

(12 March 2004 – to date)

VALUE-ADDED TAX ACT 89 OF 1991

*(Government Notice 1342 in Government Gazette 13307 dated 12 June 1991. Commencement date:
30 September 1991 [see section 21(a) of the Taxation Laws Amendment Act 136 of 1991])*

REGULATIONS ISSUED IN TERMS OF SECTION 28(7) OF THE VALUE-ADDED TAX ACT, 1991, PRESCRIBING PROCEDURES FOR SUBMITTING RETURNS IN ELECTRONIC FORMAT AND REQUIREMENTS FOR ELECTRONIC SIGNATURES

*Government Notice R312 in Government Gazette 26113 dated 12 March 2004. Commencement date:
12 March 2004.*

By virtue of the power vested in me by section 28(7) of the Value-Added Tax Act, 1991 (Act No. 89 of 1991), I, Trevor Andrew Manuel, Minister of Finance, hereby make the following regulations, as set out in the Schedule hereto, prescribing the procedures for submitting a return in electronic format and the requirements for an electronic signature as contemplated in section 28(6).

(Signed)

T. A. MANUEL

MINISTER OF FINANCE

SCHEDULE

1. Definitions
2. Provision of e-filing service
3. Registration, submission of electronic return, payments and termination
4. Electronic signature

1. Definitions

For the purposes of these regulations, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the Value-Added Tax Act, 1991, bears the meaning assigned thereto, and—

“**access code**” means the secret series of numeric or alphabetic characters associated with an individual user-ID by the owner or user of the individual user-ID;

“**availability**” means the status where authorised users have access to information and services when required;

“disaster recovery” means the process of planning, developing, testing, maintaining and activation of a recovery plan in the information technology environment relating to any natural or other disaster resulting in the loss of resources due to an unforeseen disruption that may result in major business losses;

“e-filing service” means the provision of an internet website and software which is available 24 hours per day, 365 days per year (subject to time required for maintenance or disaster recovery), where vendors and tax practitioners can electronically complete and submit to SARS any returns specified by the Commissioner, and where a vendor or a tax practitioner on behalf of a vendor can make payments to SARS;

“integrity” means the status of accuracy and completeness of information, processing methods and computer software;

“non-repudiation” means the process of assuring that a sender cannot deny being the source of the message;

“SARS” means the South African Revenue Service, established in terms of the South African Revenue Service Act, 1997 (Act No. 34 of 1997); and

“user-ID” means the identification provided to a vendor or tax practitioner for utilisation in the sign-on process in order to access the e-filing service.

2. Provision of e-filing service

For purposes of enabling vendors and tax practitioners to make use of the e-filing service, SARS must—

- (a) provide an internet based application where vendors and tax practitioners can electronically complete tax returns;
- (b) provide a data transfer facility, payment facility and a secure and reliable processing environment where SARS and vendor information is preserved, secured and protected against unauthorised access, manipulation and destruction;
- (c) ensure information security including confidentiality, integrity, availability and non-repudiation;
- (d) provide a complete database facility to retain a history of returns submitted and payments made by a vendor or tax practitioner by way of the e-filing service for a period of at least five years;
- (e) secure information in a method and in a format that ensures the integrity and reliability of the data and ensures that the information can be reproduced when required as permissible evidence in a court of law; and

- (f) provide call center and helpdesk facilities.

3. Registration, submission of electronic return, payments and termination

- (1) For purposes of registering a vendor or tax practitioner as an electronic filer—
 - (a) that vendor or tax practitioner must—
 - (i) apply for registration as an electronic filer with SARS; and
 - (ii) accept the conditions of use of the e-filing service;
 - (b) SARS must confirm the e-filing activation if the information supplied is complete and valid, or notify the vendor or tax practitioner to re-submit correct information if any information supplied is incomplete or invalid; and
 - (c) SARS must provide the vendor or tax practitioner with a user-ID and access code after obtaining positive proof of identity of that vendor or tax practitioner.
- (2) A user-ID and access code contemplated in regulation 3(1)(c) must be—
 - (a) uniquely linked to the vendor or tax practitioner;
 - (b) capable of identifying that vendor or tax practitioner;
 - (c) capable of being maintained under the sole control of that vendor or tax practitioner; and
 - (d) based on the identification of the vendor or tax practitioner as contemplated in regulation 3(1)(c).
- (3) A vendor or tax practitioner may only gain access to the e-filing service by using his or her user-ID and access code.
- (4) SARS must provide a procedure to be followed—
 - (a) by a vendor or tax practitioner to gain access to information relating to the e-filing service transactions of that vendor or tax practitioner; or
 - (b) if a vendor or tax practitioner wishes to terminate his or her e-filing service.

4. Electronic signature

- (1) When an electronic return submitted by means of the e-filing service is received on the e-filing website, the electronic signature of the vendor or tax practitioner is electronically attached to that return.
- (2) An electronic signature of a vendor or tax practitioner as contemplated in regulation 4(1) consists of the user-ID of that vendor or tax practitioner together with the date and time that the return was received on the e-filing website.
- (3) An electronic signature attached to a return as contemplated in regulation 4(1), is deemed to have been attached to that return by the person who submitted that return by way of the e-filing service.