Managing VAT in Africa – a mining perspective
Foreword

Africa is one of the world’s largest exporters of precious metals and minerals, and as a result, the mining industry plays a vital part in the development of Africa’s economy. The development of the mining industry is considered to be influential in determining the employment as well as the GDP in African countries. Although the mining industry has contributed to growth and employment, in recent years, we have seen external and internal factors hindering the profitability of mining houses as well as stakeholder confidence. Further, the global volatility of commodity prices and the increase in operating costs have impacted the bottom line, notwithstanding the responsibility of the mining industry to achieve triple bottom line requirements. There is therefore great pressure on the mining industry to contribute to corporate social responsibility and to remain transparent in corporate governance strategies.

On the African continent, the majority of Africa’s 54 countries have introduced Value-added-tax (VAT) systems that are commonly used not just to address the fiscal deficit, but to attribute to the governance of companies. However, the multiplicity of VAT systems across Africa tend to expose multinational companies to tax risks through errors and inconsistencies in the application of the law with the compliance burden tending to be high for organisations.

This “Mining in Africa – a VAT perspective” publication seeks to ease the burden of monitoring VAT legislation specifically geared towards the mining industry. With our extensive Indirect Tax network in Africa, PwC can assist businesses involved in the mining industry, or those thinking of penetrating the market. We have aligned the summary of VAT compliance and specific transaction rules to the mining process as we see it, which specifies when certain rules may be applicable or of interest.

The chapters in this publication cover most of the Southern African countries namely, Botswana, Madagascar, Mozambique, Namibia, South Africa, and Zimbabwe.

This publication is based on the law effective 1 January 2014, and outlines the VAT principles regarding VAT registrations, VAT compliance, input tax, output tax, international trade, and rehabilitation and deregistration. Specific advice on any VAT and indirect tax other issues can be obtained by our VAT and Indirect Tax specialists in the respective countries. The details of tax specialists can be found at the end of each country chapter respectively.

Kindly refer to the page 1 for a description on “how to use this guide”.

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Senior Manager: Indirect Tax
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How to use this guide

The contents contained in each chapter outline the VAT processes and how they relate to the corresponding stage(s) of the mining process indicated in the illustration below. For ease of reference, we have colour coded each VAT process, and indicated the beginning and end of each process.

The mining process

The above illustration is a generic view of the specific VAT processes. Therefore, an entity’s specific circumstances must be taken into account.

As you can see from the illustration, the “VAT registration” process falls within both the prospecting and exploration stages, which is followed by the “VAT compliance” process. Similarly, the “International trade” process, for example, is likely to commence during the investment stage, and should continue until the end of the deregistration stage.

Therefore, each VAT process outlines the necessary information/requirements applicable to the specific stages in the mining process.
Botswana

Population: 2.04 million
Minerals: Diamond, copper, gold, nickel, soda ash
Revenue from mining operations: Expected to reach US$6.13 billion by 2017
Government state/BBE/Mining charter: Mines and Minerals Act, 1999
Languages: English and Setswana

Introduction

Value-added tax (VAT) was introduced in Botswana with effect from 1 July 2002 to replace Sales Tax. Botswana’s VAT legislation is contained in the Value-Added Tax Act, 2000.

The VAT system is administered by the Commissioner-General of the Botswana Unified Revenue Service (BURS). BURS is responsible for the administration and enforcement of revenue laws, including income tax, customs and excise, capital transfer tax, the alcohol levy etc.

Rates and scope

The standard VAT rate of 12% applies to all supplies that do not qualify for an exemption or zero-rating. There is no other higher or reduced VAT rate.

VAT is imposed on taxable supplies and the importation of goods and services into Botswana. Any supply that is not listed as an exempt supply is a taxable supply except for the following:

- A supply of services by an employee to an employer by way of employment;
- The payment by the State of a subsidy under a subsidy scheme to defray expenses, or the payment of a bursary;
- The provision of goods on consignment and the transfer of goods to a person in a representative capacity; and
- The supply of goods where the input VAT claim was originally denied, e.g. passenger vehicles.

A taxable supply includes a supply between related parties for no consideration, or a supply of goods for use only as trade samples, or supplies involving change of use.

State involvement

There is a requirement in Botswana that the Government should be a shareholder in a mining company, however, this is up for negotiation. Upon the issue of a mining licence, the Government shall have the option of acquiring up to 15% working interest participation in
the proposed mine. Any application for the issue, renewal, transfer or amendment of a licence to mine diamonds shall initiate a negotiating process in good faith between Government and the applicant covering all technical, financial and commercial aspects of the proposed project including Government participation. Should the negotiations not lead to agreement within six months or such extended period as the Minister may allow, the application shall fail. However, upon successful conclusion of the negotiation, the Minister shall issue a licence reflecting the terms and conditions agreed.

Company start up

Three names must be submitted to the Registrar of Company, who would then advise on the approved name. Upon receipt of the approved name, you are required to complete and submit an application form to the Registrar to register the company. The application should be submitted within 30 days after the approval of the company name.

Mining rights

Mining rights are acquired by processing an application form and submitting it to the Ministry of Minerals. Upon the granting of such rights, the company will be liable to pay VAT as this is an input material for furtherance of your taxable supplies.

VAT Registration

Compulsory registration

Any person (including the State, local authorities, sole proprietorships, partnerships, natural persons or joint ventures) that makes taxable supplies in Botswana Pula of BWP500 000 (approximately USD57 000) or more per annum, or expects that this limit will be exceeded during the following 12 months, is required to register for VAT.

Voluntary registration

The Commissioner-General of BURS has the discretion to register a person with a turnover below BWP500 000, if an application is made. Voluntary registration will be denied if the Commissioner-General is satisfied that the person has no fixed place of abode or business or the Commissioner-General believes that the person will not keep proper records or will not submit regular and reliable tax returns as required under the Act.

Group or branch registration

There is no group registration in Botswana. Divisions or branches of a company may register separately, subject to certain conditions, e.g. maintenance of separate accounting systems, and if transactions can be distinguished between the different locations.

Non-residents

The same rules of registration apply to non-residents if they are deemed to conduct a taxable activity in Botswana that is, or is expected to be, in excess of an annual value of BWP500 000.

There is no specific VAT requirement that a non-resident applying for VAT registration in Botswana must appoint a fiscal representative in Botswana.

However, for income tax purposes every company carrying on business in Botswana must be represented by a public officer residing in Botswana.

Application for registration

Before applying for VAT registration, a person should secure a tax identification number (TIN) from BURS. Thereafter, VAT application form VAT 001.1 must be completed and submitted to BURS. The application form should be accompanied by the identity documents of the directors; work and residence permits of the non-resident directors; all company registration documents; list of assets; etc. The VAT registration form requires the person’s banker in Botswana to confirm the existence of a bank account in Botswana.

Failure to apply for registration when required is an offence and attracts high penalties, which may include fines and/or imprisonment. Any entity that should register will be deemed to have been registered and will then be liable for the VAT. The registration number format is based on the income tax file reference of the entity.

