



South African Revenue Service

PRESENTATION: SCOPA

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TOPIC: *Discussion with SCOPA regarding tenders awarded to service providers without VAT certificates*

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TAXATION - Registration Requirements

The legal requirements for the following 3 taxes are detailed below:

- **1 - Income Tax**
- **2 - VAT**
- **3 - PAYE**

1 - Income Tax

- An Entity (for example: Company, Partnership, Special Purpose Vehicle) must register for Income Tax if:
 - The entity is registered in South Africa (e.g. with the CIPC)
 - Foreign companies or entities if:
 - The Company or entity has a permanent place of business in South Africa and carries on a business in South Africa.
 - Effective management control is exercised in South Africa
 - Carries on any trade, manufacturing or other commercial activities in South Africa.

TAXATION - Registration Requirements (Continued)

2 - VAT

Mandatory VAT registration

- Entities are only legally required to register for VAT from the date their Taxable Supplies (Turnover) are expected to exceed R 1 Million per annum.
- Foreign entities not carrying on business in South Africa do not need to register for VAT unless they are an entity engaged in e-commerce

Voluntary VAT registration

- An Entity can apply, on a voluntary basis, to register for VAT only if:
 - Their Turnover exceeds R50,000 p.a.
 - Their Turnover is reasonably expected to exceed R 50,000 in the next 12 months and this can be proved to SARS.

Tender considerations

- Tenders are often submitted by Special Purpose Vehicles created specifically for the tender and consequently these SPV's do not have any current turnover. These entities can only register for VAT once they are awarded a tender and can prove that their turnover will exceed R50,000 for a voluntary registration. Once their turnover is expected to exceed R1 million they are legally obliged to register for VAT.
- Government & SOE's should not make it a requirement to have a VAT registration when tendering as the registration will only be required once the tender is awarded and the turnover of the entity is expected to exceed R1 million.

TAXATION - Registration Requirements (Continued)

3 - PAYE

A local Company or Entity must register for PAYE and deduct PAYE from employees if that company employs any individual who is paid in excess of the Tax threshold (currently R75,000 per annum).

Foreign companies must register for PAYE if they are carrying on a business in South Africa and employ and pay any person in South Africa an amount above the Tax threshold.

Companies or entities who deduct PAYE are obliged to submit the necessary monthly returns and pay over the deducted amounts to SARS within the required timelines.

Tax Compliance Certificate

In terms of the PFMA a Taxpayer is required to have a Tax Compliance Certificate (TCC) showing that all their tax obligations are up to date prior to being awarded a tender. (In certain, very limited, special instances a TCC is not required such as strategic procurement & some foreign procurement).

SARS have recently released an upgraded Tax Compliance system and the old and new systems are described below

Old SARS TCC system

- I. The system required a Taxpayer to apply for a TCC either online or at a branch. SARS reviewed the application and if compliant, the Taxpayer needed to visit the branch to collect a printed TCC.
- II. The TCC certificate was valid for a period of 12 months from the date of issue. (this was regardless of whether the Taxpayer remained compliant throughout the 12 months.
- III. The Department receiving the TCC from the potential vendor did not have an easy way of knowing if the TCC was valid and consequently the validity was seldom checked.

Tax Compliance Certificate (Continued)

New SARS TCS System

1. The new real-time system provides Taxpayers with the ability to apply for a TCC online and receive a PIN which they can provide to any 3rd party wishing to check the compliance of that Taxpayer. 3rd parties can check compliance online on eFiling or at a branch or the SARS Contact Centre. Taxpayers can also print out the TCC for manual submission to the 3rd party.
2. The system provides the current tax status at the time requested which is a vast improvement on the use of the old printed TCC certificates which were valid for 12 months from the date of issue regardless of whether that Taxpayer remained compliant throughout that period.
3. SARS have an online link with the National Treasury Central Supplier Database(CSD) to provide a real-time tax status of all Vendors who have registered as a supplier on the NT CSD. Departments can enquire on the current tax status of any vendor on the CSD. It is intended that where the CSD is used, there is no need to request a TCC from the Taxpayer as that Taxpayer's status can be checked by all departments at any time throughout the procurement life cycle. The use of the NT CSD system should considerably reduce the administrative burden of checking a Taxpayer's tax status.
4. Not all government departments, SOE's and municipalities have yet been included in the new NT CSD system. If not yet included, these entities need to perform a check of a vendors tax compliance status using the procedures detailed in point 1 above.

TCC's for Foreign Bidders

Foreign Bidders:

- a. Pre 18 April 2016 all suppliers, even if they have no local tax obligations, were required to have a TCC.
- b. SARS issued a paper TCC certificate on request
- c. The TCC was not a true reflection of compliance as the tax compliance of the foreign bidder is not known to SARS.
- d. No steps were taken to ensure that the foreign entity awarded the tender subsequently registered for the required South African taxes.

It is intended to do away with this TCC for foreign bidders, however this will require an amendment of the relevant regulations. SARS is engaging National Treasury in this regard.

TCC's for Foreign Bidders - Example of a foreign bidder

Example:

A Department needs a new medical device which is manufactured abroad.

- i. A tender is issued for the supply of the device
- ii. All entities tendering do not have a local presence or tax obligation, however they are currently required to have a TCC
- iii. SARS provides a TCC to the foreign bidder which is not necessarily reflective of the true facts.
- iv. Tender is awarded and device supplied.
- v. Import VAT is paid on the device entering South Africa
- vi. The Entity supplying device has no presence or local tax obligations

Questions & Discussion