



Legal Counsel

Value-Added Tax

Frequently Asked Questions
Supplies of Electronic Services



South African Revenue Service

The Minister of Finance published the regulations prescribing electronic services for the purpose of the definition of “electronic services” in section 1(1) of the Value-Added Tax Act 89 of 1991 (the VAT Act¹) in Government Notice 429 of 18 March 2019 (Updated Regulations). These regulations come into effect from 1 April 2019 and update the regulations published in Government Notice R.221 of 28 March 2014 (Original Regulations). In addition, various amendments have been made in the Rates and Monetary Amounts and Amendment of Revenue Laws Act 21 of 2018 in respect of electronic services (the amendments). These amendments (including those relating to intermediaries) come into effect on 1 April 2019. The Frequently Asked Questions (FAQs) in this document have been compiled on the basis of questions that vendors and the public at large are likely to have about the implications of the Updated Regulations and the amendments.

The FAQs are drafted purely to assist foreign electronic services suppliers, intermediaries, vendors and the public at large to obtain clarity and to ensure consistency on certain practical and technical aspects relating to the Updated Regulations and amendments. The FAQs are therefore not intended to be used as legal reference. You can find more information about some of the aspects discussed in this document in the *VAT 404 – Guide for Vendors*.

The FAQs are also intended to solicit further questions regarding the Updated Regulations and amendments. The FAQs will therefore be updated periodically to address these questions, as well as any changes in the Updated Regulations. In light hereof, it is not envisaged that VAT Rulings in relation to the Updated Regulations and relevant amendments will be issued. A dedicated mailbox, **VATElectronic@sars.gov.za**, has been set up to field any queries not answered below.

All other FAQs, forms, guides, interpretation notes, notices, and rulings referred to in these FAQs are available on the **SARS website**. Unless indicated otherwise, the latest issues of these documents should be consulted.

Issued by: Legal Counsel

SOUTH AFRICAN REVENUE SERVICE

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¹ All references to sections are to sections of the VAT Act unless otherwise indicated.

Question		Answer
1.	What is value-added tax (VAT)?	VAT is an indirect tax based on consumption in the South African economy. VAT is charged by persons that carry on an enterprise in the Republic (South Africa), or are specifically included in the definition of “enterprise”, on the taxable supplies made by them. Any person that is registered or liable to register for VAT in the Republic is called a “vendor”. Also refer to Questions 23, 26, 27 and 29 .
2.	What is VAT charged on?	VAT is charged on the taxable supply of goods or services (including electronic services) by a vendor, at either the standard or the zero-rate. With effect from 1 April 2018, the VAT rate increased from 14% to 15%. Refer to the <i>Frequently Asked Questions: Increase in the VAT Rate from 1 April 2018</i> . VAT is also payable on the importation of goods, and “imported services”. Certain importations and supplies are exempt from VAT. The supply of electronic services is subject to VAT at the standard rate. Refer to Questions 51 and 52 .
3.	What are electronic services?	These are services as prescribed by the Minister in a regulation (hereinafter referred to as the Original Regulations as well as the Updated Regulations). In simple terms, “electronic services” refers to electronic or digital content that is supplied by electronic means, for example, via the internet, or other telecommunications service. Also refer to Questions 7, 14 and 21 .
4.	When will the regulation on electronic services become effective?	The Original Regulations came into effect on 1 June 2014. These Regulations have since been updated by the Updated Regulations, which will be effective from 1 April 2019.
5.	What was the reason for the Updated Regulations?	The Original Regulations limited the scope of services that qualified as electronic services and which must be charged with VAT at the standard rate. The intention of the Updated Regulations is to substantially widen the scope of services that qualify as electronic services, so that all services supplied for a consideration (subject to a few exceptions), which are provided by means of an electronic agent, electronic communication or the internet, are electronic services and must be charged with VAT at the standard rate.
6.	Do the Updated Regulations make a distinction between Business-to-Business (B2B) and Business-to-Consumer (B2C) supplies?	No , there is no distinction between B2B and B2C supplies, therefore, B2B supplies will be charged with VAT at the standard rate. This outcome was intentional as the South African VAT system does not fully subscribe to the B2B and B2C concepts. Refer, however, to certain supplies for a consideration, by means of an electronic agent, electronic communication or the internet within the same group of companies in Questions 19 and 20 , which are excluded from the ambit of “electronic services” in the Updated Regulations.

FAQs: Supplies of Electronic Services

7.	What are “electronic services” according to the Updated Regulations?	<p>Electronic services means any services supplied by a non-resident for a consideration by means of –</p> <ul style="list-style-type: none"> • an electronic agent; • an electronic communication; or • the internet <p>as defined in the Electronic Communications and Transactions Act 25 of 2002 (the ECT Act).</p> <p>Electronic services are therefore services, the supply of which –</p> <ul style="list-style-type: none"> • is dependent on information technology; • is automated; and • involves minimal human intervention. <p>Simply put, this means that from 1 April 2019, you will have to pay VAT on a much wider scope of electronic services (that is, digital content supplied by electronic means as set out above). The Updated Regulations now include any services that qualify as “electronic services” (other than a few exceptions) whether supplied directly by the non-resident business or via an “intermediary”. Refer to Questions 23 and 28.</p> <p>Electronic services should be distinguished from those services that, by their nature, are not electronic services, but the product has merely been delivered or communicated by electronic means. For example, if research was done outside of the Republic by a non-resident business, then the service concerned does not become an electronic service merely because the final report was sent to the South African client by e-mail. Instead, the recipient will have to consider whether the research services acquired from the non-resident qualify as “imported services” or not.</p> <p>Refer also to Questions 21 and 22.</p>
8.	What is an “electronic agent”?	<p>“Electronic agent” means a computer program or an electronic or other automated means used independently to initiate an action or respond to data messages or performances in whole or in part, in an automated transaction.</p>
9.	What does “electronic communication” mean?	<p>“Electronic communication” means a communication by way of data messages.</p>
10.	What are “data messages”?	<p>“Data message” means data generated, sent, received or stored by electronic means and includes –</p> <ul style="list-style-type: none"> • voice, where the voice is used in an automated transaction; and • a stored record.
11.	What is the meaning of “internet”?	<p>“Internet” means the interconnected system of networks that connects computers around the world using the Transmission Control Protocol Internet Protocol (TCP/IP) and includes future versions thereof.</p>

