

**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