

BINDING GENERAL RULING (VAT) 28 (ISSUE 3)

DATE: 10 February 2023

ACT : VALUE-ADDED TAX ACT 89 OF 1991
SECTION : SECTIONS 21(3), 21(5) AND 65
SUBJECT : ELECTRONIC SERVICES: SPECIFIC REQUIREMENTS RELATING TO CREDIT AND DEBIT NOTES, EXCHANGE RATES, AND ADVERTISED OR QUOTED PRICES

Preamble

For the purposes of this ruling –

- **“BGR”** means a binding general ruling issued under section 89 of the Tax Administration Act 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 contemplated in paragraph (b)(vi) and (b)(vii) 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;
- **“VAT Notice”** means Public Notice 1594 published in *Government Gazette* 45624 on 10 December 2021; and
- any other word or expression bears the meaning ascribed to it in the VAT Act.

1. Purpose

This BGR sets out the –

- minimum information that must be contained on a credit or debit note in order to satisfy the requirements of section 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. Specific requirements relating to credit and debit notes, exchange rates, and advertised or quoted prices

2.1 Credit and debit notes

Under section 20(5B), an electronic services supplier is required to issue a tax invoice for the supply of electronic services that contains, as a minimum, the particulars as set out in the VAT Notice.

Currently, the VAT Act does not contain a provision similar to section 20(5B) dealing with the particulars that must be contained on a credit or debit note in instances in which an electronic services supplier –

- has issued a tax invoice complying with the requirements of the VAT Notice; and
- is subsequently required to issue a credit or debit note.

In these circumstances, an electronic services provider will have to issue a credit or debit note under section 21(3), but may not be able to issue a full credit or debit note with all the particulars required under section 21(3).

Under section 21(5), the Commissioner may direct that any one or more of the particulars required under section 21(3) shall not be contained on a credit or debit note.

The Commissioner must, however, be satisfied that there are or will be sufficient records available to establish the particulars of any supply or categories of supplies made by an electronic services supplier and that it would be impractical to require that a full credit or debit note be issued under section 21(3).

2.2 Exchange rates

Under section 20(5B), the VAT Notice deals only with tax invoices issued by electronic services suppliers and the details that must be contained on tax invoices issued.

Electronic services suppliers do not have guidance with regards to the exchange rate that must be applied in order to determine the amount of VAT charged in the currency of the Republic in instances in which electronic services suppliers issue a credit or debit note, and the VAT charged is not in currency of the Republic.

2.3 Advertised or quoted prices

Section 65 requires prices advertised or quoted by electronic services suppliers in respect of a taxable supply of electronic services to include VAT and the electronic services supplier must state in its advertisement or quote that the price is inclusive of VAT.

However, under proviso (iii) to section 65, the Commissioner has a discretion to approve another method of displaying prices of electronic services by electronic services suppliers.

3. Ruling

This ruling constitutes a BGR issued under section 89 of the Tax Administration Act 28 of 2011 insofar as it relates to rulings under **3.1**, **3.2** and **3.3**.

3.1 Credit and debit notes

Subject to an electronic services supplier obtaining and retaining sufficient records to establish the particulars of the supply or categories of supplies, the Commissioner is satisfied that it would be impractical to require an electronic services supplier to issue a full credit or debit note containing all the particulars required under section 21(3).

An electronic services supplier that –

- (a) has issued a tax invoice as contemplated in the VAT Notice; and
- (b) is subsequently required to issue a credit or debit note as required by section 21(3), but is unable to do so;

must issue a credit or debit note containing, as a minimum, the following particulars:

- (i) The name and VAT registration number of the electronic services supplier.
- (ii) The name and address¹ 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. In instances in which 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.
- (vi) The exchange rate used, being the exchange rate used in the tax invoice issued as contemplated in the VAT Notice.

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

¹ Includes either a physical, postal or email address.

3.2 Exchange rates

An electronic services supplier that issues a credit or debit note as contemplated in 3.1 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. The exchange rate that must be applied is the rate as published by either one of the following three sources:

- (a) The South African Reserve Bank (www.resbank.co.za);
- (b) Bloomberg (www.bloomberg.com); or
- (c) The European Central Bank (www.ecb.europa.eu).

One of the following three options must be used to determine the applicable exchange rate:

- (i) Daily exchange rate² on the date that 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.

3.3 Advertised or quoted prices

The Commissioner directs under proviso (iii) to section 65 that an electronic services supplier may 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.

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.

Senior Manager: Leveraged Legal Products SOUTH AFRICAN REVENUE SERVICE

Date of 1st issue : 26 March 2015
Date of 2nd issue : 23 February 2016

² The exchange rate is the weighted average of the banks' daily rates at approximately 10:30 am.