Notice of registration is usually issued within 30 days after from the day of submission of the application form.

VAT compliance

Accounting basis and tax period

The liability for output tax arises when an invoice is issued or when payment is received, whichever is the earlier. The VAT period (tax period) is two months for registered persons with annual taxable supplies up to BWP12m, and one month for those exceeding BWP12m per annum.
Entities that have or expect to have a monthly turnover of more than BWP1 000 000 should file returns on a monthly basis, and any other entity with turnover less than BWP1 000 000 must file returns bi-monthly.

**Returns and payment of VAT**

The VAT return (i.e. VAT 002.1) must either be filed manually or electronically within 25 days after the end of the tax period. Where output tax exceeds the input tax, the VAT return must be accompanied by a payment equal to the difference. Payment is made by cheque or electronically to the BURS account with the Bank of Botswana.

**Interest and penalties**

Compounded interest is levied on late payment at 1.5% per month or part of a month.

The Commissioner-General may, if he is satisfied that the tax is irrecoverable, remit any amount of tax, not exceeding BWP50 000 unpaid by any person in respect of any tax year. The Minister of Finance may remit wholly, or in part, any tax payable by any person where he is satisfied that it is just and equitable to do so, or where he is satisfied that such tax is irrecoverable.

A penalty of the higher of BWP50 per day or 10% per month or part of a month outstanding of the VAT payable may be imposed for late submission and/or late payment. In practice, only the penalty for late submission is imposed.

**Refunds**

Where input tax exceeds output tax, a refund may be claimed. This may occur in the case of an export business, or where large capital purchases have been made. The refund must be paid within two months after the month-end date of filing a return showing an excess of input tax over output tax, and the amount claimed must be verified as correct. BURS reserve the right to audit refunds before paid to the vendor.

If the registered person is engaged mainly in export activities, or is defined as a VAT-registered manufacturing warehouse, or an international financial services centre company, the VAT refund claim must be processed within one month from the month-end date of filing the return.

Failure to refund the amount due within the prescribed period will make the Commissioner-General liable for interest at 1% per month for the period the refund was overdue. Excess input tax may also be offset against the person’s other tax liabilities (e.g. income tax).

**Objections and appeals**

Objections and appeals may be submitted where persons wish to dispute a decision of the VAT administration. Objections should be addressed to the Commissioner-General and should contain the specific grounds of objection. The objection should be made within 30 days of the assessment. The pay-now-argue-later rule applies in Botswana. The BURS may therefore insist on payment before they consider the objection or a bill.

**Time limits**

The maximum period for claiming input tax is as follows:

- Where a person’s tax period is a period of one month – up to the next three tax periods;
- Where a person’s tax period is a period of two months – in the next tax period; and
- Where a person has paid VAT in respect of any imports of goods – in the next tax period.

**VAT records**

**Tax invoices**

No input tax may be claimed unless the claim is supported by a tax invoice. Only VAT-registered persons may issue tax invoices. The following particulars must appear on a tax invoice:

- The words ‘tax invoice’ must be displayed prominently;
- Date of issue;
- Serial number;
- Name, address and VAT registration numbers of supplier and recipient;
- Clear description of goods or services supplied, including quantity and volume; and
- Consideration for the supply, the VAT due and the consideration including the VAT. No tax invoices are required for a supply made in cash for less than BWP20. Tax invoices may be in either English or Setswana. There is currently no legislation in the VAT Act that prescribes the acceptability of e-invoicing procedures.

**Credit notes and debit notes**

Tax credit and tax debit notes must also be issued and be clearly designated as such providing much of the same detail as for a tax invoice, where a supplementary charge is made, or when a reduction in the amount charged or due is agreed on between a seller and a buyer.

In addition, the credit or debit note must contain the reason(s) for its issuing, reference to the previous invoice now being corrected, and the words ‘tax debit note’ or ‘tax credit note’ in a prominent place on the document.

**Record-keeping**

A registered person must maintain the following records in Botswana in English or Setswana:

- Original tax invoices, tax credit notes, and tax debit notes received;
- Copies of all tax invoices, tax credit notes, and tax debit notes issued;
- Customs documentation relating to imports and exports;
• Accounting records; and
• Any other records as may be prescribed by the Commissioner-General.

The records must be retained for at least seven years after the end of the tax period to which they relate. Failure to maintain proper records constitutes an offence. On conviction, the person may be liable to a fine or imprisonment.

**Agent vs Principal**
Where a taxable supply has been made by a person as an agent for another person, and the recipient of the supply is a registered person, the agent may issue a tax invoice in relation to the supply as if the agent had made the supply. Where a taxable supply has been made to a person as an agent of the principal, and the principal is a registered person, a tax invoice in relation to the supply may be issued to the agent at his request.

**Input tax**

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**Input tax expressly denied**
VAT paid in respect of the following goods or services cannot be deducted as input tax:

- Passenger vehicles designed or adapted to seat up to nine persons (including double-cab vehicles, but excluding safari vehicles), except when acquired by a dealer or vehicle-letting business;
- Entertainment expenditure (including hotel accommodation, meals for business purposes, and for staff welfare, e.g. tea and coffee), except where acquired by an entertainment business, or where entertainment is supplied to passengers in the course of a transportation service; and
- Membership subscriptions relating to sports, social or recreational organisations.

Input tax is also denied if the required tax invoice or other supporting documentation is not held by the registered person, the input tax is not claimed in the correct VAT period, or the input tax is in connection with exempt supplies.

**Partial exemption**
Where VAT incurred relates to the making of both exempt and taxable supplies, an apportionment method acceptable to the Commissioner-General must be used to allocate the input tax credit between the exempt and taxable supplies. The default method is based on turnover. Where taxable supplies are 90% or more of total supplies, all VAT incurred on acquisitions may be claimed as input tax.

**Change of use adjustments**
When assets on which VAT has been claimed as input VAT are transferred to the making of non-taxable supplies, an output VAT based on the higher of the consideration paid or fair market value is payable. Examples of change of use are:

- Transfer or sale of a company computer to an employee; or
- Transfer of assets in a bank from a taxable to an exempt division.

**Pre-registration VAT**
VAT on expenses (including imports other than capital goods) incurred up to four months prior to the registration date may be claimed in the first VAT period. The goods must be held on hand at the date of registration.

### Output tax

**Advertising and prices**
Prices quoted or advertised must always be VAT inclusive. A pre-tax price may be quoted, but the amount of VAT due and the VAT-inclusive cost must then be shown equally prominent. Any price charged by a registered person in respect of a taxable supply is deemed to include the VAT charged on the supply, whether or not VAT has been included in the price. Output tax is calculated by applying the tax fraction (12/112) to the VAT-inclusive price charged.

**Exempt supplies**
No VAT is charged on exempt supplies, and VAT paid on inputs acquired for purposes of making exempt supplies may not be deducted as input tax. A person making only exempt supplies is not carrying on an enterprise and may not register for VAT purposes.

