

BINDING GENERAL RULING (VAT): NO. 28 (ISSUE 2)

DATE: 23 February 2016

ACT : VALUE-ADDED TAX ACT NO. 89 OF 1991
SECTION : SECTIONS 20, 21 AND 65
SUBJECT : ELECTRONIC SERVICES

Preamble

For the purposes of this ruling –

- **“BGR”** means a binding general ruling issued under section 89 of the Tax Administration Act No. 28 of 2011;
- **“electronic services recipient”** means a recipient of electronic services supplied by an electronic services supplier;
- **“electronic services supplier”** means a vendor supplying electronic services in the course or furtherance of an enterprise contemplated in paragraph (b)(vi) of the definition of “enterprise” in section 1(1);
- **“section”** means a section of the VAT Act;
- **“VAT”** means value-added tax;
- **“VAT Act”** means the Value-Added Tax Act No. 89 of 1991; and
- any other word or expression bears the meaning ascribed to it in the VAT Act.

1. Purpose

This BGR sets out the –

- information that must be contained on a tax invoice, credit or debit note in order to satisfy the requirements of sections 20(7) or 21(5);
- exchange rate that must be applied in order to determine the amount of the VAT charged in the currency of the Republic; and
- manner in which prices must be advertised or quoted,

for the supply of electronic services by an electronic services supplier.

2. Ruling

This ruling constitutes a BGR issued under section 89 of the Tax Administration Act No. 28 of 2011 insofar as it relates to the items listed in **2.1** to **2.4**.

2.1 Tax invoices

The Commissioner directs under section 20(7)(a), that an electronic services supplier must issue a tax invoice for a supply of electronic services containing, as a minimum, the following information:

- (a) The name and VAT registration number of the electronic services supplier.

- (b) The name and address¹ of the electronic services recipient.
- (c) An individual serialised number.
- (d) The date of issue.
- (e) A description of the electronic services supplied.
- (f) The consideration in money for the supply in the currency of any country. If the consideration is reflected in the currency of –
 - (i) the Republic, the amount of the VAT charged or a statement that it includes a charge for the VAT and the rate at which the VAT was charged; or
 - (ii) any country other than the Republic, the amount of the tax charged in the currency of the Republic or a separate document issued by the electronic services supplier to the electronic services recipient reflecting the amount of the tax charged in the currency of the Republic.
- (g) The exchange rate used.

The tax invoice containing the aforementioned information satisfies the requirements of section 16(2)(b)(ii) for purposes of the electronic services recipient deducting input tax.

2.2 Credit and debit notes

The Commissioner directs under section 21(5), that a vendor that –

- has issued a tax invoice as contemplated in **2.1**; and
- is required to issue a credit or debit note as required by section 21(3), and is unable to issue a credit or debit note that complies with section 21(3);

must issue a credit or debit note containing the following information:

- (i) The name and VAT registration number of the electronic services supplier.
- (ii) The name and address² of the electronic services recipient.
- (iii) The date of issue.
- (iv) A brief explanation of the circumstances giving rise to the issuing of the credit or debit note.
- (v) The increased or decreased consideration together with the increased or decreased amount of tax, as the case may be. If the consideration is reflected in the currency of –
 - (aa) the Republic, the increased or decreased amount of the VAT or a statement that the consideration includes the increased or decreased amount of VAT and the rate at which the VAT was charged; or
 - (bb) any country other than the Republic, the increased or decreased amount of tax in the currency of the Republic or a separate document issued by the electronic services supplier to the electronic services recipient reflecting the increased or decreased amount of tax in the currency of the Republic.

¹ Includes either a physical, postal or email address.

² Includes either a physical, postal or email address.

- (vi) The exchange rate used, being the exchange rate used in the tax invoice issued as contemplated in **2.1**.

The credit or debit note containing the aforementioned information satisfies the requirements of section 16(2)(b)(ii) for purposes of deducting input tax.

2.3 Value of supply

A vendor issuing a tax invoice contemplated in **2.1** or a credit or debit note contemplated in **2.2** reflecting the consideration in money in the currency of any country other than the Republic must convert the tax charged to the currency of the Republic. In this regard, the exchange rate that must be applied in order to determine the tax charged, is the rate published by –

- (a) the South African Reserve Bank;³
- (b) Bloomberg;⁴ or
- (c) the European Central Bank.⁵

The applicable exchange rate is the –

- (i) daily exchange rate⁶ on the date the time of supply occurs;
- (ii) daily exchange rate on the last day of the month preceding the time of supply;
or
- (iii) monthly average rate for the month preceding the month during which the time of supply occurs.

The options listed under (ii) and (iii) above may not be used during exceptional circumstances where the equivalent rand value is distorted due to the exchange rate used. Examples include, but are not limited to, the collapse of a foreign currency or the fluctuation of a foreign currency of 10% or more within the month referred to in options (ii) and (iii) respectively. In these instances, the option under (i) must be used as soon as the vendor becomes aware of the distortion.

2.4 Advertised or quoted prices

The Commissioner directs under proviso (iii) to section 65 that an electronic services supplier may, on or after 1 April 2015, advertise or quote the price of its electronic services exclusive of VAT on condition that it has a statement on its website indicating that VAT will be levied on supplies of electronic services to electronic services recipients.

3. Period for which this ruling is valid

This BGR applies from date of issue until it is withdrawn, amended or the relevant legislation is amended.

To the extent that this BGR does not provide for a specific scenario regarding the supply of electronic services, a person may apply for a VAT ruling or VAT class ruling in writing by sending an e-mail to **VATRulings@sars.gov.za** or by facsimile to 086 540 9390. The application should consist of a completed VAT301 form, a clearly

³ www.resbank.co.za/Research/Rates/Pages/SelectedHistoricalExchangeAndInterestRates.aspx.

⁴ www.bloomberg.com/markets/currencies/cross-rates.

⁵ www.ecb.europa.eu/stats/exchange/eurofxref/html/index.en.html.

⁶ The exchange rate is the weighted average of the banks' daily rates at approximately 10:30 am.

motivated application and must comply with the provisions of section 79 of the Tax Administration Act, 2011 excluding section 79(4)(f), (k) and (6).

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