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Value-Added Tax ("VAT") Bill, 2013 Briefing

3 December 2013

Agenda

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Exemptions / Reliefs

Cross Border Services

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Q&A

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Part 1

Introduction

Introduction to the VAT Bill, 2013

- Expected commencement date: 1 July 2014
- Tabling of VAT Bill: a structural benchmark set by the IMF
- Will replace VAT Act 1997 (which came into effect July 1998)
- To operate in conjunction with new Tax Administration Act (TAA)
- Kenya have also recently passed a new VAT Act [given East Africa common market and tax harmonisation objectives, not clear why the two countries could not have worked on a common template]

Introduction to the VAT Bill, 2013

- Draft Bill circulated on 18 October 2013 by MoF for comment
- Per MoF letter of 18 October, aim is to:
 - *“streamline exemptions...that have distorted the whole tax structure in Tanzania and weakened the capacity of tax administration to enforce VAT”*
 - Address VAT on new forms of trade such as cross border operations of electronic and telecommunication
 - Align with international best practice
 - Address intra union trade issues between Mainland and Zanzibar
- PwC responded to MoF in letter dated 5 November 2013

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Part 2

Exemptions, Reliefs

Streamlining of exemptions

- Exemptions: significant reduction in list of exempt items
- Special Relief schedule – removed
- Zero-rating: no longer applicable to some supplies

Exemptions removed include:

- Pesticides, fertilizers
- Books & newspapers
- Transport services
- Financial services where fee is charged
- Water
- Funeral services
- Petroleum products
- Tourist services
- Postal supplies
- Aircraft
- Fishing gear
- Games of chance
- Computers
- Certain “green energy” equipment (wind generator and liquid elevators, photovoltaic and solar thermal)
- Fire fighting equipment
- Burning jelly
- Natural gas and equipment
- Dairy equipment and packing material

Included amongst supplies that will be impacted by special relief removal:

- Capital goods
- Supplies (other than imports) for exploration and prospecting (mining, oil & gas)
- Supplies to SEZ / EPZ investors
- Supplies of medical, dental and veterinary equipment
- Supplies to the Armed Forces!

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Part 3

Cross border services

Recognition of destination principle

Section 29(1): *“The purpose of this Part is to ensure that VAT is imposed in accordance with the destination principle so that only consumption in the United Republic of Tanzania is subject to VAT”.*

Services zero-rated on basis of being supplied for use outside Tanzania:

- Connected with land outside Tanzania
- Performed on goods outside Tanzania
- Included in value of imports, or connected with temporary imports
- Performed outside Tanzania
- Supplied to persons outside Tanzania
- IP rights for use outside Tanzania
- Inter-carrier telecommunication services
- Supplied to non-resident warrantor
- International transport and related services

Services supplied to persons outside Tanzania:

(6) A supply of services shall be zero-rated if—

(a) the customer is outside the United Republic of Tanzania at the time of supply and will effectively use or enjoy the services outside the United Republic of Tanzania; and

(b) the services are neither directly related to land situated in the United Republic of Tanzania nor physically performed on goods situated in the United Republic of Tanzania at the time of supply.

(7) A supply of services is not zero-rated under subsection (6) if—

(a) the supply is of a right or option to receive a subsequent supply of something else in the United Republic of Tanzania; or

(b) the services are supplied under an agreement with a non-resident but are or will be rendered to a person in the United Republic of Tanzania who is not a registered person.

Supplies now treated as made in Tanzania if the customer is not a registered person

- Services performed in Tanzania or Zanzibar if the services are received by a person in Tanzania who will effectively use or enjoy the services in Tanzania;
 - Radio or television broadcasting services received at an address in Tanzania;
 - Electronic services delivered to a person who is in Tanzania at the time when the services are delivered
- Non-resident supplier required to appoint a VAT representative if making above supplies to a customer who is not VAT registered**

“Electronic services” means any of the following provided or delivered on or through a telecommunications network:

- Websites, web-hosting, or remote maintenance of programmes and equipment;
- Software and the updating thereof;
- Images, text, and information;
- Access to databases;
- Self-education packages;
- Music, films, and games, including games of chance;
- Political, cultural, artistic, sporting, scientific, and other broadcasts and events including broadcast television;

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Part 4

Other highlights

Highlights of some other key technical changes

- **Partial exemption:** (i) de minimis rule (ii) only one method
- **Imported services:** (i) de minimis rule (ii) not entirely clear whether the claiming of input tax is in the same return
- **Immoveable property:**
 - Zero-rating of supply of immovable property outside Tanzania
 - Exemption of residential accommodation
- **Transfer of going concern** rules – now refer to “economic activity” (defined in detail) instead of “business”
- Complex rules introduced regarding “**adjustments**”
- Provisions dealing with complex transactions e.g. single vs multiple supplies, progressive and periodic supplies, warranties

Highlights of some administrative matters

- Reference to the Tax Administration Act (not yet published or in force)
- VAT return filing deadline – reduced to 21 days (currently 30 days)
- Input tax claim time limit – remains at only 6 months
- No waiver of penalties and interest on voluntary disclosure of errors (other than minor errors)
- More thought required on transitional arrangements
- Practice notes will be required for some of the new provisions
- Some (unnecessary?) inconsistencies with income tax legislation:
 - “fixed place” v “permanent establishment”
 - “connected person” and “relative” v “associate” and “relative”
 - document retention period

Other observations

- VAT rate and registration threshold – not provided
- Deals with a number of issues faced on transactions with Zanzibar
- Overall the Bill appears to have borrowed heavily from other international best practice VAT jurisdictions, and in doing so addresses a number of key issues, objectives. Nevertheless, a number of industries will have concerns in relation to the impact of the proposed Bill.