Exempt supplies include, but are not limited to, supplies of the following goods or services:

- Financial services - including loans, credit, credit guarantees or any security for money, but excluding transactions rendered at a fee or commission;
- Educational services - including courses, school bus services, and meals provided by an exempt educational institution to its students;
- Medical services provided by a Government-operated or aided medical facility;
- Long-term residential letting and hostel accommodation on a non-profit basis;
- Leasing or renting of land for erecting a dwelling;
- Domestic passenger transportation by road or rail, other than transportation of tourists;
- Cash grants made by or received from the State;
Zero-rated supplies

Adequate documentation must be retained to satisfy the Commissioner-General that the supply qualifies for zero-rating. The zero-rated supplies include, but are not limited to, supplies of the following goods or services:

• Exportation of goods;
• Goods that are outside Botswana at the time of the supply;
• Goods supplied under a rental agreement or by charter party exclusively in an export country;
• Goods or services supplied to a branch or main business outside Botswana, which can be separately identified, and for which an independent system of accounting is maintained;
• International transport services;
• Services supplied directly in connection with land outside Botswana;
• Services supplied directly in respect of movable property situated outside Botswana, and goods temporarily imported;
• Repair of a railway train operated by a non-resident and non-registered person;
• Services physically rendered outside Botswana;
• Services supplied to a non-resident, who is outside Botswana when the services are rendered, except services rendered directly in connection with property situated in Botswana or when the supplier refrains from undertaking an activity in Botswana;
• Services relating to intellectual rights for use outside Botswana;
• Taxable activity supplied to a registered person as a going concern;

Inter-company transactions

Intercompany supplies are subject to VAT. However, intercompany loans are exempt from VAT as per the Value Added Tax Subsidiary Legislation.

Sale of mining rights

The sale or cessation of mining rights would be subject to VAT as it would be part of the winding up of the business, and the law requires that when winding up, a company must declare whatever is outstanding.

International Trade

| Investment |
| Extraction/Mine |
| Processing and Operations |
| Rehab and Deregistration |

Importation of Goods

All goods imported into Botswana are subject to VAT except goods expressly exempted from VAT on importation. The VAT liability on imports arises when the goods are cleared through customs.

Goods held in a bonded warehouse are not subject to VAT until they are cleared for use. Goods from outside the SACU region are allowed to be entered into a customs and excise warehouse (i.e. bonded warehouse) for monitoring purposes. Goods held in bond are not subject to VAT until they are cleared for use.

VAT on imports may be deferred where the importer provides adequate security. In order to obtain a deferred VAT facility, the applicant is required to execute a bond in favour of the BURS for an amount equivalent to 20% of the expected imports during a particular month or BWP20 000, whichever is higher. The maximum deferment period is 25 days after the end of the month during which the goods were imported.

The value of the imports for VAT purposes includes all taxes and duties payable, as well as the cost of insurance and freight. The value of goods that are imported from South Africa, Lesotho, Namibia, and Swaziland includes, for VAT purposes, insurance and freight costs.

Exporter Services

Only services imported for use or consumption in Botswana for a purpose other than to make taxable supplies are subject to VAT. A person making only exempt supplies is thus liable for VAT on imported services, and a person making both taxable and exempt supplies will be liable for VAT to the extent that the services are acquired for non-taxable purposes.

Where tax is payable on the import of services, the recipient of the service should declare and pay VAT within 30 days of the import of the service.

Exportation of Goods

General

The zero rate applies where the supplier has entered the goods for export in accordance with customs duty principles, and the supplier has exported the goods from Botswana and delivered the goods to the recipient into an export country. Should the recipient collect the goods from the supplier, and subsequently export such goods, VAT at the standard rate will be levied.

The Minister may authorise the granting of a refund to a non-resident individual where the VAT paid on goods exported by that person as accompanied baggage exceeds UA1 200. The Minister may authorise a refund of tax to diplomats, diplomatic missions, and other persons under certain international laws and conventions.

The VAT Act indicates that goods have to be exported within three months in order to zero rate the transaction.
Agent
Where a taxable supply has been made by a person as an agent for another person, and the recipient of the supply is a registered person, the agent may issue a tax invoice in relation to the supply as if the agent had made the supply. Where a taxable supply has been made to a person as an agent of the principal and the principal is a registered person, a tax invoice in relation to the supply may be issued to the agent at his request.

Drop shipment
The zero-rate applies where the supplier has entered the goods for export in accordance with customs duty principles, and the goods have been exported from Botswana by the supplier.

Flash title
There are no specific rules for flash title arrangements.

Additional export documentation
The standard customs documentation forms (SAD 500), invoice, etc. should be stamped by the Department of Customs for proof of export.

Place of supply
There are no place-of-supply rules in Botswana’s VAT legislation.

Time of supply
The general rule is that a supply of goods or services occurs at the earliest of when –

- An invoice for the supply is issued by the supplier; or
- Any payment for the supply is received.

Under some of the specific rules, the time of the supply is as follows:

- Related persons – when goods are removed or made available, or when services are performed, unless the time of supply has already taken place in accordance with the general rule;

- Change of use – when the goods or services (acquired for taxable use) are transferred to a non-taxable activity;

- Goods or services supplied to a branch or main business outside Botswana – when the goods are delivered to, or the services performed for, the branch or main business;

- Rental agreement or services supplied under an agreement providing for periodic payments – successive supplies occur when a payment becomes due or is received, whichever is the earlier;

- Construction services paid for in instalments or periodically – successive supplies occur when a payment becomes due or is received, or when an invoice relating only to that payment is issued, whichever is earlier;

- Immovable property – when the transfer deed is registered with the Registrar of Deeds or when payment is received, whichever is the earlier;

- An electrical connection under the Botswana Power Corporation’s Rural Electrification Scheme, or housing by the Botswana Housing Corporation under the Tenant Purchase Scheme, pursuant to a hire purchase agreement – when payment is due or is made under that agreement, whichever is the earlier.

Under some of the specific rules, the value of the supply is as follows:

- Related persons (if the supply is made for less than the fair market value) – fair market value, i.e. the value that the supply would generally fetch if freely offered, and made between persons who are not related parties;

- Supply made for less than the fair market value of the supply to a charitable organisation, institution of religious worship, educational institution, old-age home, orphanage, children’s home, or institution of a similar nature – fair market value of the supply;

- Mixed supplies (taxable and exempt) – value of the supply is the part of the consideration that is properly attributable to the taxable supply portion;

- Transfer of goods or services to a branch or main business outside Botswana – the lesser of the cost or fair market value of the supply;

- Supply made for no consideration – the value is nil;

- Consideration paid or payable in kind – the fair market value of the consideration.

Other
Joint Ventures (“JV”)  
Profit distributions by an unincorporated JV are exempt from VAT.

Incentive schemes
There are no significant incentives schemes for the mining industry such as diesel rebate schemes.
**Rehabilitation and deregistration**

A person whose registration is cancelled is deemed to have made a taxable supply of goods on hand, including capital goods, unless input tax was denied. The goods on hand must be valued at the fair market value.