FAQs: Supplies of Electronic Services

12.	What does “consideration” mean?	<p>“Consideration” is the VAT-inclusive price that you pay, or are required to pay for a supply of goods or services. The amount of consideration is therefore the final amount of money that you need to pay for a supply. If the consideration is not payable in money, then the open market value of the goods or services received in exchange for the supply is the consideration.</p>
13.	What is specifically excluded from the ambit of “electronic services” in the Updated Regulations?	<p>Specifically excluded from the Updated Regulations are –</p> <ul style="list-style-type: none"> • telecommunications services (refer to Question 14); • educational services supplied from an export country (a country other than South Africa), which services are regulated by an education authority under the laws of the export country (refer to Question 15); and • certain supplies of services where the supplier and recipient belong to the same group of companies (refer Questions 19 and 20).
14.	What are telecommunications services?	<p>In order to give effect to the policy intent, the phrase “telecommunications services” is interpreted to mean any service relating to the transmission, emission or reception, and the transfer and assignment of the right to use capacity for the transmission, emission or reception of signals, writing, images, sounds or information of any kind by a telecommunications system, and includes access to global information networks, but does not include the content of the telecommunications.</p> <p>Examples are internet access (including access to the World Wide Web), videophone and fixed and mobile telephone services. A telecommunications service does not include the electronic or digital content (including broadcasting content) that is transmitted by way of the telecommunications service, for example, voice, sound, data, text, videos, animation, visual images, pictures etc.</p> <p>Refer to Questions 14, 21, 22, and 36.</p>
15.	What is an example of educational services supplied from an export country that are not “electronic services”?	<p>On-line learning provided by a university in an export country (a country other than South Africa), governed by an education authority under the law of that export country which is similar to educational services provided by a similar institution (for example, university) in the Republic, which is exempt under section 12(h).</p> <p>Also refer to Question 13.</p>
16.	What does the term “exempt supplies” mean?	<p>A supply of goods or services on which VAT (either at the standard rate or zero rate) may not be charged. Any activity involving the making of an exempt supply does not form part of your enterprise in South Africa.</p> <p>You cannot register as a vendor to the extent that you make exempt supplies. This means that you will not charge VAT on any exempt supplies made and no deduction of VAT may be made on any goods or services acquired for purposes of making those exempt supplies. Refer to Question 17.</p>

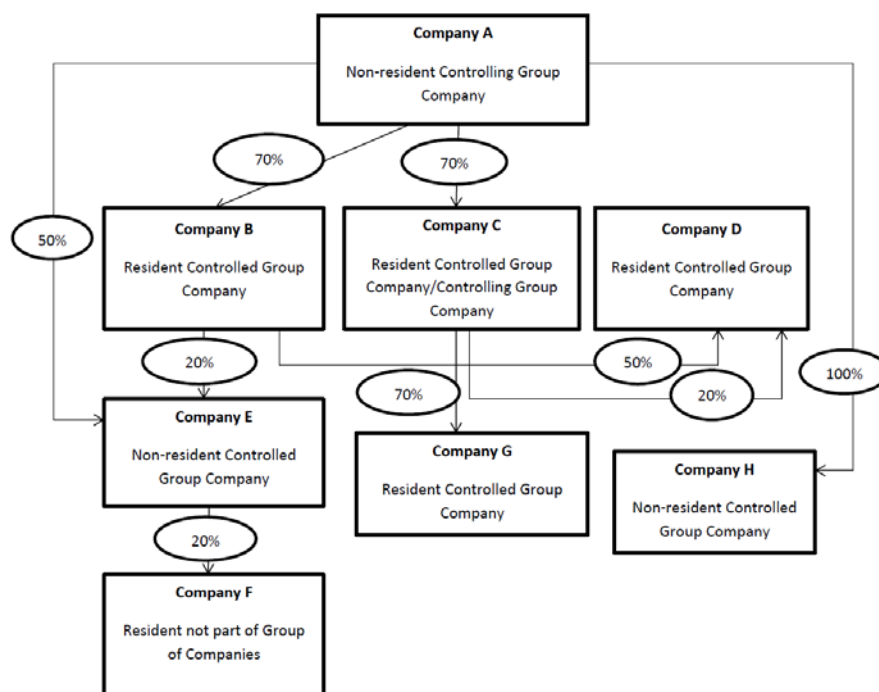
FAQs: Supplies of Electronic Services

17.	What are examples of exempt supplies?	<p>The supply of financial services (such as the provision of credit, life insurance, the services of certain benefit funds, for example, medical schemes and retirement annuity funds, the buying or selling of cryptocurrency) and certain educational services supplied by recognised educational institutions such as primary and secondary schools, technical colleges and universities.</p> <p>The supply of certain financial services (such as the exchange of currency, the payment or transfer of ownership of a cheque or letter of credit, the provision of credit, the buying or selling of cryptocurrency) is not exempt if any consideration is payable in the form of a fee, commission, merchant’s discount or similar charge, (excluding discounting cost). Such additional amount is subject to VAT. For example, if you buy foreign currency, the price of the foreign currency (based on the exchange rate) is exempt, but any additional fee or commission charged for services rendered to facilitate that transaction is subject to VAT.</p> <p>Refer to Questions 16, 18 and 40.</p>
18.	What are the consequences when “electronic services” also constitute exempt supplies?	<p>The supplies will not be taxable, as you are not conducting an enterprise in the Republic. You cannot register as a vendor in respect of exempt supplies.</p> <p>Refer to Questions 13, 15, 16 and 17.</p>
19.	What does “group of companies” mean?	<p>“Group of companies” means two or more companies in which one company (the “controlling group company”) directly or indirectly holds shares in at least one other company (the “controlled group company”) to the extent that –</p> <ul style="list-style-type: none"> • 70% of the equity shares in each controlled group company are directly held by the controlling group company, one or more other controlled group companies or any combination thereof; and • the controlling group company directly holds 70% of the equity shares in at least one controlled group company. <p>Note that the minimum shareholding requirement is 70%. A shareholding of less than 70% (for example, 69.9%) does not meet this requirement.</p> <p>The term “company” is defined in the VAT Act, with reference to its definition in the Income Tax Act 58 of 1962 and includes –</p> <ul style="list-style-type: none"> • an association, corporation or company incorporated in under the laws of South Africa; • a body corporate formed or established under the laws of South Africa; • an association, corporation or company incorporated in under the laws of an export country; • a body corporate formed or established under the laws of an export country;

- a co-operative;
- certain associations;
- a close corporation;
- certain portfolios in an investment scheme or of a collective scheme,

but does not include a “foreign partnership”, as defined in that Act. A trust is separately defined in that Act, and is not a “company” as defined. Also refer to **Question 20**.

Example



Company A is the controlling group company and form part of the same group of companies of –

- Company B and Company C (Company A directly holds 70% of the equity shares of Companies B and C);
- Company D because Company B together with Company C directly holds 70% of the shares of Company D;
- Company E because Company A together with Company B directly holds 70% of the equity shares in company E;
- Company G because Company C directly holds 70% of the equity shares of Company G and Company A directly holds 70% of the equity shares of Company C; and
- Company H because Company A directly holds 100% of the equity shares in Company H.

		<p><i>Company F is not part of the same group of companies because only 20% of its equity shares are directly held by one of the group companies. Company E holds 20% of the equity shares in Company F, and Company A indirectly holds 2,8% of the equity shares in Company F [that is 70% (Company A's equity shares in Company B) × 20% (Company B's equity shares in Company E) × 20% (Company E's equity shares in Company F)].</i></p> <p><i>Company C is also a controlling group company since it directly holds 70% of the equity shares in Company G.</i></p> <p>Also refer to Question 20.</p> <p>The above example serves as guidance on the practical application of the concept “group of companies”. SARS is, however, not able to provide comprehensive examples of all the different variations of corporate structures. SARS will also not issue rulings or opinions on whether or not a company meets the “group of companies” requirements. That is a factual matter to be determined by the company concerned. For further guidance on the “group of companies” requirements, refer to the following Interpretation Notes (INs):</p> <ul style="list-style-type: none"> • IN 67 “Connected Persons” • IN 75 “Exclusion of Certain Companies and Shares from ‘group of companies’ as defined in section 41(1)”
<p>20.</p>	<p>What is the impact of the Updated Regulations on a “group of companies”?</p>	<p>A supply of services for a consideration by means of an electronic agent, electronic communication or the internet, by a company from a place in an export country (non-resident company), to a company being a resident of South Africa (resident company), is excluded from the ambit of “electronic services” if –</p> <ul style="list-style-type: none"> • the non-resident and resident companies form part of the same group of companies; and • the non-resident company itself supplies the services exclusively for purposes of consumption by the resident company (the word “consumption” in this context means that the resident company is the end-user of the services). <p>Services that are –</p> <ul style="list-style-type: none"> • procured by the non-resident company on behalf of, or for the benefit of resident companies; or • acquired partially for consumption by the resident company, <p>are not excluded from the ambit of “electronic services”.</p> <p>Example 1</p> <p><i>A non-resident company supplies internet-based data services to its wholly-owned subsidiaries situated in South Africa. As these services are supplied by the non-resident company itself, for purposes of consumption by the resident companies, such services are not “electronic services” for purposes of the Updated Regulation.</i></p>

