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GOVERNMENT NOTICE

DEPARTMENT OF TRADE AND INDUSTRY

No. 294

1 April 2011

DETERMINATION OF THRESHOLD IN TERMS OF THE CONSUMER PROTECTION ACT, 2008 (ACT NO. 68 OF 2008)

In terms of section 6 (1) of the Consumer Protection Act, 2008 (Act No. 68 of 2008) ("the Act"), the Minister of the Department of Trade and Industry, by notice in the Gazette, must determine a monetary threshold applicable to the size of the juristic person for the purposes of the section 5(2) (b). In terms of section 5(2)(b) thereof, the Act does not apply to any transaction in terms of which the consumer is a juristic person whose asset value or annual turnover, at the time of the transaction equals or exceeds the threshold value determined by the Minister in terms of section 6.

I, Dr Rob Davies, Minister of Trade and Industry, do hereby determine in terms of section 6 (1) of the Consumer Protection Act, 2008 (Act 68 of 2008) that the monetary threshold applicable to the size of the juristic person in terms of section 5 (2) (b) is R2 000 000.00 (Two Million Rands). The aforementioned monetary threshold must be calculated in accordance with the attached schedule.



Dr. Rob Davies, MP
Minister of Trade and Industry
The Department of Trade and Industry
Private Bag X84
Pretoria

SCHEDULE

THRESHOLD DETERMINATION – METHOD OF CALCULATION

1. Financial Reporting Standards Applicable

For the purposes of section 6 of the Act, the assets, and the turnover, of a juristic person contemplated in item 2(1) of this notice, must be calculated in accordance with South African generally accepted accounting standards subject only to items 2, 3 and 4 of this notice.

2. Valuation of Assets

- (1) For the purpose of section 6 of the Act, the asset value of a juristic person at any time is based on the gross value of the juristic person's assets, subject to the provisions of sub-items (2).
- (2) In particular –
 - (a) the asset value equals the total assets less any amount shown on that balance sheet for depreciation or diminution of value;
 - (b) the assets are to include all assets on the balance sheets of the juristic person, including any goodwill or intangible assets included in their balance sheets;
 - (c) no deduction may be taken for liabilities or encumbrances of the juristic person; and
 - (d) "assets in the Republic" includes all assets arising from activities in the Republic.

3. Calculation of annual turnover

- (1) For the purpose of section 6 of the Act, the annual turnover of a juristic person at any time is the gross revenue of that juristic person from income in, into or from the Republic, arising from the following transactions and events as recorded on the juristic person's income statement, subject to the provisions of sub-item (2):
 - (a) the sale of goods;
 - (b) the rendering of services; and
 - (c) the use by others of the juristic persons' assets yielding interest, royalties and dividends.
- (2) In particular—
 - (a) When calculating turnover the following amounts may be excluded:
 - (i) any amount that is properly excluded from gross revenue in accordance with South African generally accepted accounting standards;
 - (ii) taxes, rebates, or any similar amount calculated and paid in direct relation to revenue, as for example, sales tax, value added tax, excise duties, and sales rebates, may be deducted from gross revenue;
 - (b) revenue excludes gains arising from noncurrent assets and from foreign currency transactions; and

- (c) for banks or insurance entities, revenue includes those amounts of income required to be included in an income statement in terms of South African generally accepted accounting practices, but excluding those amounts noted in 3 (2) (b).

4. Form of financial statements

Financial statements used as a basis for calculating assets or turnover of juristic persons –

- (a) must be the juristic persons' audited financial statements, if,-
 - (i) in terms of any law, the juristic persons is required to produce such statements; or
 - (ii) the juristic persons has audited statements for the relevant period; and
 - (b) otherwise, must be prepared in accordance with South African generally accepted accounting standards
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