**Revenue authority contact details**

Botswana Unified Revenue Service (BURS)
Private Bag 0013
Gaborone.
Tel: 3638000

Input tax may be claimed on rehabilitation expenses incurred as part of taxable supplies.

A registered person may apply in writing to deregister at any time that the taxable supplies of such person fall below BWP500 000, and are expected to remain below this level at the beginning of a period of twelve months. An application for cancellation of registration can be made only after the expiry of two years after the date of registration.
Madagascar

Population: 22.92 million
Minerals: Ilmenite, Saphir, Rubis, Uranium, Zircon, Nickel, Cobalt, Cuivre, Coal (Charbon de terre), Gold (Ore), Silver (Argent), Bérylium, Quartz blanc, Zinc, Platine, Oxyde de fer, Plomb
Revenue from mining operations: US$84 677.47 (2011)
Languages: English (limited people), Malagasy, and French

Introduction

VAT was introduced in Madagascar in 1994. It is referred to locally as 'Taxe sur la Valeur Ajoutée' (TVA). It is a tax on turnover. The tax law is amended every year. The information contained here applies to the fiscal year ending 31 December 2014.

Rates and scope

The standard rate of VAT is 20%. The rate of 0% is applicable to exports of goods and services.

VAT is applicable to all transactions related to goods and services performed in Madagascar by a legal entity, or by an individual business with a turnover equal to or more than 200,000,000 Ariary (approximately USD80, 000). VAT is generally chargeable on:

- Supplies of goods and services made in Madagascar by a taxpayer in the course of its business;
- Importation of goods and certain services into Madagascar; and
- Execution of buildings and civil works.

State involvement

Currently, there is no such requirement.

Company start-up

The procedure may be slightly different depending on the form of the company (SARL or SA or branch), but can be summarized as follows:

- Draft the articles of association
- Open the capital account in a local bank or notary office
- Payment of contributions by future shareholders
- Stand the first general meeting of shareholders deciding to set up the company, to approve the articles of association,
- Appoint the directors and the auditor
- File the constitutional documents at the Economic Development Board of Madagascar, one stop shop
- Obtaining the statistical card
- Obtaining the tax card
- Obtaining the Trade Court registration number

Contact details
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www.pwc.com/mga

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• Registration of the company at the Fokontany (local authority where the head office of the company is registered)

Mining rights
Mining rights can be acquired by way of:
• Direct application to the Mining authorities
• Purchase/Transfer of the mining rights
• Transfer of shares of the mining company

No VAT is applicable on the above transactions, and the transfer of mining rights is not an operation subject to VAT.

VAT Registration

Tax identification number
All new businesses must get a tax identification number and a tax card, or ‘Carte fiscale’, at the time of incorporation. The tax identification number automatically covers VAT registration if applicable. The ‘Carte Fiscale’ must be renewed every year.

Compulsory registration
Any company (legal entity) or individual business that makes supplies of goods and services, and realises annual gross revenue of 200,000,000 Ariary or more, is generally subject to VAT.

Voluntary registration
Businesses realising a turnover below the annual statutory threshold above are not subject to VAT. However, it is possible to register for VAT voluntarily even if the value of a business’s taxable supplies does not exceed the statutory threshold after getting authorisation from the Ministry of Finances. Such option is definitive.

Group and branch registration
Each independent legal entity has to get its own tax identification number and ‘Carte Fiscale’ and perform its own VAT compliances and obligations. VAT grouping is not permitted.

A branch of a company registered under Malagasy law has the same tax identification number as the main company. A branch of a foreign company has to get a tax identification number and ‘Carte Fiscale’ for the purpose of tax compliance obligations including VAT obligations. In any case, a foreign company must register or open a branch if it wants to be established in Madagascar.

Registration timeline
There is no separate VAT registration procedure as distinct from general tax registration in Madagascar. In practice, registration is completed at the time of incorporation.

A foreign business that does not have or is not required to have a local branch has to appoint a fiscal representative to collect and pay VAT on its behalf. The tax representative must be approved by the tax authorities. In the absence of tax representative, the recipient is liable to account for VAT on behalf of the foreign supplier.

VAT compliance

Application for registration
There is no separate VAT registration procedure as distinct from general tax registration in Madagascar. In practice, registration is completed on incorporation, but the ‘Carte Fiscal’ has to be renewed every year.

A foreign business that does not have or is not required to have a local branch has to appoint a fiscal representative in Madagascar, which can be the recipient.

Returns and payment of VAT

Returns and payments of VAT must be filed at the territorially competent tax office no later than the 15th day of the following month. VAT must be paid via bank transfer. Online/ Electronic filing methods for entities managed by the tax office in charge of big entities (having a turnover of more than 200,000,000 MGA) are available as well as for entities managed by tax office in charge of small and medium entities, but equipped with electronic system.

Accounting basis and tax periods

VAT returns and VAT payments related to operations performed during a month must be filed and done no later than 15 days after the following month. Periodical VAT filing is compulsory even if no VAT is payable.

VAT payable is the difference between VAT output and VAT input recorded during a period (monthly). Only VAT input on an invoice showing the VAT collected by the supplier and the tax identification number of the supplier can be credited against VAT output.
If VAT output is not sufficient in order to offset VAT input, then the difference constitutes a VAT credit. A VAT credit can be carried forward for an undetermined period.

**Refunds**

Free-zone enterprises and qualified exporters may obtain a VAT refund of a VAT credit that is directly attributable to their export activities. Normal companies with a VAT credit of more than 20,000,000 Ariary due to significant eligible investments are also entitled to claim for a VAT refund.

An application for a refund must be submitted at the same time that the periodical VAT return is filed.

**Interest and penalty**

The penalty ranges depend on the nature of the default:

- 80% of the tax due for no submission of a VAT return, and under-declarations of VAT;
- 100% of the amount of the transaction for non-payment by bank transaction in case of a transaction between two VAT taxpayers;
- 150% of the tax due for sale without regular invoice;
- 150% of the amount of the invoice in the case of fictive invoice;
- 80% to 150% in the case of opposition to a tax verification; or
- 1% per month of the tax due for late payment of VAT due, plus 100,000 Ariary.

Criminal penalties may also be imposed. Penalties can be mitigated in certain circumstances.

If no VAT is payable, only a penalty of 100,000 Ariary is applicable in the case of late filing.

**Objections and appeals**

A tax inspector has three years from the date of filing to challenge, by way of notice, or a VAT declaration submitted by the taxpayer. The taxpayer has 30 days from such notice to provide further explanation or information.

In the case of a dispute, the taxpayer can appeal to the Director of Tax and the Minister of Finances. If the dispute cannot be settled at this stage, the final recourse is the administrative court.

**Administration Acts**

There is no administration Acts as the VAT provision is included in the General tax Code except different provisions in a specific law governing specific projects such as:

- Large mining investment law
- Convention between Government and Rio Tonto for the ilmenite project
- Free zone law
- Leasing law
- Petroleum code

**Time limits**

The prescription period for output tax and claims by the Tax Administration is three years. The maximum period for the claiming of input tax is six months. An invoice can only be cancelled within six months from the date of issue.

