
GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

NATIONAL TREASURY

NO. 2140

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VALUE-ADDED TAX ACT, 1991**REGULATIONS ON DOMESTIC REVERSE CHARGE RELATING TO VALUABLE METAL, ISSUED IN TERMS OF SECTION 74(2) OF THE VALUE-ADDED TAX ACT, 1991 (ACT NO. 89 OF 1991)**

Enoch Godongwana, Minister of Finance, by virtue of section 74(2) of the Value-Added Tax Act, 1991 (Act No. 89 of 1991) ("the Act"), hereby make the regulations set out in the Schedule.



E Godongwana
Minister of Finance

Schedule

1. Definitions

In these Regulations, unless otherwise indicated, any word or expression to which a meaning has been assigned in the Value-Added Tax Act, 1991 (Act No. 89 of 1991), bears the meaning so assigned, and—

“domestic reverse charge” means the VAT charged at the standard rate on a taxable supply of goods, must be accounted for and is payable, on the supplier’s behalf, by the recipient of the supply and is not payable by the supplier, if the—

- (a) supply is of valuable metal;
- (b) supplier is a registered vendor; and
- (c) recipient is a registered vendor;

“residue” means any debris, discard, tailings, slimes, screening, slurry, waste rock, foundry sand, beneficiation plant waste or ash;

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

“valuable metal” means, any goods containing gold in the form of jewellery, bars, blank coins, ingots, buttons, wire, plate, granules, in a solution, residue or similar forms, including any ancillary goods or services but does not include supplies—

- (a) of goods produced from raw materials by any “holder” as defined in section 1 of the Mineral and Petroleum Resources Development Act 28 of 2002, or by any person contracted to such “holder” to carry on mining operations in respect of the mine where the “holder” carries on mining operations; or
- (b) contemplated in section 11(1)(f), (k) or (m) of the Act;

“VAT” means value-added tax.

2. Responsibilities of the supplier of valuable metal, being a registered vendor

Where a registered vendor makes a supply of valuable metal to another vendor in the Republic, the vendor making the supply shall—

- (a) take reasonable steps to ensure that the recipient of the supply of valuable metal is a registered vendor;
- (b) in addition to the requirements contemplated in section 20 of the Act, issue a tax invoice subject to the further requirements stated in Regulation 4, unless the recipient, being a registered vendor, has been granted approval to issue tax invoices under section 20(2) of the Act;
- (c) only account for the value of the supply of valuable metal on the tax invoice, debit or credit note contemplated in subparagraphs (b) and (e), in accordance with Regulation 6(a) and not the VAT charged on the supply of the valuable metal;
- (d) not be entitled to input tax on irrecoverable debts under section 22 of the Act on the VAT charged on the supply of valuable metal;
- (e) in addition to the requirements under section 21 of the Act, issue debit and credit notes subject to the further requirements stated in Regulation 5, unless the recipient, being a registered vendor, has been granted approval under section 21(4) of the Act to issue debit and credit notes; and
- (f) in addition to the normal VAT record-keeping requirements, obtain, retain and maintain, as part of the VAT record-keeping requirements, a list of all supplies of valuable metal that are subject to the domestic reverse charge contemplated in these Regulations and the documentary evidence contemplated in subparagraph (a) and Regulation 3(a).

3. Responsibilities of the recipient of valuable metal, being a registered vendor

Where a registered vendor makes a supply of valuable metal to another vendor in the Republic, the vendor to whom the supply of valuable metal is made must—

- (a) furnish proof to the supplier that the person is a registered vendor;
- (b) not pay the VAT charged on the supply of valuable metal to the supplier making the supply of valuable metal, being a registered vendor;
- (c) account for and pay the VAT charged on the supply of valuable metal in accordance with Regulation 6(b)(i) in the tax period in which the tax invoice is held by the registered vendor to whom the supply of valuable metal is made;
- (d) not deduct the input tax contemplated in sections 16, 17 and 21 of the Act if the VAT contemplated in subparagraph (c) has not been accounted for and paid to SARS;
- (e) notify the registered vendor making the supply of valuable metal in writing, by means of a statement, within 21 days of the end of the calendar month during which the tax has been accounted and paid for as contemplated in subparagraph (c), which statement shall contain the following particulars:
 - i. the tax invoice number;
 - ii. the value of the domestic reverse charge supplies of valuable metal;
 - iii. full and proper description of the valuable metal as well as the percentage of the gold content contained within the valuable metal;
 - iv. confirmation that the VAT charged by the registered vendor making the supply of valuable metal was accounted for and paid to SARS by reflecting the applicable tax period and payment reference number issued by SARS: Provided that, where the statement is not provided in accordance with this subparagraph and a deduction of input tax was made on the supply, VAT is payable on the amount equivalent to the input tax deduction made, in the tax period corresponding to the date on which the said 21-day period lapses;
- (f) issue a tax invoice subject to the further requirements stated in Regulation 4, where the recipient, being a registered vendor, has been granted approval to issue tax invoices under section 20(2) of the Act;

- (g) in addition to the requirements under section 21 of the Act, issue debit and credit notes subject to the further requirements stated in Regulation 5, where the recipient, being a registered vendor, has been granted approval under section 21(4) of the Act to issue debit and credit notes; and
- (h) in addition to the normal VAT record-keeping requirements, retain a copy of the document contemplated in subparagraph (a) and the statement contemplated in subparagraph (e) as part of the VAT record-keeping requirements.