		<p>Example 2</p> <p><i>A non-resident company enters into an internet-based data services contract for the entire group of companies, with a third party non-resident supplier. The non-resident company on-supplies the data services to each subsidiary and charges a fee based on the use of the services. These services qualify as “electronic services”.</i></p> <p>Example 3</p> <p><i>Assume the same facts as in Example 2. However, the non-resident company enters into a separate contract with its group of companies in terms of which the internet-based data services procured from the third party non-resident supplier, as well as other related electronic services, are packaged together and supplied to the group companies for a single consideration. As the services are not exclusively discovered, devised, developed, created or produced by the non-resident company itself and involves the supply of procured electronic services, the supply falls within the ambit of “electronic services”.</i></p> <p>The basis for the distinction in the above examples is that in the first example, the non-resident company is supplying the actual services itself, whereas in the second and third examples, the non-resident company procures the supply of services from a third party, on behalf of the group entities.</p> <p>Example 4</p> <p><i>Refer to the diagram in Question 19. Company A supplies on-line data services for a consideration, to Companies B and D, for exclusive consumption by these companies. Company A also supplies on-line data services to Company H for a consideration which services Company H on-supplies to Companies C and F. Company C in turn on-supplies these services to Company G for a fee.</i></p> <p><i>The supplies by Company A to companies B and D are excluded from the ambit of “electronic services”, as these supplies are made within the same group of companies, and Company A itself supplies these services to the resident controlled group companies for their exclusive use.</i></p> <p><i>The supply by Company H to Company F falls within the ambit of “electronic services” as Company F is not part of the same group of companies.</i></p> <p><i>The supply by Company H to Company C is also included in the ambit of “electronic services” as these services are not consumed exclusively by Company C; Company C on-supplies these services to Company G.</i></p>
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Example 5

Assume the same facts as in **Example 2**. However, in this instance, the non-resident company bundles the electronic services with certain services it physically performs in South Africa monthly, for a single consideration.

The non-resident qualifies as an “enterprise” in respect of its supply of electronic services, as well as the services continuously and regularly supplied in South Africa. The non-resident must register for VAT to the extent that the value of its taxable supplies exceeds the registration threshold (refer to **Question 27**). The non-resident will only register once in respect of all its enterprises (refer to **Question 31**).

Example 6

Assume the same facts as in **Example 1**. However, in this instance, the non-resident company bundles the electronic services with certain accounting services, which are neither electronic services, nor physically performed in the Republic. These bundled services are supplied for a single consideration.

Under section 10(22), where a taxable supply is not the only matter to which a consideration relates, the consideration must be properly attributed to the respective matters. Part of the consideration relating to the supply of electronic services will therefore be subject to VAT at the standard rate, whilst the balance relating to the accounting services will be out of scope for South African VAT purposes.

To the extent that section 10(22) applies and a portion of the consideration relates to services not subject to VAT, the recipient may be liable for VAT on imported services. Refer to **Questions 68 to 70**.

Section 10(4) provides for special valuation purposes in the case of connected persons such as a non-resident controlling group company and its resident controlled group companies where –

- a supply is made for no consideration, or for a consideration in money less than the open market value of the supply; and
- the recipient would not be entitled to a full deduction of the input tax, had a consideration equal to the open market value of the supply been paid.

In this instance, the consideration for the supply is deemed to be the open market value (the consideration in money which would generally be charged for the supply, being a supply freely offered and made between two persons that are not connected).

Should the supplier not be able to apply section 10(22) in such a case, the total amount of the consideration will be ascribed to the making of a taxable supply of “electronic services”, which is subject to VAT at the standard rate.

		<p>Example 7</p> <p><i>A resident group company supplies a complete hardware and software solution to its customers. In order to supply these solutions, it obtains various elements (some being supplied by electronic means and some other services) from different non-resident group companies (within the same group of companies).</i></p> <p><i>As the resident group company does not acquire the electronic services exclusively for its own consumption (as it on-supplies the services to its customers), each non-resident group company must determine the extent to which it supplies “electronic services” and whether it is liable to register as a vendor. In this regard, each non-resident group company exceeding the registration threshold will be registered as a vendor.</i></p> <p>Example 8</p> <p><i>A non-resident group company purchases a software application, customises it in accordance with specific needs, and supplies the application to its resident group company.</i></p> <p><i>As the services are not exclusively discovered, devised, developed, created or produced by the non-resident company itself and involves the supply of procured electronic services, the supply falls within the ambit of “electronic services”.</i></p>
<p>21.</p>	<p>What are some examples of electronic services?</p>	<p>Examples of electronic services supplied by means of an electronic agent, electronic communication or the internet include, among others, the following:</p> <ul style="list-style-type: none"> • Certain educational services such as distance teaching programmes, educational webcasts, courses or education programmes, and webinars (excluding educational services referred to in Questions 13 and 15) • Games and games of chance such as electronic games, interactive games, electronic betting or wagering • Auction services • On-line advertising or provision of advertising space • On-line shopping portals • Web-based broadcasting (refer to Question 14) • Access or download of E-books (refer to Question 41), audio visual content, still images (for example, desktop themes, photographic images, screensavers), music (for example, ringtones, songs, live streaming performance); films (refer to Question 39) • Access to blogs, journals, magazines, newspapers, games, publications, social networking, webcasts, webinars, websites, web applications, web series • Website hosting, data warehousing, application hosting (refer to Question 38)

		<ul style="list-style-type: none"> • Download or access of software • Software applications (“apps”) downloaded by users on mobile devices • Software applications allowing users to provide sharing services such as ridesharing and accommodation • Supplies of electronic services where the non-resident company supplies procured services to the resident company, and the non-resident and resident company forms part of the same “group of companies” (refer to Questions 19 and 20) • On-line booking services (refer to Question 42) • On-line automated maintenance of programmes • Cloud computing <p>The scope of electronic services now includes any services supplied electronically as explained in Question 7. The above list of services is not exhaustive and these FAQs may be updated to provide further examples.</p>
22.	What are some examples of supplies that are not electronic services?	<ul style="list-style-type: none"> • Certain educational services (refer to Question 13) • Certain financial services for which a fee is charged (refer to Questions 17 and 40) • Telecommunications services (refer to Question 14 and 36) • Certain supplies made in a group of companies (refer to Questions 19 and 20) • The online supply of tangible goods such as books or clothing (refer to Questions 35 and 41) • Telephonic helpdesk services (not being automated responses by an “electronic agent” – refer to Question 6) • Certain supplies of services that are not electronic services by their nature, but where the output and conveyance of the services is merely communicated by electronic means (refer to Questions 7 and 43), for example – <ul style="list-style-type: none"> ➤ a legal opinion prepared in an export country (refer to Question 24), sent by e-mail; and ➤ an architect’s plan drawn up in an export country, and sent to the client by e-mail.
23.	When is a non-resident supplier of electronic services conducting an enterprise for South African VAT purposes?	<p>A non-resident supplier of electronic services is conducting an enterprise if the electronic services are supplied from a place in an export country (refer to Question 24), and any two of the following three circumstances are present:</p> <ol style="list-style-type: none"> 1. The recipient of the services is a resident of South Africa (refer to Question 25);

