national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

PRESS RELEASE
FINAL ELECTRONIC SERVICES REGULATION PUBLISHED

National Treasury today publishes the final Regulations that give effect to the amendments in 2013 of the Valued-added Tax Act, No 89 of 1991, which changes the way certain imported electronic services will be taxed in future.

The Regulation was published in the *Government Gazette* No. 37489 today and its implementation has been postponed by two months to 1 June 2014 to allow businesses sufficient time to get their systems ready. However, SARS is ready to start registering foreign based supplies of electronic services from 7 April 2014.

The publication of the final Regulation follows a consultation process undertaken after National Treasury published the draft Regulations that provided a list of electronic services that would be included under the new provisions for public comment on 30 January 2014. Fifty (50) written comments were received from business groupings, companies, private individuals, representative organisations and tax advisors. The National Treasury and the South African Revenue Service (SARS) hosted a stakeholder workshop on 20 February 2014 to discuss these comments. A follow up information session was held on 19 March 2014.

The main concern raised by businesses and tax advisors was that the scope of Regulations was too wide as it included certain types of electronic services that are predominantly of a business to business nature. As this is the first step in the implementation of the taxation of electronic services, a decision was taken to reduce the scope and to exclude certain e-services from this Regulation. It should be noted that imported services not specifically included in the Regulation are still subject to VAT in terms of section 14 of the Value Added Tax Act No. 89 of 1991.

A number of submissions also wrongly noted this amendment as imposing a new tax. This is not the case, as the Regulation merely changes the tax liability from the importer of the service to the foreign supplier to address concerns about non-compliance in terms of the current rules and to level the playing field between local suppliers of e-services and foreign suppliers.

SARS will provide for a streamlined VAT registration and administrative process that will significantly reduce the compliance burden for businesses. Hence for example, foreign electronic suppliers will not be required to open a South African bank account.

It should be noted that the Treasury and SARS are also reviewing the current applicable registration threshold. An increase in the registration threshold for foreign based electronic service suppliers will be considered to ensure that very small electronic service suppliers are not unduly impacted.

The final Regulation is available on the websites of the National Treasury (www.treasury.gov.za) and the South African Revenue Service (www.sars.gov.za).

More broadly, and beyond these regulations, the National Treasury notes that the growth and development of electronic services raises many complex issues, and hence that traditional tax (both indirect and direct) and regulatory measures may not be as effective in meeting their objectives as they for traditional goods and services. There is a need to modernise current governmental processes to better incorporate technological innovations in the electronic services sector and to ensure that South Africa keeps abreast with international developments in this area, and is competitive.

Treasury will therefore be initiating a consultative process to develop a comprehensive paper on the treatment of electronic services, particularly in the area of financial sector regulation, payment systems and taxation, as well as to consider measures to better protect customers. Any suggestions by interested parties on these topics will be welcome and should be addressed to ingrid.goodspeed@treasury.gov.za

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