

**Presentation to the Parliamentary Standing and Select
Committees on Finance at
Public Hearings**

2018

**Draft Rates and Monetary Amounts and
Amendment of Revenue Laws Bill**

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VAT on electronic services: Introduction



- Amendments proposed in draft Rates Bill and Regulations
- Complicated and requires clarification and reconsideration
- Unnecessary disputes likely to arise if not clear and simpler
- Proposed to come into operation on 1 October 2018
- Date of promulgation of legislation likely to be later
- Earlier effective date implies that amendments may not be fully consulted on throughout the legislative cycle
- Significant concern that not enough time for consultation
- VAT systems would also have to be updated
- Recommend implementation 6 months after promulgation

VAT on electronic services: Background



- VAT on electronic services rules effective from 1 July 2014
- Before that imported services rules applied - not enforced
- Meant that the playing field was not level:
- Eg e-book downloaded from Amazon.com @ R100 (ex VAT)
- Versus book ordered from Kalahari.net @ R114 (incl VAT)
- *Note: This is a Business-to-Consumer (B2C) scenario*

The Amazon logo, consisting of the word "amazon" in a bold, lowercase, sans-serif font, with a curved orange arrow underneath it pointing from the letter 'a' to the letter 'z'.

VAT on electronic services: Current position



- VAT on electronic services rules effective from 1 July 2014
- Foreign supplier must register for VAT in SA
- SA resident recipient of the electronic services pays the VAT
- If recipient is not a vendor it cannot claim the input tax
- *Note: This is a Business-to-Consumer (B2C) scenario*
- Most recipients who are vendors can claim the input tax
- This means that the recipient is VAT neutral
- *Note: This is a Business-to-Business (B2B) scenario*

VAT on electronic services: Current position (continued)

- Electronic services listed in regulations include specified:
 - Educational services
 - Games and games of chance
 - Internet-based auction services
 - Subscription services
 - Miscellaneous serviceswhere supplied by means of an electronic agent, electronic communication or the internet for consideration
- Whether a service falls in or out is complex and uncertain
- For example, are Uber fees for access to an app or for the arrangement of transport?

VAT on electronic services: Proposal in Draft Bill/Regulations - New definition of electronic services

- List of specific “electronic services” repealed
- “Electronic services” will be widely defined to include
 - any services supplied by means of an electronic agent, electronic communication or the internet
 - for any consideration
 - other than telecommunication and certain educational services
- Will give rise to additional complexity and uncertainty
- E.g. bundled products, broadcasting, professional services
- Definition too wide to be enforceable
- The meaning of electronic agent, electronic communication and the internet should also be clarified by way of examples



VAT on electronic services: Proposal in Draft Bill/Regulations – Business-to-Business transactions

- Other jurisdictions distinguish between B2B and B2C
- In B2C transactions a mechanism is needed to collect VAT
- However most B2B transactions are VAT neutral
- VAT paid by the recipient of the services is claimed back
- Vendors will have to register without any net VAT to SARS
- For example Microsoft Corp who sells via a SA supply chain
- Requirement to register results in unnecessary work
- Although non-compliance will not give rise to a loss to the fiscus, a significant interest and penalty burden could arise

VAT on electronic services: Proposal in Draft Bill/Regulations – Recommended collection mechanisms

	Recipient's VAT status	VAT collection mechanism
B2C	Recipient not vendor	Foreign supplier to register
B2B	Recipient vendor entitled to claim full input VAT	Foreign supplier should not register
B2B	Recipient vendor not entitled to claim full input VAT	Foreign supplier should not register – reverse charge mechanism to be used by recipient



VAT rate increase: Implementation issues – More time needed



- Short notice between 21 February and 1 April (38 days)
- Business systems not set up for VAT rate change
- Large businesses had to update many systems (e.g. 47)
- High demand on external IT specialists with many clients
- In some instances manual workarounds were needed e.g. to apportion between 14% and 15%
- Recommend that longer notice be given of rate change

VAT rate increase: Implementation issues - Transition mechanism



- Transition mechanism in VAT Act is complicated to apply
- E.g. goods and services are treated differently
- Anti-avoidance rules on top of time-of-supply rules mean that tracking is required
- Recommend that the mechanism be reviewed



VAT rate increase: Implementation issues - Grace period for penalties



- Innocent errors unavoidable in the transition process
- Often will not give rise to a loss to the fiscus
- Taxpayers would like the opportunity to correct these errors without attracting penalties
- Request enabling legislation so that SARS can waive penalties for a 6 month grace period – current legislation can only be used in limited circumstances



THANK YOU