Determination of Threshold
Published under
GenN 253 in *GG* 22025 of 1 February 2001
as amended by
GenN 562 in *GG* 22128 of 9 March 2001

I, Alexander Erwin, Minister of Trade and Industry, in consultation with the Competition Commission, do hereby determine in terms of section 6(1) of the Competition Act, 1998 (Act 89 of 1998), and section 23 of the Competition Second Amendment Act, 2000 (Act 39 of 2000) (collectively, 'the Act') as follows:

(1) Part B of Chapter 2 of the Act applies to any firm-

(a) whose annual turnover in, into or from the Republic is valued at or above R5 million; or

(b) whose assets in the Republic are valued at or above R5 million.

(2) For the purposes of section 6 of the Act, the assets and the turnover of a firm in, into or from the Republic must be calculated in accordance with the provisions of the following Schedule.

Schedule
METHOD OF CALCULATION

1 **Generally accepted accounting practices apply**

For the purposes of section 6 of the Act, the assets, and the turnover, of a firm must be calculated in accordance with South African generally accepted accounting practice 'G.A.A.P.'), subject only to the following provisions of this notice.

[Item 1 substituted by GenN 562 of 9 March 2001.]

2 Valuation of Assets

(1) For the purpose of section 6 of the Act, the asset value of a firm at any time is based on the gross value of the firm's assets as recorded on the firm's balance sheet for the end of the immediately previous financial year, subject to the provisions of subitems (2) and (3).

[Reg. 2 substituted by GenN 562 of 9 March 2001.]

(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 firm, including any goodwill or intangible assets included in their balance sheets;

(c) no deduction may be taken for liabilities or encumbrances of the firm;

(d) assets in the Republic includes all assets arising from activities in the Republic.

(3) If, between the date of the financial statements being used to calculate the asset value of a firm, and the date on which that calculation is being made, the firm has acquired any subsidiary company, associated company or joint venture not shown on those financial statements, or divested itself of any subsidiary company, associated company or joint venture shown on those financial statements-

(a) The following items must be added to the calculation of the firm's asset value if these items should in terms of G.A.A.P. be included in the firm's asset value:

(i) The value of those recently acquired assets; and

(ii) Any asset received in exchange for those recently divested assets.

(b) The following items may be deducted in calculating the firm's asset value if these items were included in the firm's asset value:

(i) The value of those recently divested assets at the date of their divestiture; and

(ii) Any asset that was shown on the balance sheet and was subsequently used to acquire the recently acquired asset.

3 Calculation of annual turnover

(1) For the purpose of section 6 of the Act, the annual turnover of a firm at any time is the gross revenue of that firm from income in, into or from the Republic, arising from the following transactions and events as recorded on the firm's income statement for the immediately previous financial year, subject to the provisions of subitems (2), (3) and (4):

(a) the sale of goods;

(b) the rendering of services; and

(c) the use by others of the fun's 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 G.A.A.P.;

(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 non current assets and from foreign currency transactions; and

(c) for banks and insurance firms revenue includes those amounts of income required to be included in an income statement in terms of generally accepted accounting practice, but excluding those amounts noted in 3(2)*(b)*.

(3) If, between the date of the most recent financial statements being used to calculate the turnover of a firm, and the date on which that calculation is being made, the firm has acquired any subsidiary company, associated company or joint venture not shown on those financial statements, or divested itself of any subsidiary company, associated company or joint venture shown on those financial statements-

(a) the turnover generated by those recently acquired assets must be included in the calculation of the firm's turnover if this turnover should in terms G.A.A.P. be included in the turnover of the firm; and

(b) the turnover generated by those recently divested assets in the immediately previous financial year may be deducted from the firm's turnover if this turnover was included in the turnover of the firm.

(4) If the financial statements used as a basis for calculating turnover or the turnover included in terms of subitem 3*(a)* are for more or less than twelve months, the values recorded on those statements must be pro-rated to the equivalent of twelve months.

4 Form of financial statements

Financial statements used as a basis for calculating assets or turnover of a firm-

(a) must be the firm's audited financial statements, if-

(i) in terms of any law, the firm is required to produce such statements; or

(ii) the firm has audited statements for the relevant period; and

(b) otherwise, must be prepared in accordance with G.A.A.P.