



Tax & Legal - News Alert

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E-service suppliers targeted by SARS

On 3 May 2022 the Commissioner for the South African Revenue Service (SARS) presented the SARS annual performance plan for 2022/2023 to the Standing Committee on Finance (SCOF). In the presentation, it was confirmed that SARS' mission remains, amongst others, to collect all revenues due and to ensure optimal compliance with tax legislation.

It was noted in the presentation that one of the “key must-win battles” for SARS is to broaden the tax base. Further, to maximise revenue collections, SARS has identified and communicated focus areas for 2022/2023 which include –

- Tax base broadening using 3rd Party Data; and
- VAT on e-Commerce.

From recent communications received by non-resident suppliers of electronic services, it is evident that SARS has started implementing its performance plan.

Non-resident suppliers of electronic services to recipients in South Africa are required to register for VAT in South Africa (subject to the registration threshold) and account for VAT at the standard rate (currently 15%) on the supplies made. This includes supplies to other businesses (B-2-B), supplies to end-consumers (B-2-C) and, subject to certain exceptions, supplies to group companies in South Africa. However, whether due to ignorance of the law or other reasons, not all non-resident suppliers are duly registered.

As noted above, SARS has started issuing letters to non-resident suppliers of electronic services notifying these suppliers to register for VAT or submit information and reasons why they believe that a VAT registration is not required. SARS merely states in the notification that this assessment was based on “the information at our disposal”. While it is uncertain where SARS obtains its information, it can be from

various sources, for example invoices issued to South African recipients, payments made from South Africa to foreign suppliers, the internet, etc.

From these notifications, SARS is, as promised, focussing on VAT on e-commerce and simultaneously broadening the tax base. One important consideration for non-resident suppliers of electronic services that are not duly registered is that, once SARS has issued a notification for registration, the option of mitigating penalties under the Voluntary Disclosure Programme (VDP) for historic non-compliance falls away since a VDP application will no longer be considered “voluntary”.

In the interest of complying with the legislation and limiting any exposures, we urge non-resident suppliers of services, which may be regarded as being electronic services, to assess their registration obligations. In this regard, we reiterate that the South African legislation does not distinguish between B-2-B or business-to-consumer B-2-C supplies.

Should you have any queries or require any assistance, please do not hesitate to contact us.



Erina Cooper
Director, Indirect Tax - VAT
M: +27827195758
erina.cooper@kpmg.co.za |



Andre Meyburgh
Director, Indirect Tax - VAT
Mobile
andre.meyburgh@kpmg.co.za



Anzette Bezuidenhout
Associate Director, Indirect Tax - VAT
+27827162690
anzette.bezuidenhout@kpmg.co.za

Kind Regards

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