4. Additional requirements for tax invoices

The requirements for tax invoices contemplated in section 20 of the Act are applicable for the purposes of these Regulations, with the following additional requirements:

- (a) a clear reference on the tax invoice that the supply of valuable metal is subject to the domestic reverse charge as contemplated in these Regulations;
- (b) the VAT charged on the supply of valuable metal under these Regulations should not be included in the amount shown as VAT due by the registered vendor recipient of the supply to the registered vendor making the supply of valuable metal; and
- (c) a statement that the amount of VAT charged must be accounted for and paid (on behalf of the supplier) by the recipient, being a registered vendor.

5. Additional requirements for credit and debit notes

In addition to the requirements for credit and debit notes contemplated in section 21 of the Act, a debit or credit note must contain the following additional requirements:

- (a) a clear reference on the debit or credit note that the supply of valuable metal is subject to the domestic reverse charge as contemplated in these Regulations; and
- (b) a statement that the—

- i. increase, in the case of a debit note, to the VAT amount that was previously accounted for and paid by the recipient, being a registered vendor, must be accounted for and paid by such recipient to SARS; or
- ii. decrease, in the case of a credit note, from the VAT amount that was previously accounted for and paid by the recipient, being a registered vendor, must be accounted for and deducted by such recipient in its VAT return.

6. Additional reporting requirements in VAT returns

In addition to the requirements for returns and payment of tax contemplated in section 28 of the Act, the following additional requirements apply:

(a) Supplier, being a registered vendor

- i. the value of the supply of valuable metal must be reported in Field 3 of its VAT return; and
- ii. the value of the increase or the decrease as a result of the issue of a credit or debit note must be reported in Field 3 of its VAT return.

(b) Recipient, being a registered vendor

- i. the VAT that is subject to the domestic reverse charge must be reported in Field 12 of its VAT return;
- ii. where the recipient, being a registered vendor, is entitled to a deduction of input tax, subject to the provisions of sections 16, 17, 20 and 21 of the Act, such input tax must be reported in Field 18 of its VAT return; and
- iii. where the recipient, being a registered vendor, is required to increase the amount of VAT contemplated in Regulation 5(b)(i), such increase must be reported in Field 12 and to decrease the amount of VAT contemplated in Regulation 5(b)(ii), such decrease must be reported in Field 18 of its VAT return.

7. Liability for VAT

- (a) Failure to apply the domestic reverse charge on supplies of valuable metal will result in the supplier and recipient, being registered vendors, being held jointly and severally liable for any VAT loss suffered by the fiscus in this regard: Provided that this provision will not be applicable to the supplier of valuable metal where the supplier, being a registered vendor satisfies the Commissioner that it has taken reasonable steps to comply with its obligation under these Regulations, including verifying the recipient vendor's VAT registration status and issuing, obtaining and maintaining the required records and statements of compliance from the recipient vendor.
- (b) The recipient, being a registered vendor, shall be held liable for any enforcement action by SARS in respect of any obligation to account for and pay VAT in terms of these Regulations as if that VAT were VAT on a supply of valuable metal made by that person.

8. Transitional measures

- (a) Where a registered vendor has made a supply of valuable metal and the time of supply contemplated in section 9 of the Act has occurred on a date prior to the commencement date of these Regulations, such registered vendor being the supplier must account for the VAT in its VAT return and must pay the VAT to SARS.
- (b) Where a registered vendor has made a supply of valuable metal and the time of supply contemplated in section 9 of the Act has occurred on or after the commencement date of these Regulations, the supplier and recipient, being registered vendors must comply with the domestic reverse charge contemplated in these Regulations.
- (c) A registered vendor will be allowed a period of one month from 1 July 2022 to ensure that it complies with the requirements of these Regulations.

9. Re-validation of VAT registration status under Chapter 3 of the Tax Administration Act

- (a) A registered vendor or representative vendor contemplated in section 46 of the Act is required to update its VAT registration status, within 21 business days from the earlier of implementation of the domestic reverse charge or the date that a supply of valuable metal is made which is subject to the domestic reverse charge, to indicate that such vendor makes supplies of valuable metal that are subject to the domestic reverse charge.
- (b) The person referred to in subparagraph (1) who wilfully or negligently fails to update its registration status is guilty of an offence and upon conviction is subject to a fine or imprisonment as contemplated in section 234(2)(a) of the Tax Administration Act.

10. Short title and commencement

These regulations are called the Domestic Reverse Charge Regulations and come into operation on 1 July 2022.

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