

Evaluation Questionnaire for determining tax status

Please answer the questions by marking the appropriate column with an "X" and proceed to the next question as indicated.

Section A

Question: Is your business a:

Company		Proceed to Annex A Section B below.
CC		Proceed to Annex A Section B below.
Trust		Proceed to Annex B on p.6
Business owned by natural person (Individual)		Proceed to Annex C on p.9

Section B

Vendor Name:	Vendor no:

CO/CC Registration No.	VAT Registration No:	PAYE registration No:

Section B – Number of employees exclusion

Question: Does the company/CC employ 3 (three) or more persons (excluding shareholders/member or relatives of these persons) on a full-time basis?

Yes		Proceed to next question
No		If you are a company proceed to section C on p2. If you are a CC proceed to section E on p3.

Question: Does the company/CC employ the employees referred to in the question above throughout the tax year?

Yes		PAYE will not be withheld provided that the appendix 1 affidavit is signed.
No		If you are a company proceed to section C on p2. If you are a CC proceed to section E on p3.

Section C – Connected person (Applicable only to a company)

Question: Are the share holders of the company:

Individuals		Proceed to Section C1 on p2.
Trust		Proceed to Section C2 on p2.
CC		Proceed to Section C3 on p2.

Section C1 – Shareholders are individuals

Question: Does any share holder or any of his/her relatives render the services personally to Eskom on behalf of the company?

Yes		Proceed to next question.
No		PAYE will not be withheld provided that the appendix 2 affidavit is signed by the company.

Question: Does the shareholder hold 20% or more of the shares in the company?

Yes		Proceed to Section E on p3.
No		PAYE will not be withheld provided that the appendix 3 affidavit is signed by the company.

Section C2 – Shareholder is a Trust

Question: Does any beneficiary of the trust or any of their relatives render the services personally to Eskom?

Yes		Proceed to next question
No		PAYE will not be withheld provided that the appendix 4 affidavit is signed by the company.

Question: Does the Trust hold 20% or more shares in the company?

Yes		Proceed to Section E on p3.
No		PAYE will not be withheld provided that the appendix 3 affidavit is signed by the company.

Section C3 – Shareholder is a CC

Question: Does any member of the CC or any of their relatives render the services personally to Eskom?

Yes		Proceed to next question
No		PAYE will not be withheld provided that the appendix 5 affidavit is signed by the company.

Question: Does the CC hold 50% or more shares in the company?

Yes		Complete Section D on p3.
No		PAYE will not be withheld provided that the appendix 6 affidavit is signed by the company.

NB. Where the shareholder is another company or a combination of company, CC, Trust and individuals the organogram of that shareholder must be provided to Corporate Tax who will provide guidance in evaluating the tax status of that shareholder.

Section D – Connected person (applicable only to a CC)

Question: Does any member or any “connected person” in relation to the member render services personally to Eskom on behalf of the CC?

Yes		Proceed to Section E below.
No		PAYE will not be withheld provided that the appendix 5 affidavit is signed by the CC.

Section E

Section E1 – Place and control test

Question: Does any person rendering the service on behalf of the company/CC required to perform the services mainly (i.e. more than 50 %) at Eskom’ premises?

Yes		Proceed to next question.
No		Appendix 7 affidavit must be signed and proceed to the next question.

Question: Is any person rendering the service on behalf of the company/CC subject to the control or supervision of Eskom as to the manner in which the duties are to be performed?

Yes		PAYE must be withheld
No		Proceed to next question

Section E2 – 80% of income test

Question: Is 80 % of the income of the company/CC during the tax year directly or indirectly, or likely to be directly or indirectly from any one client, or an “associated institution” in relation to that client?

Yes		PAYE must be withheld
No		Appendix 8 affidavit must be signed by the company/cc and section E3 on p4 should be completed. (The completed questionnaire should be submitted to Corporate Tax Department for an evaluation of the tax status of the company/CC.)

Section E3 – Dominant impression test

Question	Yes	No
<i>Control of manner of working</i> Does Eskom have the contractual right to control (in terms of the agreement) the tools or equipment, staff, raw materials, routines, patents or technology used in the provision of the services?		
<i>Payment Regime</i> Are the payments for services payable with reference to the company's/CC's output or certain agreed results e.g. is payment (be it a fixed fee or an hourly rate) only due if and when a specific deliverable has been completed?		
<i>Person who must render the service</i> Does the company/CC have the right to sub-contract the work?		
<i>Nature of obligation to work</i> Is any person rendering the service on behalf of the company/CC obliged to be present and performing work at Eskom regardless of whether work is available?		
<i>Employer (client) base</i> Is the company/CC contractually prohibited from rendering services to any other clients?		
<i>Employer (client) base</i> Does the company/CC have any other clients apart from Eskom?		
<i>Risk of profit and loss</i> Does the company/CC bear the risk of profit and loss unrelated to Eskom's profitability?		
<i>Risk of profit and loss</i> Does the company/CC bear the risk of cost or time overruns on a project?		

PARTICULARS OF PERSON ACTING AS REPRESENTATIVE OF THE TRUST

I the undersigned, confirm that the information provided above is accurate, and that while in receipt of payment from Eskom, will inform Eskom of any changes that take place pertaining the information provided above.

Representative's Full Names	Capacity	Contact Number

Signature	Date

Annex B

Evaluation Questionnaire for a Trust

Please answer the questions by marking the appropriate column with an "X" and proceed to the next question as indicated.

