
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—