		<p>2. The payment for the services originates from a bank registered under the Banks Act 94 of 1990 (the Banks Act); or</p> <p>3. The recipient of the services has a business, residential or postal address in South Africa.</p> <p>In these FAQs reference is made to a supplier meeting the above requirements as a “foreign electronic services supplier”.</p> <p>A foreign electronic services supplier that exceeds the VAT registration threshold (refer to Question 27) and meets the above 2 out of 3 requirements (hereinafter referred to as the “2 out of 3 test”) will be required to register as a vendor (refer to Question 1) and account for VAT only in respect of its electronic services supplied to South African customers.</p>
24.	What is an export country?	A country other than the Republic of South Africa (South Africa).
25.	What is a resident for South African VAT purposes?	<p>A “resident” as defined in the Income Tax Act, or any other person or company, to the extent that such person or company carries on an enterprise or activity in South Africa and has a fixed or permanent place in South Africa relating to such enterprise or activity.</p> <p>For more information refer to the following INs:</p> <ul style="list-style-type: none"> • IN 3 “Resident: Definition in relation to a Natural Person – Ordinarily Resident” • IN 4 “Resident: Definition in relation to a Natural Person – Physical Presence Test • IN 6 (Issue 2) “Resident – Place of Effective Management (Companies)”
26.	Who must register as a vendor and collect VAT on electronic services?	<p>Generally, vendors (refer to Question 1) are required to levy and collect VAT. In the case of electronic services, this will be the foreign electronic services supplier or in certain instances, the intermediary (which may be a resident or a non-resident) (refer to Questions 28 to 30).</p> <p>Just like any other vendor, foreign electronic services suppliers and intermediaries have to perform certain duties and take on certain responsibilities, such as ensuring that VAT is charged and collected on taxable transactions, returns are submitted, payments are made on time and tax invoices (and other specifically prescribed documents) are issued. Refer to Questions 44 to 57.</p> <p>Electronic services supplied to persons in South Africa may therefore be subject to VAT, either because –</p> <ul style="list-style-type: none"> • the foreign electronic services supplier is required to register as a vendor in its own name, if the supplies made to persons in South Africa exceed the R1 million registration threshold; or;

		<ul style="list-style-type: none"> • the foreign electronic services supplier voluntarily registered for VAT; or • the intermediary, being a vendor, will be required to account for VAT on supplies made by the foreign electronic services supplier (refer to Questions 29, 30 and 34) because that electronic services supplier is not registered for VAT. <p>The reason that a foreign electronic services supplier is not registered for VAT may be due to the foreign electronic services supplier –</p> <ul style="list-style-type: none"> • not having applied to register for VAT (notwithstanding that the registration threshold has been exceeded and it is mandated to register as a vendor); or • has not exceeded the registration threshold, in which case it is not required to register as a vendor. <p>The foreign electronic services supplier (principal) that exceeded the registration threshold, but failed to register as a vendor, may be guilty of an offence, and remains liable to register and account for VAT on electronic services in the supplier’s VAT return. This remains the case even if the VAT on those supplies has been accounted for on a return by an intermediary (agent).</p> <p>Should the value of supplies made on behalf of non-VAT registered principals by an intermediary result in the intermediary exceeding the VAT registration threshold, that intermediary is liable to register and account for such VAT on its own VAT return. Failure by the intermediary to register as a vendor is an offence.</p> <p>The intermediary is liable to account for VAT on supplies of electronic services made by the non-VAT registered principal (refer to Questions 29 and 30), until such time as the principal confirms that it is registered for VAT and the principal will commence accounting for such supplies on their own VAT return.</p> <p>Also refer to Questions 46 to 47 relating to VAT registration, and Question 34 relating to the issuing of tax invoices by an intermediary.</p>
27.	When must a foreign electronic services supplier or intermediary register as a vendor?	<p>From 1 April 2019, the foreign electronic services supplier or intermediary must register as a vendor at the end of any month where the total value of taxable supplies made by that supplier exceeds R1 million in any consecutive 12-month period. The 12-month period is calculated from 1 April 2019 in respect of supplies of electronic services which became taxable from 1 April 2019 under the Updated Regulations. Newly affected foreign electronic services suppliers will therefore not become liable to register as a vendor before 1 May 2019.</p> <p>The exclusions contemplated in section 23(1) (for example, the registration threshold is exceeded because of abnormal circumstances of a temporary nature) do not apply to foreign electronic services providers and intermediaries.</p>

		<p>Foreign electronic service suppliers that were liable to account for VAT on electronic services under the Original Regulations, will continue to be liable from the date that the registration threshold was exceeded, that is, between 1 June 2014 and 1 April 2019. (The rule before 1 April 2019 was that such foreign electronic services suppliers were liable to register at the end of any month where the value of taxable supplies exceeded R50 000).</p> <p>Foreign electronic services suppliers need to add the value of electronic services supplied under the Original Regulations as well as the Updated Regulations in order to determine the liability date for VAT registration.</p> <p>You can also register voluntarily if you have made taxable supplies exceeding R50 000 in a preceding period of 12 months.</p>
<p>28.</p>	<p>What is an “intermediary” in the context of electronic services?</p>	<p>An intermediary is a person that facilitates the supply of electronic services by a foreign electronic services supplier in circumstances where that person is responsible for –</p> <ul style="list-style-type: none"> • the issuing of invoices; and • collecting payment <p>in respect of the supply of electronic services.</p> <p>An intermediary is also known globally as a “platform” or “electronic marketplace” that enables, by electronic means, transactions between buyers and sellers.</p> <p>The phrase “facilitating the supply” may include a range of services in addition to being responsible for the issuing of invoices and the collection of payment as mentioned above. For example, it could include advertising or listing the electronic services for sale on the platform or electronic marketplace with or without making it known that the sale of the electronic services are being sold on behalf of the principal. However, a person cannot qualify as an intermediary if that person is not responsible for the –</p> <ul style="list-style-type: none"> • issuing of invoices; and • collection of payment. <p>An intermediary (whether resident or non-resident) is conducting an enterprise to the extent of its own activities in the Republic and its activities in facilitating the supply of electronic services as set out above.</p>
<p>29.</p>	<p>When is an intermediary required to register as a vendor?</p>	<p>The intermediary must register as a vendor at the end of any month where the total value of taxable supplies made and deemed to be made by that intermediary exceeded R1 million in any consecutive 12-month period.</p>

