

BINDING GENERAL RULING (VAT) 51

DATE: 4 June 2019

ACT : VALUE-ADDED TAX ACT 89 OF 1991
SECTION : SECTIONS 24(1) and (2) AND 72
SUBJECT : CANCELLATION OF REGISTRATION OF A FOREIGN ELECTRONIC SERVICES SUPPLIER

Preamble

For the purpose of this ruling –

- **“BGR”** means a binding general ruling issued under section 89 of the Tax Administration Act 28 of 2011;
- **“foreign electronic services supplier”** means a non-resident 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 89 of 1991; and
- any other word or expression bears the meaning ascribed to it in the VAT Act.

1. Purpose

The purpose of this BGR is to make an arrangement under section 72 for a foreign electronic services supplier that will have taxable supplies of a value not exceeding R1 million in a 12-month period to apply to cancel their registration.

2. Background

A foreign electronic services supplier became liable to register for VAT at the end of any month where the total value of taxable supplies exceeded R50 000 in respect of supplies made in terms of the regulations published in Government Notice R.221 of 28 March 2014. With effect from 1 April 2019, the registration threshold for which a foreign electronic services supplier is obliged to register for VAT, was increased from R50 000 to R1 million. As a result of the increase in the threshold, a foreign electronic services supplier may wish to cancel its registration if its total value of taxable supplies will not exceed the threshold of R1 million, in any consecutive 12-month period.

Section 24(1) and (2) allows the Commissioner to cancel a vendor's registration where the total value of taxable supplies made by a vendor will not be more than R1 million in any consecutive 12-month period. However, section 24(1) and (2) does not apply to a foreign electronic services supplier by virtue of an omission of the reference to section 23(1A) in section 24(1). This therefore results in a difficulty for a foreign electronic services supplier in applying to cancel its registration if the total value of taxable supplies will not exceed the threshold of R1 million in any consecutive 12-month period.

3. Ruling

This ruling constitutes a BGR issued under section 89 of the Tax Administration Act 28 of 2011 insofar as it relates to the items listed in **3.1** to **3.2**.

3.1 An arrangement is hereby made under section 72 that –

3.1.1 a foreign electronic services supplier that wishes to have its registration cancelled in the circumstances where the total value of taxable supplies will not exceed R1 million in any consecutive period of 12 months, may make a written request to have the registration cancelled; and

3.1.2 the Commissioner being satisfied that the circumstances in **3.1.1** apply, shall —

(a) cancel the registration of that foreign electronic services supplier with effect from the last day of the tax period during which the Commissioner is satisfied the aforementioned circumstances are met, or from another date determined by the Commissioner, and

(b) notify the foreign electronic services supplier of the effective date of the cancellation of the registration, including its last tax period.

3.2 A foreign electronic service supplier must continue charging VAT on its supplies, filing VAT returns and making payments of VAT to the Commissioner, even if it has submitted a request to have its registration cancelled. The Commissioner will communicate to the foreign electronic services supplier as to its last tax period for which a VAT return must be filed and the VAT that was charged on its supplies in respect of that tax period must be paid.

4. 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.

Executive: Legal Advisory
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