**VAT records**

**Tax invoices**

A proper tax invoice must be prepared in two copies and include the following information:

- Date of issue;
- Signature of the supplier;
- Numbering;
- Name and identification of the supplier and the recipient;
- Statistical identification of the supplier and the recipient;
- Tax identification numbers of the supplier and the recipient;
- Quantity, unit price and total price of the goods or the services;
- Due date for the payment of the invoice; and
- Manner of payment.

**Credit notes and debit notes**

Credit notes and debit notes are not regulated by the tax law, but result from accounting practice. These credit notes and debit notes are assimilated by the Tax Administration as invoice, invoice cancellation or disbursement, depending on the nature of the concerned operation. A disbursement re-invoiced at real cost is not subject to VAT.

**Additional export documentation**

Exportation must be substantiated by the following documents:

- Export invoice;
- Commitment to repatriate foreign currency (‘engagement de rapatriement de devises’); and
- Evidence of shipping or air transportation (‘attestation d’embarquement’).

**Record-keeping**

All evidence, commercial as well as tax and accounting documentation should be kept at the company’s head office or at the company’s main establishment in the case of a branch. The taxpayer should be able to provide the originals in the case of an audit. Documentation must be retained for 10 years. Electronic files and scanned copies cannot be submitted to the Tax Administration.

**Input tax**

- Investment
- Extraction/Mine
- Processing and Operations
- Rehab and Deregistration

**Input tax allowed**

Input tax can be claimed if it is related to operations which are necessary for the normal activities.
In general, input tax is allowed on the following:

- VAT paid on invoices related to non-exempted goods and services, and required for normal operations of the taxpayer, on condition that the invoice mentions the tax identification number of the supplier;
- VAT paid on the importation of goods required for normal operations of the taxpayer; and
- Generally, VAT paid on taxable operations.
- VAT can be claimed on the acquisition of assets and construction of a mining plant.

**Input tax expressly denied**

Restrictions apply to the recovery of input VAT incurred on the purchase of the following:

- Buildings other than for industrial, artisan, trading, hotel, restaurant, agriculture and mining activities;
- Personal motor vehicles, except for hiring;
- Restaurant expenses;
- “Meuble-meublant”
- Services related to the above 3 points
- Fixtures and fittings; and
- Domestic supplies of energy and some petroleum products such as car fuel, except those that are used for fixed equipment and installation.

**Acquisition of debt / equity**

Issue of shares is not an operation subject to VAT. Securing a debt is not an operation subject to VAT.

**Partial exemption**

Input VAT can only be recovered to the extent that it is attributable to the registered business’s taxable activity. When a business makes a mixed supply of taxable and exempt supplies, only the input VAT attributable to the taxable supplies is fully recoverable. Where the input VAT is attributable to both taxable and exempt supplies, only a proportion calculated on the basis of taxable turnover as a proportion of total turnover is recoverable.

**Adjustments**

Adjustments are required when taxable goods are sold at a lower value than the net value.

When an apportionment is applicable, the taxpayer calculates the input tax according to a provisory proportion based on available information for previous years regarding taxable supplies compared to total supplies. After calculation of the final proportion, an adjustment must be made to ensure that input tax for a year corresponds to the proportion of taxable turnover compared to total turnover for such year.

**Output tax**

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<th>Processing and Operations</th>
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**Calculation of output tax**

In the absence of further information, prices are supposed to be inclusive of VAT. In any case, supplier invoices should mention clearly the amount of VAT in order to allow the recipient to deduct VAT input tax. Any payment between two VAT taxpayers must be executed by way of bank transaction (bank cheque or bank card or also mobile banking).

Output tax is calculated on:

- CIF value including all costs and taxes other than VAT in respect of importation;
- Taxable amount including all costs and taxes other than VAT for goods and services;
- Value of services and goods self-delivered by a taxpayer; and
- Amount of invoices or partial payment for civil works.

**Exempt supplies**

The following supplies fall mainly outside the scope of the VAT system:

- Sale of tickets for sports events organised by non-professional clubs;
- Scholarships for technical, professional and general studies;
- Interest paid to the Public Treasury (“Trésor”), banks and financial institutions;
- Medicines and health services;
- Sports materials and equipment for public use;
- Materials for the production of renewable energy;
- International transportation; and
- Delivery to foreign diplomatic representatives, on condition of reciprocity.

The following operations also fall mainly outside the scope of the VAT system:

- Salaries;
- Operations of the Central Bank of Madagascar; and
- Operations of the ‘Caisse d’Epargne’.

**Zero-rated supplies**

The zero rate is applicable only to the exportation of goods and services. The VAT law does, however, not contain a definition of ‘exportation of services’.

**Intercompany transactions**

Inter-company supplies are subject to VAT at a rate of 20%. There is no VAT on intercompany loan repayments. The tax law is unclear whether VAT of 20% must be applied on intercompany loan interest. In practice, no taxpayer pays VAT on intercompany loan interest.
The rate of import VAT is the same rate that applies to a domestic supply of goods. It is payable on the value of the goods, including cost, insurance and freight (‘CIF’) and duty. VAT incurred on the importation of goods into Madagascar may be recovered by a registered business as input VAT. The receipt issued by Customs at the time of import constitutes appropriate evidence of VAT payment.

Companies that are not a VAT vendor cannot claim customs VAT. VAT paid during a month on the importation of goods can be claimed as VAT input within following 6 months.

Law governing a specific business may allow exempt VAT on importation of goods. This is the case for Big Mining Investments Law, Free zone company law, Upstream Oil & gas law.

Agents
Agents can be appointed as an importer or exporter of record. All companies registered for VAT are entitled to claim customs VAT on imports.

Bonded warehouse
Customs VAT is suspended if goods are introduced in a bounded warehouse.

Goods can be stored in a custom warehouse during

- one year for public warehouse;
- one year for special warehouse; and
- 6 months, renewable one time for the same period; for private warehouse;

All goods can enter into warehouse except those which are specially prohibited by law such as the following (but not limited to):

- counterfeit products
- products infringing morality

Place, time and value of supply

Place of supply
VAT is applicable to all goods delivered in Madagascar and all services performed in Madagascar. Services are considered to be performed in Madagascar when they are executed in Madagascar or invoiced to a recipient established in Madagascar. There is no special VAT treatment of drop shipment and flash titles. VAT is only applicable when the goods are cleared.

Time of supply
VAT is payable at the time of clearing in the case of importation, or at the time of delivery of goods for local purchase, or at the time of payment for services. The notion of tax invoice does not exist under Madagascar tax and custom law.
**Value of supply**

VAT is payable on the CIF value of imported goods, or on the cost or price of a transaction for services and local transactions in respect of goods.

**Other**

**Rebates**

There are no specific incentives available to the mining industry from a VAT perspective.