		<p>If you are an intermediary, you must determine the sum of the value of all your own South African taxable supplies and the value of all electronic services made by non-VAT-registered foreign electronic service suppliers on your platform. If the sum of these amounts exceeds R1 million in any consecutive period of 12 months, then you are required to register for VAT as an intermediary.</p> <p>Also refer to Questions 26 and 30.</p> <p>Example</p> <p><i>The value of taxable supplies made by you, as well as on behalf of non-VAT-registered foreign electronic services suppliers in a period of 12 months from 1 April 2019 to 30 June 2019 is as follows:</i></p> <table border="0" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: left;">Non-VAT-registered foreign electronic services suppliers</th> <th style="text-align: right;">Value of supplies</th> </tr> <tr> <th></th> <th style="text-align: right;">R</th> </tr> </thead> <tbody> <tr> <td>ABC</td> <td style="text-align: right;">234 000</td> </tr> <tr> <td>DEF</td> <td style="text-align: right;">721 000</td> </tr> <tr> <td>GHI</td> <td style="text-align: right;">25 000</td> </tr> <tr> <td>Total supplies on behalf of non-VAT-registered foreign electronic service suppliers</td> <td style="text-align: right;">980 000</td> </tr> <tr> <td>Own supplies</td> <td style="text-align: right;">25 000</td> </tr> <tr> <td>Total supplies</td> <td style="text-align: right;"><u>1 005 000</u></td> </tr> </tbody> </table> <p><i>As the value of the taxable supplies made by you and the foreign electronic services suppliers using your platform exceeds R1 million in a consecutive period of 12 months, you will be required to register as a vendor with effect from 1 July 2019.</i></p>	Non-VAT-registered foreign electronic services suppliers	Value of supplies		R	ABC	234 000	DEF	721 000	GHI	25 000	Total supplies on behalf of non-VAT-registered foreign electronic service suppliers	980 000	Own supplies	25 000	Total supplies	<u>1 005 000</u>
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30.	When is a supply deemed to be made by an intermediary?	<p>A supply of electronic services is deemed [under section 54(2B)] to be made by the intermediary and not the principal, if the electronic services are supplied through an intermediary platform or online marketplace on behalf of the principal and –</p> <ul style="list-style-type: none"> • the intermediary is a vendor; • the principal is not a resident and not a registered vendor; and • the electronic services are supplied or to be supplied to a person in South Africa (that is the supplies made in the course of an enterprise for South African VAT purposes as discussed in Question 23). 																

		<p>An intermediary that qualifies to register and account for VAT in respect of supplies made on behalf of the foreign electronic services supplier, will be required to periodically check that all of the conditions referred to above still apply. Should one of the conditions no longer apply, the intermediary can no longer account for supplies made on behalf of the foreign electronic services supplier, and such foreign electronic services supplier itself may be required to register and account for VAT on such supplies (refer to Question 26).</p> <p>Example 1</p> <p><i>I am a registered vendor conducting my business in South Africa, which entails the supply of various digitised products for download on my website, for example, electronic books. South-African users can also download various ringtones and screensavers from my website. However, the ringtones and screensavers are supplied by foreign electronic services suppliers, that use my website as a platform or online marketplace to advertise and sell their digitised content. These foreign electronic services suppliers are not registered for VAT, and are non-residents.</i></p> <p><i>Users pay a separate fee per download, and I issue invoices and collect the payments for all supplies (that is, my own supplies, as well as those of the foreign electronic services suppliers). After collecting the full price from the customer in respect of the foreign electronic services suppliers' products, I deduct a 10% commission based on the value of the products and remit the balance due to the suppliers.</i></p> <p><i>In this example, you will be an "intermediary" as defined in the Regulations. You will therefore be required to account for VAT on the supplies of electronic services made by the foreign electronic services suppliers in your VAT return, in addition to your own supplies.</i></p> <p><i>The reason for this is that all the following conditions are met:</i></p> <ul style="list-style-type: none"> • <i>The ringtones and screensavers constitute "electronic services";</i> • <i>The suppliers are non-residents carrying on a business in an export country and they are not registered as vendors (refer to Question 1);</i> • <i>You are a registered vendor (refer to Question 1) and the electronic services are facilitated by you as they are made available for sale (download) on your website, which is an online marketplace or platform; and</i>
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- You are responsible for the issuing of invoices and collecting of payment in respect of the electronic services supplied on behalf of the foreign electronic services suppliers. This will still be applicable even if you outsource the payment function to another service provider. The policy rationale for this is that you will still be “responsible” for collecting the payment. Through your platform, you will not authorise the release of the product to the consumer if payment has not been made.

Example 2

I am a non-resident, conducting my business outside of South Africa, which entails allowing various businesses in export countries to use my platform to sell their digitised content. These foreign electronic services suppliers are not registered for VAT, and are also non-residents. I am not a registered vendor for South African VAT purposes.

The combined value of supplies made by these foreign electronic services suppliers to customers in South Africa exceeds R1 million.

*In this example, you will also be an “intermediary” as defined in the Updated Regulations. You will therefore be required to register and account for VAT on the supplies of electronic services made by the foreign electronic services suppliers to customers in South Africa in your VAT return. Also refer to **Questions 26, 28 and 29**.*

Example 3

*Assume the same facts as in **Example 1**, except that some of the foreign electronic services suppliers are registered as vendors in South Africa.*

*In this case, you will still be regarded as an “intermediary” as defined in the Updated Regulations, but you will only be liable to account for VAT on the supplies of the foreign electronic services suppliers that are not registered as vendors in South Africa. (Refer to **Question 1**.) In such a case, you will account for the supplies of those foreign electronic service suppliers in your VAT return, in addition to your own supplies.*

*You will not be liable to account for the VAT payable in the case of VAT-registered foreign electronic services suppliers that use your platform to make their supplies to South African customers (refer to **Question 23**). As agent, you will still be required to show the VAT charged on tax invoices issued on behalf of both the registered and non-VAT-registered foreign electronic services suppliers (refer to section 54(1) and **Question 34**). However, the foreign electronic services suppliers in this case will be liable to account for the VAT on electronic services supplied to South African customers in their own VAT returns (refer to **Questions 23 and 26**).*

FAQs: Supplies of Electronic Services

31.	I am a resident supplier of digitised products via my website. I am a registered VAT vendor as well as an “intermediary”. Must I register separately as a vendor in this regard?	You are only required to register once in respect of all the enterprises/activities that you carry on, unless you meet the requirements of section 50, which permits separate enterprises to be registered as separate branch VAT registrations.
32.	I am responsible for facilitating the supply of electronic services on behalf of foreign electronic services suppliers. However, I outsource the invoicing and payments function to a third party. Must I still register as a vendor in respect of the intermediary activities?	Yes , even if the payment, collection and invoicing functions are outsourced, as long as you are responsible to the foreign electronic services suppliers to ensure that the invoices are issued and the payments are made, then you will be liable to register for VAT and account for those transactions. Also refer to Questions 28 to 30 .
33.	I am a foreign electronic services supplier. I supply services to persons in South Africa by means of an intermediary. Must I also register as a vendor?	You will be required to register as a vendor should you exceed the registration threshold. However, if you do not register as a vendor, or do not meet the registration threshold, your supplies of electronic services to persons in South Africa are deemed to be made by the intermediary, if the conditions set out in Question 30 apply. In that case, the intermediary will account for your supplies. Also refer to Questions 23, 26 and 27 .
34.	I am a VAT-registered foreign electronic services supplier (principal), but I only make supplies to persons in South Africa by means of an intermediary. May I deregister for VAT?	No, with one exception. An intermediary will only be deemed to supply services as a principal if certain conditions are met. Refer to Questions 26, 30 and 33 . One of the requirements is that the principal is not a resident and not a registered vendor. If you exceed the registration threshold you are required to remain registered as a vendor and account for your supplies of electronic services to customers in South Africa. In this case, the intermediary (that is acting as your agent) will still show the VAT charged on the tax invoices issued on your behalf [see section 54(1)]. However, the VAT indicated on those invoices must be accounted for in your VAT return as you are the principal making those supplies. Also refer to Question 30 .

