



Digital Services Suppliers to South Africa: Are you compliant with the latest changes to the South African VAT Legislation?

South Africa's digital services regime - referred to in South African legislation as "electronic services" - is one of the most active and rapidly evolving VAT frameworks in the region. South Africa's VAT framework regarding the supply of electronic services has evolved since its introduction in 2014 but significant changes in the last two years have radically changed the registration and compliance obligations of non-resident suppliers of electronic services.

Firstly, with effect from 1 April 2025, electronic services supplied from a place in an export country by a non-resident person solely to vendors registered within South Africa are excluded from the definition of "electronic services". This exclusion aligns with the B2B exclusion proposed in the guidelines developed by the OECD. Because of this change all previously registered non-resident suppliers of electronic services that only make B2B supplies may deregister as a VAT vendor with effect from 1 April 2025. However, the specific use of the word "solely" has an important implication that just one B2C supply of electronic services will render all supplies of electronic services (i.e. B2B and B2C) made by the non-resident as taxable. The decision to deregister as a VAT vendor on the basis of the B2B exclusion should therefore be made only after careful consideration.

In conjunction with this change the South African revenue authorities have also rejected the concept of "minimal human intervention" when determining whether the services supplied by the non-resident fall within the ambit of electronic services. The implication is that all services supplied through an electronic medium (for example email, internet,

telecommunications etc) by non-residents to recipients within South Africa are regarded as electronic services for VAT purposes. For example, a non-resident attorney that prepares a legal opinion and emails this opinion to a recipient in South Africa will be deemed to be providing electronic services. Similarly, the non-resident architect that prepares drawings and plans which are emailed to the client in South Africa will be providing electronic services for the purposes of South Africa's VAT framework.

The implications of this shift in policy with effect from 1 April 2025 are profound and all suppliers of electronic services to consumers within South Africa are impacted and may have an exposure to the South African revenue authorities.

A second significant shift in the South African electronic services regime is being proposed in 2026 amendment bills and relates to the role of the intermediary or platform in the supply of electronic services.

The concept of an intermediary was introduced into the South African VAT Act in 2019. In the event that a non-resident supplied electronic services through a platform operator (the intermediary) that was responsible for invoicing and collecting payment, that intermediary was deemed to be the supplier of those electronic services for VAT purposes and was required to register and account for VAT in South Africa. The foreign principal's registration obligation fell away to the extent the intermediary accounted for the VAT on all electronic services supplied by the non-resident to South Africa.

In 2025 the requirement that the underlying principal must not be a registered vendor was deleted which expanded the obligation of the intermediary to supplies made by non-resident principals that were either registered or not registered as a VAT vendor. Joint and several liability between intermediary and principal was also introduced where the parties agreed in writing that the intermediary would account for VAT on the supply.

The requirement of a written agreement between the principal and intermediary created compliance problems for the South African revenue authorities however, by requiring direct engagement with the foreign principal where the written agreement with the intermediary was absent. To resolve this issue the 2026 draft proposals, invert the existing scenario by rendering the intermediary primarily liable to account for VAT as the default, without requiring a written agreement with the foreign principal. A written agreement will in future only be required where the principal wishes to opt out of this default position and account for VAT in its own right. These changes will come into effect from 1 April 2027.

The implications of this proposed change are clear with the intermediary now emerging as the central VAT compliance mechanism on the supply of electronic services. From 1 April 2027, any business operating a platform through which foreign suppliers deliver digital services to South African customers will be exposed to primary VAT liability as a matter of law and not by written agreement with the principal.

The implications for both intermediary platform operators and their foreign principals are significant and require urgent attention ahead of the proposed effective date. For intermediaries, the new default liability means that VAT exposure arises automatically in respect of all digital service supplies flowing through the platform — including those where no formal agreement with the principal has been put in place. For foreign principals, the proposed change affects the allocation of VAT risk in their platform arrangements. Both parties will need to review and, in most cases, substantially renegotiate the terms of their commercial and agency agreements to address questions of VAT responsibility, indemnification, pricing adjustments for VAT, and the management of joint and several liability.

Specialist advice on the South African VAT consequences of digital service arrangements — including registration obligations, the structuring of platform agreements, and the management of

compliance risk under the new intermediary liability rules — is available from our indirect tax practice.

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The above information is intended to provide general guidance with respect to the subject matter. This general guidance should not be relied on as a basis for undertaking any transaction or business decision, but rather the advice of a qualified tax consultant should be obtained based on a taxpayer's individual circumstances. Although our articles are carefully reviewed, we accept no responsibility in the event of any inaccuracy or omission. For further information please refer to the author.

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