

No. R. 447

29 May 2015

REGULATION ISSUED IN TERMS OF SECTION 74(1) READ WITH SECTION 23(3)(b)(ii) OF THE VALUE-ADDED TAX ACT, 1991 (ACT NO. 89 OF 1991)

In terms of section 74(1) of the Value-Added Tax Act, 1991, I, Nhlanhla Musa Nene, Minister of Finance, hereby prescribe in the Schedule hereto, the requirements that must be met by a person applying for registration as a vendor in terms of section 23(3)(b)(ii) of the Act.



N.M. NENE
MINISTER OF FINANCE

SCHEDULE

DEFINITIONS

1. In this regulation, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Act, has the meaning so assigned, and the following terms have the following meaning:

“**Banks Act**” means the Banks Act, 1990 (Act No. 94 of 1990);

“**National Credit Act**” means the National Credit Act, 2005 (Act No. 34 of 2005);

“**Tax Administration Act**” means the Tax Administration Act, 2011 (Act No. 28 of 2011); and

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

REQUIREMENTS FOR VOLUNTARY REGISTRATION UNDER SECTION 23(3)(b)(ii)

2. A person carrying on any enterprise whose total value of taxable supplies made or to be made has not exceeded R50 000, but can reasonably be expected to exceed that amount within 12 months from the date of registration, qualifies to apply to register as a vendor. That person must in addition to the information required in terms of Chapter 3 of the Tax Administration Act, provide the Commissioner with proof that any one or more of the circumstances in regulation 3 applies to that person.

CIRCUMSTANCES WHEN A PERSON CARRYING ON AN ENTERPRISE CAN REASONABLY BE EXPECTED TO EXCEED R50 000 WITHIN 12 MONTHS FROM THE DATE OF REGISTRATION

3. The Commissioner will be satisfied that a person carrying on an enterprise can reasonably be expected to make taxable supplies in excess of R50 000 in the twelve months following the date of registration, where one or more of the following circumstances exists:

- (1) Taxable supplies made for more than two months:

- (a) Proof that the average value of taxable supplies made by the person in the preceding months as contemplated in paragraph (b), prior to the date of application for registration, exceeded R4 200 per month;
 - (b) For purposes of determining the average value of taxable supplies, the person must use the value of taxable supplies made for a minimum of two and a maximum of eleven months immediately preceding the date of application;
- (2) Taxable supplies made for one month: In the case where the person has only made taxable supplies for one month immediately preceding the date of application for registration, proof that the total value of taxable supplies made by the person in that month has exceeded R4 200;
- (3) Written Contracts: The person is, in terms of a contractual obligation in writing, required to make taxable supplies in excess of R50 000 in the 12 months following the date of registration;
- (4) Finance Agreements: A copy of the relevant agreement where the person has entered into—
 - (a) a financial agreement with a bank registered in terms of the Banks Act;
 - (b) a “credit agreement” with a “credit provider” as defined in the National Credit Act;
 - (c) an agreement with a designated entity, public authority or any other person who continuously or regularly provides finance; or
 - (d) a financial agreement with a person that is not a resident of the Republic;

wherein the person mentioned in (a), (b), (c) or (d) above has agreed to fund the expenditure incurred or to be incurred in the commencement or furtherance of the enterprise and the total repayments in terms of that financial, credit or other agreement will in the 12 months following the date of application for registration exceed R 50 000; or

(5) Expenditure:

(a) Proof of—

- (i) expenditure incurred or to be incurred in connection with the commencement or furtherance of the enterprise, as set out in any written agreement entered into by such person; or
- (ii) capital goods acquired in connection with the commencement of the enterprise, and

(b) Proof of payment or any extended payment agreement entered into in respect of items contemplated in sub-paragraph (5)(a)(i) and (ii), where applicable, evidencing that payment in respect of these items—

- (i) as at the date of application for registration has exceeded R50 000;
- (ii) will in any consecutive 12 month period commencing before and ending after the date of application for registration exceed R50 000; or
- (iii) will in the 12 months following the date of application for registration exceed R 50 000.