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Part 5

Industry Observations/Comments

Industry Observations/Comments

- Agriculture
- Financial Services
- Energy and Mining
- Telecommunications
- Manufacturing, Oil Marketing
- Tourism and Hospitality

Agriculture

- Removal of VAT exemption on agricultural inputs and services will increase cost for smallholders
- Locally grown processed tea and coffee now standard rated – will increase cost to consumers but manufacturers can claim corresponding input tax

Financial and Insurance services

- Some services previously exempt as “financial services” will now be taxable – including any services for which a fee is charged
- VAT on bank charges:
 - Consistent with practice in a number of other jurisdictions
 - Will enable banks to recover a proportion of input tax
 - Makes an even more compelling case for removal of excise duty on money transfer
- Exchange of currency not included under financial services definition
- It appears that insurance services (other than life) are no longer exempt
- Important that Tanzania Bankers Association and Association of Tanzania Insurers fully consider the implications of the changes to the definition of “financial services”

Energy and Mining

- No special relief or VAT exemption available other than on goods that are imported for exclusive use in mining, oil or gas exploration
- Conflict with terms of Mining Development Agreements and Production Sharing Agreements?

Telecommunications

- Roaming - taxation now consistent with destination principle
- Mobile Financial Services – not clear if included under telecommunication services
- Inter-carrier telecommunication services - definition does not resolve Zanzibar problem
- VAT on computers - may affect demand for internet services
- No VAT relief on the capital goods – contradiction with TIC?

Manufacturing, Oil Marketing

- Fuel no longer exempt:
 - Implies a need to consider downward adjustment of taxes on fuel
 - Assuming other taxes are adjusted downwards, could be of benefit to industry as VAT is a recoverable tax
- No relief on capital goods – contradiction with TIC and EPZ / SEZ?

Tourism and Hospitality

- Removal of exemption on tourism services:
 - If now tourism subject to VAT, so as to remain competitive need to consider (i) removal of other taxes on the sector(e.g. tourism development levy) (ii) a lower VAT rate for the sector.
 - Need to consider timing of introduction for tourism as next season already sold (assuming no VAT)
- Margin scheme: “foreign tourism supplies” by resident travel agent

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Part 6

Overall Conclusion

VAT reform should be accompanied by reform of other taxes so as to encourage compliance, encourage saving and investment, and improve the business climate

- With such a wide-ranging reform the Government should consider the simultaneous reform of other taxes (even if means higher VAT rate).
- In particular, key reforms should include:
 - Reduction of SDL from 5% to 2%;
 - Gradual decrease of the corporate tax rate & top personal rate from 30% to 25%;
 - Exclusion of the 5% WHT on payments in respect of services for VAT registered taxpayers;
 - Removal of excise duty on money transfer; and
 - Reverse the excise duty of TZS 1,000 per month on simcards

A significant increase in the VAT registration threshold is long overdue

- Why?
 - Last increased to TZS 40m (from TZS 20m) in July 2004
 - More tax would be collected by way of irrecoverable input tax on those with low turnover, than by VAT on their margin
 - Cost of collection is uneconomic for TRA for those with low turnover
- Registration thresholds from overseas indicate that an increase to TZS 100m (approx US\$ 62,500) would not be inappropriate

Country

VAT Registration thresholds

	Local currency	Exch. rate in Nov	USD
<i>Zambia</i>	ZMK 800 m	5,195.0	± USD 153,994
<i>Mauritius</i>	MUR 4 m	29.1	± USD 130,900
<i>Gabon</i>	CFA F 60 m	460.4	± USD 123,400
<i>South Africa</i>	R1 m	10.2	± USD 96,700
<i>Madagascar</i>	MGA 200 m	2,186.0	± USD 91,300
<i>Zimbabwe</i>	USD 60,000		± USD 60,000
<i>Kenya</i>	KShs 5 m	85.8	± USD 58,310
<i>Botswana</i>	BWP500,000	8.7	± USD 57,300
<i>Ghana</i>	GH Cedis 120,000	2.2	± USD 54,550
<i>Lesotho</i>	500,000 Maloti	10.2	± USD 48,828
<i>Namibia</i>	N\$ 500,000	10.3	± USD 48,266
<i>Rwanda</i>	RFW 20 m	666.2	± USD 30,000
<i>Tanzania</i>	TZS 40m	1,600.0	± USD 25,000
<i>Uganda</i>	UShs 50m	2,517.0	± USD 19,850

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Any questions?

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