**Rehabilitation and deregistration**

VAT deregistration is not possible as the option for VAT taxpayer status is definitive. Tax deregistration occurs with the winding up or liquidation of a business.

**Revenue authority contact details**

Direction Générale des Impôts Ministère des finances et du Budget Antananarenina Antananarivo 101 - Madagascar
dgimpots@moov.mg
# Namibia

| Population: | 2.308 million |
| Minerals: | Diamonds, Uranium, Copper-lead, Zinc-Lead, Base and precious metals, Dimension stone, salt, and Fluorspar |
| Revenue from mining operations: | $5.124 billion (2013 est.) |

## Introduction

VAT was introduced in Namibia on 27 November 2000 with the enactment of the Namibian VAT Act 10 of 2000 to replace sales tax and additional sales levies. The VAT authority is the Inland Revenue, which is a division of the Ministry of Finance.

## Rates and scope

The standard VAT rate is 15% and applies to all supplies of goods and services not qualifying for the zero rate (0%), or an exemption. The effective VAT rate for the importation of items subject to 15% VAT will be 16.5% due to a 10% upliftment factor.

The following transactions are generally subject to VAT:

- The taxable supply of goods and services for consideration in Namibia or partly in Namibia by a registered person; and
- The importation of goods by any person.

The following supplies are considered outside the scope of VAT:

- Employment services;
- Provision of goods on consignment;
- Exempt supplies;
- Branch activities outside Namibia;
- Registration and issuing of a licence by a registering authority;
- Levy of tax or levies by the State or local/regional authorities under any Act of Parliament;
- The payment of a subsidy, grant or bursary by any person;
- Goods entered in a licensed customs and excise warehouse; and
- Any activity conducted by the State.

## State involvement

No applicant is compelled to offer the State a share in a mining license. However, the State can participate in licenses if this is offered during negotiations.
It is not a requirement for foreign investors to provide for the participation of the Government or any Namibian as shareholder or as partner in business. However, it may be a requirement for the Government to be part of or become a shareholder or partner when the foreign national has interest in or rights over natural resources and wishes to exploit such resources.

Company start-up
For a branch registration in Namibia, the following documents are required in terms of the Namibian Companies Act:

- Notarial certified copies of the registration documents of the holding company;
- Memorandum and Articles of Association of the holding company;
- A list of directors;
- A list of shareholder; and
- The financial year end.

Please note that all the documents should be in English.

The Namibian branch must be a mirror reflection of the same as the holding company (i.e. it should have the same directors, shareholders etc.). For the registration of a subsidiary in Namibia, the following documents are required:

- Memorandum and Articles of Association of the holding company;
- List of appointed directors;
- List of shareholders;
- The financial year end; and
- A company name.

PwC will be able to assist the client with the branch/subsidiary registration. The client will also be able to purchase a shelf company from PwC.

Mining rights
Mining rights are acquired from the Namibian Government. No VAT is applicable on the acquisition of mining rights from the Namibian Government. Where acquired from a VAT registered entity, VAT will be applicable and input tax may be claimed if already registered for VAT.

VAT Registration

Compulsory registration
VAT registration is required in Namibia where goods and services are supplied continuously or regularly, or partly in Namibia by any person and the consideration of the supplies exceeds or is likely to exceed N$200 000 (±USD20 000) in any 12-month period.

The Minister of Finance of Namibia announced during her Budget Speech on 20 February 2014 that the registration threshold would be increased to N$500 000 (approximately USD50 000), effective when the VAT Amendment Act is promulgated. It is expected that the Amendment Act will be promulgated early 2015.

Voluntary registration
Voluntary registration is available in Namibia, but is subject to the discretion of the Commissioner based on the facts and merits of each voluntary registration application.

There is currently no special or specific provision for voluntary registration of mining or exploration companies in Namibia. The current provision is a generally applicable to any person making taxable supplies below the current VAT threshold.

The Namibian Revenue Authorities are considering the introduction of a minimum registration threshold for voluntary registration.

There are also no special requirements when registering a mining company. It is, however, recommended that a detailed motivation be submitted with the voluntary registration application in support of VAT registration in Namibia. A subsequent meeting with the Revenue Authorities is also advised.

Group registration
Group registrations are not allowed. All VAT registrations are subject to the same requirements. Dispensation can be requested for the relaxation of certain documentary requirements for the VAT registration of non-resident (foreign) entities in Namibia.

Non-residents
A non-resident business must register for VAT if it is performing taxable activities in Namibia, and the turnover exceeds N$200 000. In order to register for VAT purposes, a business must prove that it has a Namibian bank account, and that it has business premises in Namibia. The VAT registration of a non-resident business does not necessarily create a permanent establishment for direct tax purposes.

Application procedures
A business should complete a VAT registration form, which can be obtained from the Inland Revenue. The VAT number is the first seven digits of the income tax number followed by 015, i.e.: 9999999 015. For the VAT import account, the VAT number is the first seven digits of the income tax number followed by 016, i.e.: 9999999 016.

The following are practical considerations (amongst other things) for filing a VAT registration application:

- The company's certificate of incorporation, details of directors, auditors and officers should be provided;
- The company or branch registration with the Namibian Ministry of Trade should also be provided;
A Namibian bank account should be opened, and proof of account details should be confirmed on the registration form by the commercial bank by way of a bank stamp; and

- A fitness certificate should be obtained from the local authority in respect of the mining company’s place of business in Namibia.

When the application is successful, the Namibian Revenue Authorities should register the applicant within 2 months of the month of application. They can register the applicant 1 month earlier, for example:

Where the VAT registration application is filed on the 25th of August 2014, the earliest date of registration is 1 September 2014, and the latest date of registration is 1 October 2014.

**VAT compliance**

**Investment**

**Extraction/Mine**

**Processing and Operations**

**Rehab and Deregistration**

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### Returns and payment of VAT

A VAT return must be made bimonthly, and must be filed within 25 days after the end of the tax period. A tax period is a period of two calendar months, except for farmers who may elect a tax period of two, four, six or 12 months. A penalty of N$100 per day will be levied for any outstanding VAT returns in addition to 10% of the outstanding VAT per month or part of a month. Electronic filing of VAT returns is not allowed. VAT payable must be paid when the VAT return has to be filed.

A separate import VAT return must be filed every month within 20 days after the last day of the relevant month. VAT on imports in terms of an import VAT account (deferment facility) must be paid monthly. Monthly import VAT liability is based on entries assessed per import VAT account number on the Customs Asycuda system (linked to Inland Revenue’s system).

VAT can be paid in cash or by way of a cheque. Internet banking payments are not accepted, but a bank transfers are permissible. Payments larger than N$500 000 must be made by bank transfer as cheques for an amount larger than N$500 000 may not be issued in Namibia since 10 June 2010.

VAT returns are to be filed physically at the Revenue Authority’s offices country wide, or at the Magistrate’s Court where there is no Revenue Authority office available.

