

**DRAFT EXPLANATORY MEMORANDUM TO THE DRAFT AMENDMENTS TO THE REGULATIONS ON THE DOMESTIC REVERSE CHARGE RELATING TO VALUABLE METAL, ISSUED IN TERMS OF SECTION 74(2) OF THE VALUE-ADDED TAX ACT, 1991 (ACT NO. 89 OF 1991)**

**DRAFT**

**02 JUNE 2026**

## **1. BACKGROUND**

On 8 June 2022, government gazetted the regulations on domestic reverse charge relating to valuable metal (“the DRC Regulations”), issued in terms of section 74(2) of the Value-Added Tax Act, 1991 (Act 89 of 1991) (“the VAT Act”), which was effective from 1 July 2022. The aim of the DRC Regulations was to foreclose schemes and malpractices to claim undue VAT refunds from SARS by vendors operating in the value chain relating to high-risk goods containing gold. Government introduced further amendments to the DRC Regulations effective 1 January 2024 and 1 April 2025, respectively, to curb further abuse, as some taxpayers in this space became more creative in their anti-avoidance schemes, and to deal with certain practical difficulties experienced by the affected industries.

## **2. REASONS FOR CHANGE**

With effect from 1 January 2024, the term “residue” in regulation 2 of the DRC Regulations is limited to residue derived from or incidental to a mining operation due to concerns that the general inclusion of waste was too broad. In addition, a 1% rule was introduced as the definition of “valuable metal” was also deemed to be too broad in including all gold-bearing goods supplied in the prescribed forms, notwithstanding the gold content. It came to Government’s attention that the 1% rule created the opportunity to obtain undue VAT refunds from SARS as certain supplies of valuable metal are excluded from the ambit of the DRC Regulations, for example, unprocessed minerals containing gold, such as tailings and waste rock. It also had the unintended consequence of still excluding the “holders” who were intended to be included in the Regulations by the removal of supplies made by these entities from the exclusions under the definition of “valuable metal”.

Nonetheless, the purpose of the *de minimis* rule was to exclude supplies in which an insubstantial amount of gold could be included in such supply, but where the supply of gold was incidental.

## **3. PROPOSAL**

Based on the above, it is proposed that the regulations be amended to address these issues. As such the industries in question are now specifically listed in the *de minimis* exclusion under “valuable metal”.

## **4. EFFECTIVE DATE**

It is envisaged that the draft amendments to the DRC Regulations will come into effect on 1 August 2026.