FAQs: Supplies of Electronic Services

35.	I supply and export machinery directly to customers world-wide from my premises in an export country. I also provide online customer support services relating to the use of the machinery for free to my customers via an electronic agent. Do I provide “electronic services” to my South African customers?	<p>No, the supply of the machinery (being goods) does not fall within the ambit of “electronic services” (refer to Question 22) in the Updated Regulations. The reason is that because you do not charge any consideration for your supply of online customer support services delivered via an electronic agent, such services do not constitute electronic services.</p> <p>You will, however, supply electronic services if the customers pay a fee (whether once-off, periodically etc.) for the online customer support services. You will be required to register and account for VAT in respect of these services supplied to South African customers (refer to Question 23) if you meet the registration threshold (refer to Question 27).</p>
36.	I am a non-resident internet service supplier and charge users worldwide a fee for accessing the internet via my servers. A user uses a telephone line (supplied directly by a third party non-resident to the user) to connect to the internet using a modem. Am I supplying electronic services?	<p>No, the supply is that of telecommunications services being a connection to allow for the transmission and reception of data over the internet, which does not constitute electronic services.</p> <p>The supply of the telephone line by the third party also constitutes “telecommunications services”, which is excluded from the ambit of “electronic services”.</p> <p>Refer to Questions 14 and 22.</p>
37.	I am a non-resident and provide on-line access to market data by means of a subscription. Am I supplying electronic services?	<p>Yes, subscription services to a web application were already included as electronic services in the Original Regulations. You should already have registered as a vendor, if you have exceeded the registration threshold. Refer to Question 27.</p>
38.	I allow customers space on my server to create and maintain blogs. I am a non-resident and supply this service to customers worldwide for a fee. Am I supplying electronic services?	<p>Yes, the service is that of web hosting, which is an electronic service. Refer to Question 21. You will be required to register if you are an enterprise, and exceed the registration threshold. Refer to Questions 23 and 27.</p>

FAQs: Supplies of Electronic Services

39.	I have a website where music and films are made available to customers worldwide via live streaming for a fixed monthly fee. Am I supplying electronic services?	Yes , the live streaming of the music and films via electronic means constitutes an electronic service. Refer to Question 21 . You will be required to register if you are an enterprise, and exceed the registration threshold. Refer to Questions 23 and 27 .
40.	I am a non-resident, providing instant electronic money transfer services from an export country. This allows customers globally to pay for goods or services from anywhere in the world. I charge a service fee per transfer. Am I supplying electronic services?	Yes , the fee that you charge for your services constitutes consideration for the supply of an electronic service and does not constitute consideration for the supply of exempt financial services. You will therefore be liable to register for VAT if you exceed the VAT registration threshold. However, the amount of money that you exchanged in order to make the money transfer to the other country constitutes a financial service that is exempt from VAT if that supply was made in South Africa. Also refer to Questions 17 and 22 . You will be required to register if you are an enterprise, and exceed the registration threshold. Refer to Questions 23 and 27 .
41.	I take online orders for books, which are shipped directly to recipients world-wide, including South Africa. My business is conducted from an export country. Am I supplying electronic services under the Updated Regulations?	The supply of tangible goods (that is the physical books being exported), does not constitute electronic services. This should be differentiated from the supply of digitised products (for example, electronic books, purchased on the internet or used online), which falls within the ambit of “electronic services”. Refer to Questions 21 and 22 .
42.	I am a non-resident and list various suppliers of accommodation worldwide on my website. Customers can book accommodation on-line for which I charge a booking fee. Suppliers of accommodation also pay me a fixed fee for listing them on my site. Am I supplying electronic services under the Updated Regulations?	Yes , the supply of on-line advertising (for the suppliers of accommodation) and booking services (to customers in South Africa) for a consideration constitute the supply of electronic services (refer to Question 21). You are required to register to the extent you are conducting an enterprise for VAT purposes in South Africa. In other words, you meet the 2 out of 3 test in Question 23 and you exceed the registration threshold. (refer to Question 27 .) The supply of the accommodation itself, however, is not an electronic service. Accommodation is usually subject to VAT, GST or a similar indirect tax in the country in which the accommodation is situated (provided the supplier is required to charge any indirect tax thereon). This is on the basis that the actual “use” or “enjoyment” or “consumption” of the accommodation occurs in the country in which the accommodation is situated and VAT/GST is a consumption tax.

FAQs: Supplies of Electronic Services

43.	I am an architect in an export country. I design a plan for a house and e-mail it to a person in South Africa. Am I supplying electronic services?	No , the service involves substantial human intervention carried out in an export country and the product is supplied from an export country. The supply is therefore not dependant on information technology or automated. The e-mail is merely the means of communication. Refer to Questions 7 and 22 .
44.	How do I go about registering as a vendor?	Download the VAT application form (VAT101). The completed and signed form must be e-mailed together with the relevant supporting documents to eCommerceRegistration@sars.gov.za . For more details, refer to the <i>External Guide VAT Registration Guide for Foreign Suppliers of Electronic Services</i> .
45.	Do I need a South African bank account in order to register as a vendor?	No , a foreign electronic services supplier or non-resident intermediary (refer to Question 25) is not required to open a South African bank account. However, an intermediary being a resident of South Africa will be required to open a bank account with any bank, mutual bank or other similar institution registered under the Banks Act for the purpose of the enterprise carried on in South Africa.
46.	Do I need to appoint a representative vendor in South Africa?	No , a foreign electronic services supplier or non-resident intermediary (refer to Question 25) is not required to appoint a representative vendor contemplated in section 46 in South Africa. However, in order for your registration application to be processed, the particulars of the person (non-resident or resident) accountable/responsible for the business activities must be completed under “representative vendor” part on the VAT101 form. An intermediary, being a resident of South Africa, must appoint a natural person residing in South Africa as a representative vendor. A foreign electronic services supplier or intermediary not carrying on a business through a company in South Africa, or having an office in South Africa, is also not required to appoint a public officer contemplated in section 246 of the Tax Administration Act 28 of 2011.
47.	What records must I keep if I register as a vendor and how long must I keep those records for?	A record of all the goods and services supplied by or to you in sufficient detail to determine the rate of tax applicable to the supply, and the supplier or agents must be kept. This includes, for example, all invoices, tax invoices, credit and debit notes, bank statements, deposit slips etc. Records must generally be kept for five years. The records may be kept in electronic form. Records maintained in electronic form must be physically located in South Africa. Approval may however be granted to allow the retention of the electronic documents at a location outside South Africa, subject to certain requirements. Refer to Public Notice 787 of 1 October 2012 for more detail.
48.	When must I issue a tax invoice?	You must issue a tax invoice within 21 days of the date of the supply. Also refer to Questions 49 and 50 .

