of certain supplies made between companies within the same "Group of Companies".

Below, we have summarised the key changes to the finalised amendments which will come into effect on **01 April 2019**.

**October 2018
Issue 03**

[Deloitte Tax & Legal
Home Page](#)

[Key Contacts](#)

[Guide to Fiscal
Information: Key
economies in Africa
2018](#)

Update

One overarching definition of electronic services

Electronic services are now defined in one overarching definition, replacing the previous list of specific services (Regulation 3 to 7). In essence, all services supplied by means of an electronic agent, electronic communication or the internet for consideration will qualify as electronic services. The policy intention is to subject to

VAT the electronic services that are provided using minimal human intervention. The Explanatory Memorandum states that if for example a legal opinion is prepared by a non-resident outside South Africa and sent to a person in South Africa via email, that supply will fall outside the ambit of the Regulation.

Non-resident electronic services suppliers previously excluded from the Regulation on the basis that their services fell outside the listed specific electronic services, or, for example, on the basis that a "subscription" was not charged, will have to re-evaluate their position.

Exclusions from the Regulation

Educational services provided by a person that is regulated by an educational authority and telecommunications services are specifically excluded from the Regulation and are not considered to be electronic services. Telecommunication services are now defined in the Regulation.

In addition, certain **supplies within a group of companies** are excluded from the Regulation, provided that the services are supplied in specific circumstances and exclusively for the purposes of consumption by the resident company. The term "group of companies" is defined in the Regulation.

"Intermediaries" will be required to account for VAT on behalf of the electronic services suppliers

Where suppliers provide electronic services using the platform of another person, that person (i.e. the platform provider / intermediary) will be deemed to be the supplier for VAT purposes where that person:

- Facilitates the supply of the electronic services; and
- Is responsible for (amongst other things), the issuing of invoices and the collection of payments.

Pure payment platforms are specifically excluded from this provision.

Effective date extended

The proposed effective date of 1 October 2018 has been extended to 1 April 2019 to allow vendors time to make the necessary changes required as a result of the significant changes in the legislation.

VAT registration threshold will be increased

The current VAT registration threshold for electronic services providers will be increased from ZAR50 000 to ZAR 1 million in a 12 month period to align with the domestic compulsory VAT registration threshold.

Compliance related matters for electronic services suppliers

Simplified VAT registration process

SARS has a simplified VAT registration process in place for electronic services suppliers. Pure electronic services suppliers are not required to open a local bank account or to appoint a local representative.

Approval required to store documentation offshore

Section 30 of the Tax Administration Act, 28 of 2011, read with Regulation 787 (Government Notice 35733) requires a vendor to submit a request for approval to the South African Revenue Service ("SARS") in order to store records (electronic as well as hardcopy documents) on a server or at a location located outside of South Africa. Electronic services suppliers generally require this approval.

Tax invoice requirements

Binding General Ruling 28 Issue 2 ("BGR28(2)") lists the requirements which tax

invoices, credit and debit notes issued by electronic services suppliers must comply with. In many instances, electronic services suppliers are unable to meet these requirements, in which case specific concessions need to be applied for.

It is also important to note that where the invoice is issued in a currency other than ZAR, BGR28(2) requires conversion to ZAR by using the South African Reserve Bank, Bloomberg or European Central Bank published exchange rate in order to determine the tax charged. Approval should be obtained for the use of an alternative exchange rate.

Rulings previously obtained from the SARS may now be void

As per SARS Standard conditions for issuing rulings, a VAT ruling will cease to be effective where the provisions of the tax laws that are the subject of the VAT ruling are repealed or amended. If a non-resident has thus in the past obtained a ruling from SARS with regard to electronic services, it must consider whether this ruling needs to be re-applied for.

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.

Suzanne Van der Merwe Director – Indirect Tax +27 (0)11 209 6779 +27 (0)76 769 5930 suzvandermerwe@deloitte.co.za	Nadia Du Buisson Senior Manager – Indirect Tax +27 (0) 11 209 8721 +27 (0) 82 312 9026 ndubuisson@deloitte.co.za
Eva Snyders Manager – Indirect Tax +27 (0) 11 209 8010 +27 (0) 83 390 2577 esnyders@deloitte.co.za	Lesego Shakoane Junior Consultant – Indirect Tax +27 (0) 11 209 8937 +27 (0) 76 129 1804 lshakoane@deloitte.co.za





Download tax@hand app for up-to-date tax information from across the world

To learn more about tax@hand app [click here](#) or simply download the app free, available on:



Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee (DTTL), its network of member firms and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see www.deloitte.com/about for a more detailed description of DTTL and its member firms.

Deloitte provides audit, consulting, financial advisory, risk management, tax and related services to public and private clients spanning multiple industries. With a globally connected network of member firms in more than 150 countries and territories, Deloitte brings world-class capabilities and high-quality service to clients, delivering the insights they need to address their most complex business challenges. Deloitte's more than 225 000 professionals are committed to making an impact that matters.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms or their related entities (collectively, the "Deloitte Network") is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. No entity in the Deloitte network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.

© 2018. For information, contact Deloitte Touche Tohmatsu Limited

To no longer receive emails about this topic please send a return email to the sender with the word "Unsubscribe" in the subject line