South African Revenue Service

VAT RULING: VR 022

DATE: 27 July 2027

ACT	**:**	**VALUE-ADDED TAX ACT 89 OF 1991 (the VAT Act)**
SECTION	**:**	**SECTIONS 1(1), 8(2), 18(2), 23(3)(*c*) AND 41B**
SUBJECT	**:**	**ENTERPRISE**

Preamble

This value-added tax (VAT) ruling is published with the consent of the Applicant to which it has been issued and is binding only upon the South African Revenue Service (SARS) and applies only to the Applicant. This VAT ruling is published for general information. It does not constitute a practice generally prevailing.

1. Summary

This ruling confirms that, at the time of its voluntary registration, the Applicant satisfied the definition of "enterprise" for VAT purposes, despite not having commenced making taxable supplies.

2. Relevant tax laws

In this VAT ruling, all references to sections hereinafter are to sections of the VAT Act unless otherwise stated. Unless the context indicates otherwise any word or expression in this VAT ruling bears the meaning ascribed to it in the VAT Act.

This VAT ruling concerns the interpretation and application of the following provisions of the VAT Act:

- Section 1(1): "enterprise"
- Section 8(2)
- Section 18(2)
- Section 23(3)(*c*)
- Section 41B

3. Parties to the application

The Applicant is a South African resident private company.

4. Background and facts

The Applicant is a company incorporated in the Republic of South Africa (South Africa) and forms part of a multinational group whose ultimate holding company is situated and managed outside South Africa.

The Applicant was specifically created and setup for the purpose of acquiring the target business in South Africa. The Applicant applied for and obtained voluntary VAT registration under section 23(3)(*c*), on the basis that the target business will be supplied to the applicant as a going concern.

The sale agreement to acquire the target business was concluded. However, it contained a suspensive condition which required approval by the Competition Commission before the sale could be completed. The proposed transaction was was not approved by the Competition Commission. The Applicant was awaiting the written reasons for the prohibition. After receiving the reasons, the Applicant would consider whether to appeal the decision or place the project on hold.

The Applicant has not made any other taxable supplies. However, various costs have been incurred to set up the entity to pursue the acquisition and commencement of the target business.

Should the acquisition not proceed, the Applicant is considering alternative business opportunities in South Africa. The Applicant is also in the process of appointing employees. These employees are expected to render services to other group entities for a fee imminently.

Against this background, the Commissioner is requested to issue a VAT ruling under section 41B, confirming whether the Applicant met the definition of "enterprise" at the time of its registration for VAT.

5. Conditions and assumptions

This VAT ruling is subject to the Standard Terms, Conditions and Assumptions issued by the Commissioner for SARS, and the provisions of Chapter 7 of the Tax Administration Act 28 of 2011, excluding sections 79(4)(*f*), (*k*), (6) and 81(1)(*b*).

6. Ruling

The binding private ruling issued to the Applicant is as follows:

(a) Based on the facts set out above and having regard to proviso (i) to the definition of "enterprise", the Applicant's activities in connection with the intended acquisition of the target business are carried on in relation to the commencement of an enterprise and are therefore deemed to be carried on in the course or furtherance of such enterprise.

(b) No view is expressed regarding the Applicant's entitlement to deduct input tax in relation to the intended acquisition of the target business. If the Applicant deducts input tax in relation to the intended acquisition and the initial costs of establishing the business in South Africa were capitalised, the Applicant must consider whether a change-in-use adjustment under section 18(2) and/or a deemed supply under section 8(2) may arise, depending on the subsequent application of the relevant goods or services.

7. Period for which this ruling is valid

This VAT ruling applies only in respect of the transaction(s) set out above and is effective from 27 September 2024.

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