<p>49.</p>	<p>What is the date of the supply (time of supply) for purposes of accounting for output tax?</p>	<p>The time of supply is generally the earlier of the time an invoice is issued, or payment is received [see section 9(1)]. Generally, for suppliers of electronic services, the issuing of the invoice and the payment will be on the same date. Output tax (that is, tax charged on the supply of electronic services) must be accounted for in the tax periods allocated to you. Refer to Question 48 and 53.</p> <p>Example 1</p> <p><i>I am a non-resident and enter into a contract on 2 January 2019 with a customer in South Africa to provide electronic services from 1 June 2019 to 31 August 2019 for a single consideration. I issue the invoice on 1 May 2019, and will receive payment of the full amount subsequently.</i></p> <p><i>A contract does not generally trigger the time of supply, unless it constitutes an “invoice” being a document notifying an obligation to make payment. The time of supply will therefore be triggered by the invoice issued on 1 May 2019.</i></p> <p><i>As the consideration relates to the making of taxable supplies of electronic services to be performed from 1 June 2019 to 31 August 2019, you will need to take into account the value of these supplies in order to determine your registration liability date (also refer to Question 66). Should you already be registered, you will be required to declare and account for VAT on these services whether or not you have included VAT in your contract price (refer to Question 64).</i></p> <p>Transitional rules also apply in certain instances. Refer to Question 66. Furthermore, specific time of supply rules apply in the case of connected persons. See Example 2 below.</p> <p>Example 2</p> <p><i>I am a non-resident controlling group company and supply electronic services to resident controlled group companies (being “connected persons”). In certain instances [as set out in section 10(4)], special time of supply rules will apply to transactions between connected persons. For example, in the case of services supplied (including electronic services), the special time of supply rule is triggered at the time the services are performed/delivered. In that case, you will be required to issue a tax invoice within 21 days of the services being performed/delivered.</i></p> <p><i>The general time of supply rule and not the special time of supply rule will, however, apply when –</i></p> <ul style="list-style-type: none"> • <i>an invoice is issued or payment is received on or before the date that a return was submitted relating to the tax period in which the electronic services were electronically delivered/performed; or</i> • <i>the last day for submitting a return for that tax period.</i>
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		<p><i>In addition, the special time of supply rule for connected persons will not apply in a case where –</i></p> <ul style="list-style-type: none"> • <i>the consideration could not be determined at the time the electronic services were electronically delivered/performed; and</i> • <i>the recipient is entitled to deduct the VAT charged on those electronic services as input tax in full.</i> <p><i>Foreign electronic services providers registered on the payments basis will only account for the supply when payment is received (refer to Question 57), provided the consideration in money in respect of the supply does not exceed R100 000. Should the consideration exceed that amount, you will be required to account for the supply on the invoice basis.</i></p>
50.	What are the requirements for the issuing of a tax invoice?	<p>The tax invoice must contain certain particulars. Refer to Binding General Ruling (BGR) 28 “Electronic Services”, which sets out the following:</p> <ul style="list-style-type: none"> • Information that must be contained in a tax invoice, debit or credit note • Exchange rate that must be applied to the amount of the VAT charged in South African Rand • The manner in which prices must be quoted or advertised
51.	What VAT rate must I charge on my supplies of electronic services?	<p>The supply of electronic services is subject to the VAT rate of 15%. Also refer to Question 2 and 52.</p>
52.	Can I zero-rate my supply of electronic services to a person in South Africa?	<p>No, you are required to levy VAT at the standard rate on your supplies to persons in South Africa. The law does not provide for the zero-rating of electronic services supplied by foreign electronic services suppliers under any circumstances. Also refer to Questions 2 and 51.</p>
53.	When must I account for VAT?	<p>You are required to account for VAT and submit returns according to the tax periods allocated to you. Tax periods end on the last day of a calendar month. You may change your cut-off dates in certain instances. Refer to BGR 19 “Approval to end a Tax Period on a Day other than the Last Day of the Month”, for further information.</p> <p>Vendors are generally registered on a two-monthly basis, being –</p> <ul style="list-style-type: none"> • Category A ending on the last day of January, March, May, July, September and November; • Category B ending on the last day of February, April, June, August, October and December. <p>You will be required to submit monthly VAT returns under Category C if the value of your taxable supplies exceeds R30 million in a consecutive period of 12 months.</p>

FAQs: Supplies of Electronic Services

		Generally, VAT returns must be furnished and payments made by the 25 th day of the first month commencing after the specific tax periods. However, vendors submitting returns electronically may submit their returns and make payments on the last business day of the month during which the 25 th day falls.
54.	How do I pay the VAT due?	Payments must be made electronically using the SWIFT MT103 payment method. Refer to the <i>External Guide VAT Registration Guide for Foreign Suppliers of Electronic Services</i> for more detail.
55.	How do I submit and complete my VAT201 return?	It is compulsory for suppliers of electronic services and intermediaries to submit their VAT201 returns electronically. You must request the VAT201 return for the relevant tax period via eFiling, and complete all the relevant information. Also refer to the <i>External Guide VAT Registration Guide for Foreign Suppliers of Electronic Services</i> for more detail.
56.	What VAT on expenses incurred may I deduct as input tax?	You may deduct the VAT incurred on goods or services (input tax), where VAT at the standard rate has been charged to you by South African vendors, and these goods or services are acquired for the purpose of supplying the electronic services to customers in South Africa. For example, consulting or accounting fees paid to South African vendors.
57.	On which accounting basis must I account for the VAT amount payable/refundable?	<p>Most vendors (refer to Question 1) are registered on the invoice basis. This means that you must account for VAT on all invoices issued during a tax period (value of supply), whether you have received payment or not. You may also deduct VAT on tax invoices received in respect of goods or services acquired during the tax period. Also refer to Question 56.</p> <p>The Commissioner may allow certain vendors to register on the payments basis. This means that you only account for VAT in respect of payments received in a tax period. Similarly, you may only deduct VAT on goods or services acquired from South African vendors, to the extent that payment has been made in a tax period concerned.</p> <p>Foreign electronic services suppliers are automatically registered on the payments basis. SARS is in the process of amending the system, and foreign electronic services providers will be notified as soon as the invoice basis option becomes operational.</p> <p>Where the consideration in money in respect of a supply of electronic services exceeds R100 000, that supply must be accounted for on the invoice basis by vendors registered on the payments basis. Refer to Example 1 in Question 49. Foreign electronic services suppliers already registered on the invoice basis may apply to be registered on the payments basis from a future date. Intermediaries (resident and non-resident), however, are registered on the invoice basis, and cannot apply to account for VAT on the payments basis.</p>

FAQs: Supplies of Electronic Services

58.	Can I apply for a ruling to confirm that I am supplying electronic services (either under the Original Regulations or the Updated Regulations)?	Whether or not a person is supplying electronic services is a question of fact. SARS generally does not rule on questions of fact. However, should your situation not be covered in the FAQs, you may submit your question to VATElectronic@sars.gov.za . The FAQs will be updated periodically to incorporate frequently asked questions received via the dedicated e-mail address. Should the nature of your enquiry require further guidance, we will engage with you accordingly, and determine whether it is necessary to apply for a VAT Ruling.
59.	I previously obtained a VAT Ruling relating to electronic services. Can I still rely on that ruling?	No. VAT Rulings cease to be effective when the provisions of the tax laws that are the subject of the VAT Ruling are repealed or amended. Also refer to Question 58 .
60.	I am a non-resident supplier of on-line training to employees of companies in South Africa. Am I supplying electronic services?	Yes , and you are required to register if the requirements in Questions 23 and 27 are met.
61.	I supply on-line training as referred to in Question 60 . I customise the training depending on the needs of each company. I therefore consult with the South African companies via e-mail during the design and creation phase of the training programmes. Are my services excluded from the ambit of “electronic services” due to the designing and creation phase involving substantial human intervention?	No , although there is substantial human intervention during the design and creation phase, these steps are necessary to supply the on-line training programmes. The supply of the on-line training programmes itself is – <ul style="list-style-type: none"> • dependant on information technology; • not dependant on human intervention; and • automated.

