
GOVERNMENT NOTICE

No. R.

... January 2014

NATIONAL TREASURY

VALUE-ADDED TAX ACT, 1991

**REGULATIONS PRESCRIBING ELECTRONIC SERVICES FOR THE PURPOSE
OF THE DEFINITION OF “ELECTRONIC SERVICES” IN SECTION 1 OF THE
VALUE-ADDED TAX ACT, 1991**

I Pravin Jamnadas Gordhan, Minister of Finance, by virtue of the definition of “electronic services” in section 1(1) of the Value-Added Tax Act, 1991 (Act No. 89 of 1991), hereby make the regulation set out in the Schedule hereto.

PJ Gordhan
Minister of Finance

Schedule

Definitions

1. In these Regulations, unless otherwise indicated, any word or expression to which a meaning has been assigned in the Act, bears the meaning so assigned, and—

“**electronic agent**” means any electronic agent as defined in section 1 of the Electronic Communications and Transactions Act;

“**electronic communication**” means electronic communication as defined in section 1 of the Electronic Communications and Transactions Act;

“Electronic Communications and Transactions Act” means the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002);

“information system” means any information system as defined in section 1 of the Electronic Communications and Transactions Act;

“information system services” means any information system services as defined in section 1 of the Electronic Communications and Transactions Act;

“internet” means the internet as defined in section 1 of the Electronic Communications and Transactions Act;

“internet-based auction service” means the supply of an online market place through an electronic agent where—

- (a) any person as part of an enterprise or any consumer places a description of any goods or services for sale or supply; and
- (b) those goods or services are then sold or supplied through a bidding process through that electronic agent;

“the Act” means the Value-Added Tax Act, 1991 (Act No. 89 of 1991);

“web site” means any website as defined in section 1 of the Electronic Communications and Transactions Act.

Purpose of Regulations

2. (1) These regulations prescribe those services that are electronic services for the purpose of the definition of “electronic services” in section 1(1) of the Act.

(2) These regulations apply to any supply of electronic services in the course or furtherance of an enterprise carried on by a person from a place in an export country—

- (a) to a recipient that is a resident of the Republic; or
- (b) where any payment to that person in respect of such electronic services originates from a bank registered or authorised in terms of the Banks Act, 1990 (Act No. 94 of 1990).

(3) The services listed in regulation 3 (educational services), regulation 4 (games and games of chance), regulation 5 (information system services), regulation 6 (internet-based auction services); regulation 7 (maintenance services), regulation 8 (miscellaneous services) and regulation 9 (subscription services) are electronic services where such services are supplied by means of any electronic agent, electronic communication or the Internet for any consideration.

Educational services

3. The supply of any—

- (a) distance teaching programme;
- (b) educational webcast;
- (c) internet-based course;
- (d) internet-based education programme; or
- (e) webinar,

if the person making the supply of the educational services is not regulated by an educational authority in that export country.

Games and games of chance

4. The supply of any—

- (a) internet-based game, including any—
 - (i) electronic game; or
 - (ii) multiplayer role-playing game;
- (b) interactive game, where such interactive game is a—
 - (i) game of chance;
 - (ii) game where the result is influenced by the skill of the player; or
 - (iii) game which is a combination of chance and skill; or
- (c) electronic betting or wagering, where such electronic betting or wagering constitutes participation in the activities contemplated in sections 4(1) and (2) of the National Gambling Act, 2004 (Act No. 7 of 2004).

Information system services

5. The provision of any information system services.

Internet-based auction service

6. The supply of an internet-based auction service facility.

Maintenance services

7. The administration, maintenance and technical support of or in relation to any—

- (a) blog;

- (b) database;
- (c) information system;
- (d) information system services; or
- (e) web site.

Miscellaneous services

8. The supply of any—

- (a) **e-book**, which for the purposes of this regulation means, any—
 - (i) digitised content of any book; or
 - (ii) electronic publication;
- (b) **film**, which for the purposes of this regulation means, any—
 - (i) broadcast not simultaneously broadcast over any conventional television network in the Republic;
 - (ii) documentary;
 - (iii) home-made video;
 - (iv) live streaming performance;
 - (v) movie;
 - (vi) music video;
 - (vii) program;
 - (viii) television series; or
 - (ix) video clip,and any right to view any item listed in this regulation;
- (c) **images**, which for the purposes of this regulation means, any—
 - (i) desktop theme;
 - (ii) photographic image;
 - (iii) pictorial image; or
 - (iv) screensaver,and any right to view any item listed in this regulation;
- (d) **music**, which for the purposes of this regulation means, any—
 - (i) audio clip;
 - (ii) broadcast not simultaneously broadcast over any conventional radio network in the Republic;
 - (iii) jingle;
 - (iv) live streaming performance;

- (v) ringtone;
 - (vi) song; or
 - (vii) sound effect,
- and any right to listen to any item listed in this regulation;
- (e) **software**, including—
- (i) application software;
 - (ii) system software; or
 - (iii) plugins,
- and any update to any software listed in this regulation.

Subscription service

9. Any subscription service to any—

- (a) blog;
- (b) database;
- (c) information system services;
- (d) journal;
- (e) magazine;
- (f) newspaper;
- (g) games;
- (h) internet-based auction service;
- (i) periodical;
- (j) publication;
- (k) social networking service;
- (l) webcast;
- (m) webinar;
- (n) web site;
- (o) web application; or
- (p) web series.

Short title and commencement

10. These regulations are called the Electronic Services Regulations and come into operation on 1 April 2014.