VAT payments can be made as follows:

- In cash before 12:00 on the due date; or
- By cheque - where the amount payable is below N$500 000 (±USD50 000); or
- By electronic payment ("EFT") to the Revenue Authority’s bank account with the Bank of Namibia before 11:00 on the due date.

All Namibian commercial banks cater for EFT payments to the Revenue Authorities. Specified referencing for EFT payments to the Revenue’s system). Asycuda system (linked to Inland Revenue’s system). By electronic payment ("EFT")

VAT returns are due on a monthly basis. The return and payment is due on or before the 20th of the month following the month of import. Where the 20th falls on a public holiday, Saturday or Sunday, the return and payment will be due on the next business day.

Import VAT returns should be filed even if a nil return.

### Import VAT returns (services)

Where applicable, VAT on imported services is due within 30 days of the date of import.

An Import VAT on services return is only due when an import has been made, and where the services imported are used by a registered person for making non-taxable supplies in Namibia.

### Interest and penalties

Interest is levied at the rate of 20% per annum on any unpaid VAT calculated from the first day after the date on which payment was due until the date on which payment of the unpaid tax was made.

Unlike penalties, interest may not be waived in terms of the VAT Act.

The penalties and interest that could be levied are as follows:

- Late filing of returns – N$100/day
- Late payment – 10% per month limited to 100% of the VAT payable
- Interest – 20% per annum on the outstanding VAT

It should be noted that the late payment penalty is not pro-rated, but charged in full (10%) per month or part of a month, for example:

- Due date – 25 August 2014
- Payment date – 28 August 2014
- Penalty – full 10% of outstanding VAT
**Refunds**

VAT refunds may be subject to a desk or field audit by the Revenue Authorities following a random selection on Inland Revenue’s system and in terms of risk parameters. This may delay refunds in terms of filed VAT returns significantly. A registered person may not deduct a refund from the next period’s payment.

VAT refunds will only be paid out when:

- Assessed by the Revenue Authorities;
- No VAT audits are pending; and
- No other tax returns or payments are outstanding.

VAT refunds will first be set-off against any outstanding tax liabilities on the Revenue Authorities’ system before being paid out to the registered person. In such case, the registered person may be required to submit a VAT claim form for the pay-out of any VAT refund balances remaining.

**Objections and appeals**

A request to waive penalties can be submitted. However, the request will not be considered where any tax returns and payments are outstanding or any tax liabilities are due on the system of the Revenue Authorities.

Interest cannot be waived and should be paid up before applying for a penalty waiving.

**Time limits**

Input tax not yet claimed may be deducted if such input tax arose from a transaction that occurred during the current or immediately preceding VAT periods. Input tax may be claimed for a period up to three years after the end of the tax period during which the registered person for the first time becomes entitled to it.

**VAT records**

**Tax invoices**

An invoice for VAT purposes must contain the following information:

- The words ‘tax invoice’ must be shown in a prominent place;
- The name, address and VAT identification number of the supplier;
- The name and address of the recipient (purchaser);
- The serial number of the invoice;
- The date of issue;
- A description of the goods or services supplied;
- The quantity or volume of the goods or services supplied; and
- The total amount of VAT charged, the purchase price excluding VAT, and the purchase price including VAT.

Electronic invoices are not accepted, foreign languages on invoices are not allowed, and invoicing may not be done in a foreign currency. There is no requirement to state the VAT registration number of the customer on the tax invoice.

**Credit notes and debit notes**

A tax credit note or tax debit note must contain the following particulars:

- The words ‘tax credit note’ or ‘tax debit note’ in a prominent place;
- The name, address and VAT registration number of the registered person making the supply;
- The name and address of the recipient of the supply;
- The date on which the tax credit note or tax debit note was issued;
- The value of the supply shown on the tax invoice, the correct amount of the value of the supply, the difference between those two amounts, and the tax that relates to that difference;
- A brief explanation of the circumstances giving rise to the issuing of the tax credit note or tax debit note; and
- Sufficient information to identify the taxable supply to which the tax credit note or tax debit note relates.

**Additional export documentation**

In case of an export, a business must keep the following documents:

- A tax invoice; and
- A stamped SAD 500 (Customs and Excise declaration for home consumption).

**Record-keeping**

There is no restriction on the retention of documents (tax invoices, tax credit notes, and tax debit notes) for VAT purposes. The original purchase invoices and copies of all sales invoices must be kept in Namibia.

Accounting records (i.e. trial balances, general ledgers, cashbooks, etc.), however, need to be kept for a period of 5 years, and may not be kept solely in an electronic format — paper copies are still necessary. These records may be kept in another country provided that these are kept on an electronic system that is linked to Namibia, and that print-outs can be provided within 24 hours after receiving a request for documents from Inland Revenue.

**Acquisition of debt/equity**

The issue or transfer of equity shares are not subject to VAT in Namibia.

**Local debt**

Local loan funding received is not subject to VAT in Namibia. Any interest paid on loan funding received is exempt from VAT.

**Foreign debt**

Foreign loan funding received is not subject to VAT in Namibia. Any interest paid on loan funding received is exempt from VAT.
A tour operator, a person providing entertainment or a person providing taxable transportation services may, however, deduct input tax on taxable supplies made to him or her or on imports by such person, provided such taxable supplies or imports relate to the provision of entertainment or if the entertainment is provided to passengers as part of transportation services. ‘Entertainment’ is defined as the provision of food, beverages, tobacco, accommodation, amusement, recreation or hospitality of any kind, whether directly or indirectly.

Certain types of persons may deduct the input tax on passenger vehicles, namely:

- Persons dealing in motor vehicles or car rental;
- Tour operators;
- Short-term insurers if the vehicle was acquired to indemnify a client under a short-term insurance contract; and
- Charitable organisations, but the subsequent sale of the vehicle will be subject to VAT.

Partial exemption

The VAT Act makes provision for only one apportionment method to be utilised by persons rendering a mixture of taxable and exempt supplies. The method is based on the application of a turnover ratio using the turnover of the previous financial year as a basis (certain special rules apply to the banking sector). If the percentage of exempt supplies in relation to total supplies is less than 10%, the registered person does not have to apportion the input tax paid on its expenses.

Adjustments

No special rules apply.

Inter-company transactions

Inter-company supplies

Supplies between connected persons have special time and value of supply rules for purposes of completing VAT returns.

The time of supply for goods supplied is at the time of removal of the goods, or at the time the goods are made available to the recipient in the case where goods cannot be removed. The time of supply for services supplied is at the time the services are performed or in case of management fees or other similar services, at the end of each calendar month.

The value of the supply between connected persons will be the amount of the consideration charged to the recipient where the recipient is registered for VAT in Namibia. Where the recipient is not registered for VAT in Namibia, the value of the supply will be the open market value of such supply.

Barter transactions or transactions in kind are deemed supplies for VAT purposes and subject to VAT at 15% unless specifically zero-rated.

Inter-company loans

Financing received or granted is not subject to VAT in Namibia. Interest received or paid on loans granted or received is exempt from VAT in Namibia.

