

## BRIEFING NOTE ON THE DRAFT REGISTRATION REGULATIONS

Following the 2013 Budget announcement that VAT registration would be streamlined to ease the compliance-burden while guarding against fraud, certain amendments have been made to voluntary registration for VAT purposes and include the following:

- The scope of section 23(3)(b) has been broadened to allow a person to voluntarily register as a vendor where that person has not yet made any taxable supplies or has made taxable supplies which do not exceed R50 000 and there is a reasonable expectation that the person would make taxable supplies exceeding R50 000 within the following 12-month period commencing from the date of registration.
- The ambit of the application of section 23(3)(d) is clarified. In order to register under this section, a person must demonstrate that such person conducts a continuous and regular activity and that due to the nature of the activity, taxable supplies are likely to be made only after a period of time.

Provision is made for Regulations to be issued –

- (i) specifying the proof that a person must provide in order to be successfully registered;
- (ii) setting out the requirements that must be met by a person applying for voluntary registration as a vendor under section 23(3)(b)(ii) [the person applying for registration only has to meet the requirements for one of the listed categories]; and
- (iii) prescribing the activities that would constitute an activity for which a long lead time is normally experienced before any taxable supplies can be made.

The requirements referred to in (ii) require a person to provide proof that –

- the average value of taxable supplies made in the months preceding their application for registration, exceeded R4 200;
- taxable supplies made for one month exceeded R4 200, if the enterprise has only made taxable supplies for one month;
- the vendor has entered into a written contracts evidencing the contractual liability to make taxable supplies exceeding R50 000 in the following 12 months;
- the vendor has entered into a finance agreement and the total annual repayments under that agreement is in excess of R50 000; and
- expenditure has been incurred or will be incurred for purposes of the enterprise and the annual repayments of such expenditure will exceed R50 000.

The activities referred to in (iii) are:

- Agriculture
- Forestry
- Aquaculture
- Mining
- Construction

- Property development
- Infrastructure development

The two Draft Registration Regulations are published for comment. All comments should be sent to **policycomments@sars.gov.za** on or before 30 June 2014.

**SOUTH AFRICAN REVENUE SERVICE**

**No.**

**MARCH 2014**

**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, Pravin Jamnadas Gordhan, 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.

**P.J. GORDHAN**  
**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 TO BE MET

2. (1) A person carrying on any enterprise and the 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 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 the following to substantiate that such enterprise is reasonably expected to make taxable supplies in excess of R50 000 in the following 12 months reckoned from the date of registration:

(2) 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, 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.

(3) Taxable supplies made for one month: In the case where the person’s enterprise has only made taxable supplies for one month, proof that the total value of taxable supplies made by the person in that month has exceeded R4 200;

(4) Written Contracts: A written contract in terms of which the person is required to make taxable supplies in excess of R50 000 in the following 12 months reckoned from the date of registration.

(5) 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;  
or
- (c) an agreement with a designated entity, public authority or any other person who continuously or regularly provides finance;

wherein the person mentioned in (a), (b) or (c) above has agreed to fund the expenditure incurred or to be incurred in the commencement or furtherance of the enterprise and the total annual repayments in terms of that financial, credit or other agreement will exceed the amounts contemplated in sub-paragraph (6)(b) below; or

(6) 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, together with proof of payment or any extended payment agreement entered into; and
- (b) the total annual repayment of items contemplated in sub-paragraph (6)(a)(i) and (ii), where applicable, will in the following 12 months reckoned from the date of registration exceed R50 000.

**SOUTH AFRICAN REVENUE SERVICE**

**No.**

**MARCH 2014**

**REGULATION ISSUED IN TERMS OF SECTION 74(1) READ WITH SECTION 23(3)(d) 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, Pravin Jamnadas Gordhan, Minister of Finance, hereby prescribe in the Schedule hereto, the continuous and regular activities for purposes of section 23(3)(d) of the Act.

**P.J. GORDHAN**  
**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, bears the meaning so assigned and the following terms have the following meaning:

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

### NATURE OF ACTIVITIES

2. (1) A person may register as a vendor at the time that any goods or services are acquired directly in respect of the commencement of a continuous and regular activity set out below:

(a) Agriculture:

- (i) The cultivating of land for purposes of producing crops; or
- (ii) The breeding and raising of livestock or wild animals;

(b) Forestry: The planting, maintaining and harvesting of tree plantations;

(c) Aquaculture: The cultivating of freshwater or saltwater aquatic organisms;

(d) Mining: The exploring and/or extracting of any mineral, metal and/or natural gas resource;

(e) Construction: The construction of ships, yachts, other floating vessels, aircrafts, locomotives or similar structures;

(f) Property Development (including Township Development): The construction of residential or commercial buildings for purposes of selling or leasing, provided the activity is not an exempt activity contemplated in section 12 of the Act.

(g) Infrastructure Development: Infrastructure development in the form of buildings or similar permanent installations and structures, for purposes of carrying on that person’s enterprise, where the—

- (i) total value of such acquisition, under any contractual obligation, exceeds R1 million; and
- (ii) completion phase of such infrastructure will exceed 12 months from date of commencement of that development.

(2) A person conducting any activity listed in paragraphs (a) to (g) must, where required in terms of any legislation, have applied for or be in possession of the relevant permit, licence or similar document, issued or to be issued by the appropriate regulatory authority, authorising that person to conduct that activity.