<p>62.</p>	<p>I am a non-resident company that supplies on-line vocational training to the employees of resident companies. I am a connected person to the resident companies but do not form part of the same group of companies. Am I supplying electronic services?</p>	<p>Yes, the supply of vocational training to employees of a connected person is not excluded from the ambit of “electronic services”, unless such supply constitutes “educational services” as contemplated in Questions 13 and 15.</p>
<p>63.</p>	<p>What happens if I am liable to register with effect from 1 May 2019, but I apply for registration after that date?</p>	<p>Your liability date remains 1 May 2019 and you must levy and account for VAT on electronic services supplied to South African customers from that date.</p> <p>If as a result of the late registration you end up paying your VAT late, then penalties and interest for any tax periods covering the period from 1 May 2019 onwards will be payable.</p> <p>You can apply for the penalty to be waived if you have a good reason why payment was late. The waiving of interest will only be considered if you did not pay on time due to exceptional circumstances that were beyond your control. In either case, your application for remission of penalty and/or interest should be in writing.</p>
<p>64.</p>	<p>Will a foreign electronic services supplier be able to increase the price that is charged to South African customers under existing ongoing contracts for the supply of electronic services concluded before these supplies became taxable (that is, 1 April 2019 under the Updated Regulations, or 1 June 2014 under the Original Regulations)?</p>	<p><i>Contract prices agreed by the parties</i> – Generally, the electronic services supplier (being a vendor) may increase the contract price and recover the additional VAT from the customer under an existing contract concluded before 1 April 2019 (or 1 June 2014 under the Original Regulations) if the supplies of electronic services will continue after that date. This rule applies even if any other law states otherwise. The supplier will, however, not be able to increase the price or recover the increase from the customer if the parties have specifically agreed in writing in the contract that it may not be increased.</p> <p>Whether the additional amount is recoverable from the customer or not, the foreign electronic services supplier must account for VAT on any supplies of electronic services that became taxable on or after 1 April 2019 (or 1 June 2014, in the case of the Original Regulations) at the standard rate, subject to that supplier’s liability date (refer to Question 27).</p> <p><i>Prices set under an Act or regulation</i> – As mentioned above, the supplier may increase the contract price even if any other law states otherwise. However, if the Act or regulation concerned actually sets the price and contains an explicit statement that the amount may not be increased, then the price will stay the same and may not be increased until that other Act or regulation that sets the price is amended accordingly.</p>

<p>65.</p>	<p>Do the transitional rules in section 67A apply to supplies of electronic services?</p>	<p>Yes.</p> <p>Section 67A contains transitional rules that apply to services, which became taxable under the Updated Regulations with effect from 1 April 2019. (These rules also applied in respect of electronic services under the Original Regulations, which became taxable from 1 June 2014). The transitional rules do not change the time of supply (refer to Question 49), but determine whether the supplies are taxable at the rate of 15%, or out of scope.</p> <p>The transitional rules apply in the following instances where the time of supply under section 9 is triggered on or after 1 April 2019:</p> <ul style="list-style-type: none"> • Supplies performed before 1 April 2019 • Supplies commencing before 1 April 2019 and ending on or after 1 April 2019 • Supplies commencing and ending on or after 1 April 2019 <p>Example 1</p> <p><i>I am a non-resident and supplied on-line advertising services to a South African customer during March 2019. I only issue the invoice and receive payment for the advertising services on or after 1 April 2019.</i></p> <p><i>Although the time of supply is triggered after 1 April 2019, the supply is not subject to VAT, as the supply was performed before the date on which VAT was imposed on a wider scope of “electronic services” under the Updated Regulations.</i></p> <p>Example 2</p> <p><i>I am a non-resident and enter into contracts with different customers in South Africa to provide electronic services (under the Updated Regulations), which supplies were not covered in the Original Regulations, for a single consideration for the following periods:</i></p> <ul style="list-style-type: none"> • 2 January 2019 to 31 March 2019 • 1 March 2019 to 31 May 2019 <p><i>I issue the invoices to the respective customers on 1 May 2019, and will receive payment of the full amount subsequently.</i></p> <p><i>Refer to Question 49 for the general time of supply rules.</i></p> <p><i>In terms of the transitional rules, the following apply:</i></p> <ul style="list-style-type: none"> • <i>Services supplied from 2 January 2019 to 31 March 2019:</i> <i>You are not required to account for services performed before 1 April 2019, even if the time of supply is triggered on or after 1 April 2019. The services performed from 2 January 2019 to 31 March 2019 are therefore out-of-scope for VAT purposes;</i>
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66.	<p>What does the term “imported services” mean?</p>	<p>It is a supply of services by a non-resident conducting a business outside South Africa, to a recipient in South Africa, to the extent that the services are used or consumed in South Africa, otherwise than for the purposes of making taxable supplies.</p> <p>“Electronic services” do not fall within the ambit of “imported services” to the extent that the supplier is conducting an “enterprise” in South Africa, and is required to register as a vendor. Refer to Questions 23 and 27.</p> <p>Examples</p> <ul style="list-style-type: none"> • A private individual downloads music from a non-resident supplier using the internet. • A long-term insurer receives software maintenance services electronically from a non-resident supplier to update the calculation of the premiums on certain life products. <p>Also refer to Questions 67 and 68.</p>
67.	<p>How do I pay VAT on imported services?</p>	<p>You have to declare and pay the VAT on imported services to the extent that the value of the supply exceeds R100.</p> <p>A non-vendor must furnish a return and pay VAT on the “imported services” within 30 days calculated from the earlier of the date an invoice is issued or payment is made. A VAT215 must be completed and submitted, together with the payment of the applicable VAT, or in the case of eFiling, the proof of payment, at the nearest SARS branch office.</p> <p>A recipient that is a vendor must calculate and declare the VAT on the “imported services” on the VAT201 return in Field 12.</p> <p>Also refer to Questions 66 and 68.</p>
68.	<p>On what value is VAT payable on imported services?</p>	<p>The value to be placed on imported services is the greater of the amount paid or the open market value thereof.</p> <p>Also refer to Questions 66 and 67.</p>

FAQs: Supplies of Electronic Services

69.	Can I deregister as a vendor if I no longer exceed the registration threshold?	Yes. A General Binding Ruling (BGR) was issued allowing foreign electronic services suppliers that will have taxable supplies of a value not exceeding R1 million in a 12-month period, to have their VAT registration cancelled. Refer to BGR 51 “Cancellation of Registration of a Foreign Electronic Services Supplier”. Applications for deregistration must be directed to eCommerceRegistration@sars.gov.za .
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