

Tax & Exchange Control

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SOUTH AFRICA

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Suspension of VAT rate increase: Current status and implications

The Minister of Finance (Minister) announced in his National Budget on 12 March 2025 that the value-added tax (VAT) rate would increase from 15% to 15,5% on 1 May 2025 and again from 15,5% to 16% on 1 April 2026. The moment the Minister announced the VAT rate increases, they came into effect from these respective dates by virtue of the application of section 7(4) of the Value-Added Tax Act 89 of 1991 (VAT Act).

On 22 April 2025 the High Court heard an urgent application by the Democratic Alliance (DA) and the Economic Freedom Fighters (EFF) to set aside the resolutions by the National Assembly and the National Council of Provinces to accept the report of the Standing Committee on Finance and the Select Committee on Finance in respect of the 2025 Fiscal Framework. The High Court also heard the DA's application for the suspension of the operation of the Minister's decision to increase the VAT rate, and to make an order that section 7(4) of the VAT Act is constitutionally invalid.

Following the hearing of the applications of the DA and the EFF by the High Court, the Minister issued a media statement in the early hours of 24 April 2025 in which he stated that he would shortly introduce the Rates and Monetary Amounts and the Amendment of Revenue Laws Bill, 2025 (Rates Bill), which proposed retaining the VAT rate at 15% from 1 May 2025, instead of the proposed increases of the VAT rate as announced in his Budget. Later on that same day, the Minister gave notice that the Rates Bill would be introduced in the National Assembly, providing for, amongst other things, the reversal of the VAT rate increase announced in terms of section 7(4) of the VAT Act.

The previous notice which provided for the VAT rate increase was withdrawn.

The Rates Bill was gazetted a few hours after the notice was published. The Rates Bill stipulates that, despite section 7(4) of the VAT Act and the announcement by the Minister on 12 March 2025 in the National Budget, the alteration of the VAT rate would not come into effect, and that this provision is deemed to have come into effect on 1 May 2025.

However, legal uncertainty regarding the withdrawal of the VAT rate increase remained, because section 7(4) of the VAT Act provides for a VAT rate change as announced by the Minister to apply for 12 months, and it does not provide for the withdrawal of the announcement.

Notwithstanding the uncertainty as to the manner in which the Minister would give legal effect to his decision to withdraw the VAT rate increase before 1 May 2025, on 25 April 2025 the Commissioner for the South African Revenue Service (Commissioner) issued a media statement on the measures to be applied by vendors to give effect to the Minister's decision to reverse the planned 0,5% VAT rate increase (see below).

These developments were not sufficient to prevent the VAT rate increase from coming into effect on 1 May 2025, because the Rates Bill would not have been adopted by Parliament before that date. The DA then filed a supplementary affidavit with the High Court on 25 April 2025 in which it applied for a court order to stop the VAT increase from coming into force on 1 May 2025. The respondents, being the Minister and the Speaker of the National Assembly, were required to file their replying affidavits on 26 April 2025.

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However, the parties reached a settlement regarding the matter and the settlement terms were made an order of the court. The court order now gives legal certainty that the VAT rate increase does not come into effect on 1 May 2025.

The court order

The court order essentially states that:

- The Minister's announcement on 12 March 2025 made under section 7(4) of the VAT Act whereby the VAT rate is increased on 1 May 2025 to 15,5% and on 1 April 2025 to 16% is suspended pending the passing of legislation regulating the VAT rate or the determination regarding the constitutionality of section 7(4), whichever occurs first.
- The resolutions by the National Assembly and the National Council of Provinces on 2 April 2025 to accept the report of the Standing Committee on Finance and the Select Committee on Finance in respect of the 2025 Fiscal Framework are set aside.

The court also made an order of costs in favour of the DA and the EFF. Furthermore, the DA has the right to pursue its application to declare section 7(4) of the VAT Act to be constitutionally invalid.

Zero rating of additional food items

The Minister also announced in his Budget on 12 March 2025 that certain additional food items, being edible offal of various animals, dairy liquid blends and tinned or canned vegetables, would be zero rated with effect from 1 May 2025, to provide some relief resulting from the proposed VAT rate increase.

However, unlike the announcement of the VAT rate increase, the announcement of the expansion of the zero-rated list of food items did not have any legal effect until it was approved by Parliament. There was therefore no legal basis for suppliers to apply VAT at the zero rate to these items from 1 May 2025, even though it was proposed to apply the zero rate to these items retrospectively.

Nevertheless, in view of the suspension of the VAT rate increase, the zero rating of these additional items has also been withdrawn, and will no longer take effect.

The Commissioner's media statement

The Commissioner issued a media statement on 25 April 2025 in which he indicated that the following measures will apply to all VAT vendors with effect from 1 May 2025:

- VAT vendors who have not yet implemented the rate increase should stop all development in this regard.
- Vendors are expected to charge VAT at the rate of 15% and not 15,5% for the supply of goods or services from 1 May 2025.
- Should a vendor not be able to revert to the 15% rate due to complex system changes that may be required, such supplies and purchases may be reported and accounted for at the rate of 15,5% until such time that the necessary system adjustments have been made, but only until 15 May 2025.
- VAT transactions which were charged at 15,5% must be reported in field 12 and field 18 of the VAT return respectively for output tax and input tax.

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- Adjustments (credit notes) issued to reverse the additional 0,5% rate charged to customers and by suppliers must also be reported in fields 12 and 18 respectively.
- The VAT return declarations made will be taken into consideration when verifications and/or audits on the affected VAT tax periods are conducted.
- The VAT returns will continue to apply the VAT auto calculation using the 15% rate from tax periods commencing 1 May 2025.
- Vendors who have already implemented the rate change and the zero rating of the food items are encouraged to reverse those changes before 1 May 2025.

There will no doubt be additional practical and timing difficulties with the implementation of the suspension of the increase in the VAT rate, but at least there is now legal certainty that the VAT rate increase will not take effect on 1 May 2025.

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BBBEE STATUS: LEVEL ONE CONTRIBUTOR

Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

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