Vendor Name:	Vendor no:

Registration No.	VAT Registration No:	PAYE registration No:

Section A - Labour Broker (Not applicable)

Section B – Number of employees exclusion

Question: Does the Trust employ 3 or more persons (excluding beneficiaries or relatives of these persons) on a full-time basis?

Yes		Proceed to next question.
No		Proceed to section C below.

Question: Does the Trust employ the employees referred to in 1 above throughout its tax year?

Yes		PAYE should not be withheld provided that appendix 1 affidavit is signed by the Trust.
No		Proceed to section C below.

Section C – Connected person

Question: Does any beneficiary or any of their relatives render the services personally to Eskom on behalf of the Trust?

Yes		Proceed to section D on p7.
No		PAYE should not be withheld provided that the appendix 4 affidavit is signed by the Trust.

Section D1 – Place and control test

Question: Does any person rendering the service on behalf of the Trust required to perform the services mainly (i.e. more than 50 %) at Eskom's premises?

Yes		Proceed to next question.
No		Complete section D2 below.

Question: Is any person rendering the service on behalf of the Trust subject to the control or supervision of Eskom as to the manner in which the duties are to be performed?

Yes		PAYE should be withheld.
No		Appendix 7 affidavit must be signed and section D2 below must be completed.

Section D2 – 80% of income test

Question: Is 80 % of the income of the Trust during the tax year directly or indirectly or likely to be directly, or indirectly from any one client or an “associated institution” in relation to that client?

Yes		PAYE should be withheld
No		Appendix 8 affidavit must be signed by the Trust and section D3 below should be completed. The questionnaire will be forwarded to Corporate Tax for an evaluation of the tax status of the Trust.

Section D3 – Dominant impression test

Question	Yes	No
<i>Control of manner of working</i> Does Eskom have the contractual right to control (in terms of the agreement) the tools or equipment, staff, raw materials, routines, patents or technology used in the provision of the services?		
<i>Payment Regime</i> Are the payments for services payable with reference to the Trust's output or certain agreed results e.g. is payment (be it a fixed fee or an hourly rate) only due if and when a specific deliverable has been completed?		
<i>Person who must render the service</i> Does the Trust have the right to sub-contract the work?		
<i>Nature of obligation to work</i> Is any person rendering the service on behalf of the Trust obliged to be present and performing work at Eskom regardless of whether work is available?		

<i>Employer (client) base</i> Is the trust contractually prohibited from rendering services to any other clients?		
<i>Employer (client) base</i> Does the Trust have any other clients apart from Eskom?		
<i>Risk of profit and loss</i> Does the Trust bear the risk of profit and loss unrelated to Eskom's profitability?		
<i>Risk of profit and loss</i> Does the Trust bear the risk of cost or time overruns on a project?		

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Signature	Date

Annex C

Evaluation Questionnaire for an Individual

Please answer the questions by marking the appropriate column with an "X" and proceed to the next question as indicated.

Vendor Name:	Vendor no:

Registration No.	VAT Registration No:	PAYE registration No:

Section A

Question: Does the individual receive payment for providing Eskom with or "person/s" as opposed to services and does it remunerate such person/s?

Yes		The individual is a labour broker and must complete the next question.
No		Proceed to complete section B below.

Question: Did you provide Eskom with a certified copy of a valid IRP30?

Yes		PAYE should not be withheld.
No		PAYE should be withheld based on the EMP 10 Tables.

Section B – Number of employees exclusion

Question: Does the individual employ 3 or more persons (excluding any of his or her relatives) on a full-time basis?

Yes		Proceed to complete the next question.
No		Proceed to complete section C1 on p10.

Question: Does the individual employ the employees referred to above throughout its tax year?

Yes		The PAYE should not be withheld, provided that Appendix 1 Affidavit is signed by the Individual.
No		Proceed to complete section C1 on p10.

Section C1 – Place and control test

Question: Is the individual or any employee of the individual who will render the service required to perform the services mainly (i.e. more than 50 %) at Eskom's premises?

Yes		Proceed to complete the next question.
No		Appendix 7 Affidavit as well as Section C2 below should be completed.

Question: Is the individual or any employee of the individual who will render the service subject to the control or supervision of Eskom as to the manner in which the duties are to be performed or as to his hours of work?

Yes		PAYE should be withheld based on the EMP 10 Tables.
No		Proceed to complete section C2 below.

Section C2 – Dominant impression test

Question	Yes	No
<i>Control of manner of working</i> Does Eskom have the contractual right to control (in terms of the agreement) the tools or equipment, staff, raw materials, routines, patents or technology used in the provision of the services?		
<i>Payment Regime</i> Are the payments for services payable with reference to the Trust's output or certain agreed results e.g. is payment (be it a fixed fee or an hourly rate) only due if and when a specific deliverable has been completed?		
<i>Person who must render the service</i> Does the individual have the right to sub-contract the work?		
<i>Nature of obligation to work</i> Is the individual or any person rendering the service on behalf of the individual obliged to be present and performing work at Eskom regardless of whether work is available?		
<i>Employer (client) base</i> Is the individual contractually prohibited from rendering services to any other clients?		
<i>Employer (client) base</i> Does the individual have any other clients apart from Eskom? <i>Risk of profit and loss</i>		

Does the Trust bear the risk of profit and loss unrelated to Eskom's profitability?		
<i>Risk of profit and loss</i> Does the Trust bear the risk of profit and loss unrelated to Eskom's profitability?		

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