Output tax

Calculation of output tax

Prices charged by a registered person in respect of a taxable supply are deemed to include the VAT payable on the supply. Prices advertised or quoted by any registered person in respect of a taxable supply must include VAT and the registered person must state, in the advertisement or quotation, that the price includes VAT. If a person wishes to advertise or quote a price exclusive of VAT, he may nevertheless do so, provided that the VAT amount is also indicated.
In practice, it is understood that the Revenue Authorities requires the following documentation for exports by sea:

- Copy of tax invoice for goods sold
- F178 form from local bank;
- Namport documents for shipping order;
- Bill of lading;
- Original stamped SAD500;
- Proof of import paid in the other country;
- Proof of deposit; and
- Proof of receipt of goods by the owner or charterer of a foreign-going ship or aircraft (stamped by ship’s Master).

In addition, the Namibian Revenue Authorities are of the view that somebody should be entrusted to transport and deliver the goods to the recipient at an address in the export country.

It is therefore advisable that proof of contracting with a transport contractor and the payment of a transport contractor for the export of the goods be retained by the exporter.

It should also be noted that the Revenue Authorities are considering the introduction of an export levy on raw materials exported from Namibia. This has not yet been enacted, but it is our understanding that the export levy will vary from <1% to 2% for the following:

- Diamonds, Zinc, Lead, Uranium, Copper, Gold, Manganese, Fluorspar
- Other Metals, Precious and Semi-precious stones, Dimension stones & Marbles; and
- Gas, Crude Oil.

There is no time limit in which goods must be exported; however, provisions on direct export of goods are important to consider where 0% of goods exported have to be proved by the supplier.
Export documentation would be prepared on the shipping invoice value as approved by Customs & Excise at the time of exportation. To the extent that this differs from the final tax invoice, it is recommended that the final tax invoice value be declared as revenue on the respective VAT Returns at the respective VAT rate being 15% or 0%.

**Services**

Services generally supplied to non-residents, who are outside Namibia at the time the services are rendered, are zero-rated provided that these services do not relate to movable goods, which are not subsequently exported from Namibia or immovable property situated in Namibia. A supply of services physically rendered outside Namibia is zero-rated.

**Imports**

**Goods**

VAT is payable on the importation of goods at the greater of the free-on-board value plus the upliftment factor of 10% (i.e. effectively 16, 5%), or the open-market value of the imported goods. Import VAT paid may be claimed back should the person be registered for VAT and render taxable supplies.

Only cash or Namibian bank guaranteed cheques are accepted by Customs and Excise for payment of VAT on the importation of goods unless the importer has arranged for a VAT import account facility at Inland Revenue and the facility has been registered at Customs.

Certain imports are exempt, but it is advisable to ensure which Customs procedures are applied to obtain the exemption, e.g. the exemption for import of household furniture by a person changing residence to Namibia must be applied for in advance at Customs and Excise and supported by a work permit issued by the Ministry of Home Affairs.

All imports are recorded electronically on the Customs Asycuda system. Inland Revenue has been linked to the Customs Asycuda system, making it possible to determine import VAT liability based on the reports of monthly imports produced by the Asycuda system.

Security in the form of provisional payment, guarantee or ATA Carnet is required for the temporary importation of goods, e.g. construction equipment and machinery, including private vehicles by a person taking up residence in Namibia.

Import VAT is payable on the importation of goods from outside SACU (Southern Africa Customs Union) member countries at 15% of the higher of:

- The freight-on-board ("FOB") value of the goods imported uplifted with 10%; or
- The open market value of the goods imported.

Import VAT is payable on the date of clearance of the goods for home consumption in Namibia unless the importer is registered for Import VAT in Namibia, in which case Import VAT will be payable on or before the 20th of the month following the month of importation.

Only goods subject to Customs duties at a positive rate and imported from a non SACU member country may be entered or stored in a Customs & Excise storage warehouse ("Customs bonded warehouse") in Namibia.

The parts and equipment will also be subject to Import VAT at an effective rate of 16, 5% of the FOB value, and is payable by the importer on the date of clearance of the goods for home consumption or where registered for Import VAT in Namibia on or before the 20th of the month following the month of importation.

On-supply of the replacement parts and equipment under warranty

The on-supply by a Namibian VAT registered person will be subject to VAT at 0%.

**Bonded warehouse**

When goods are cleared into a Customs bonded warehouse, the payment of Customs duties and Import VAT is deferred to the date of clearance and release of the goods for home consumption in Namibia.

If goods are moved to another Customs bonded warehouse, payment of duties and Import VAT is also suspended. The liability to pay Customs duties is acquitted when goods are directly exported from the Customs bonded warehouse. Goods may stay in Customs bonded warehouse for period of 5 years. Control over stock in a Customs bonded warehouse is very important and subject to Customs inspections. This can be quite an administrative burden.

**Services**

VAT on imported services (the so-called reverse charge) is only levied to the extent that such imported services are utilised or consumed other than to make taxable supplies. VAT on imported services is levied at 15% of the value of the supply. Essentially, only exempt or partially exempt taxpayers (for example banks and life insurers) are thus impacted by the reverse charge. Non-registered persons who import services theoretically also have to declare and pay VAT on these imported services.
The import exemptions available to mining companies in terms of Schedule V to the VAT Act are mainly:

- on goods imported for use solely in operations in connection with the prospecting for, or the mining of, natural oil or natural gas; and
- on goods and services imported by an Export Processing Zone entity (“EPZ”), or EPZ management company for use by that entity or company in an export processing zone.

VAT on imported services is applicable where services are imported by:

- A VAT registered person for use in making exempt (non-taxable) supplies in Namibia; or
- A non-registered person.

For a local VAT registered person to qualify for 0% of goods exported from Namibia, it is advised that the local VAT registered person be the exporter of record and not an agent as it is required that the supplier (local VAT registered person) should retain sufficient export documentation as proof of export from Namibia.

Agents

An agent can be the importer of record for a foreign principal entity on import transactions. However with regards to export transactions, the foreign principal would be regarded to be the exporter which will imply local VAT registration for the foreign principal being the exporter of record.

The Namibian VAT Act does not have specific provisions on the VAT treatment of drop shipments and flash titles. Both are considered to be a taxable supply by the local supplier for VAT purposes and ordinary rules on direct versus indirect export regulations as well as transfer on ownership will apply.

Import VAT deductibility

The importer of record is entitled to claim Import VAT paid on the importation of goods where the importer is registered for VAT in Namibia and the goods imported are used to make taxable (15% or 0%) supplies in Namibia. Any Customs duties paid on the goods imported is not claimable and will be a cost to the importer.

Customs duties cannot be claimed, however, Import VAT can be claimed in the VAT period in which it was paid.

Import VAT claims should be supported by the following supporting documentation:

- An original SAD500 form stamped by Customs & Excise;
- A foreign supplier invoice in the name of the importer which corresponds to the goods and values specified on the SAD500; and
- Proof of payment of the Import VAT claimed.

Refunds to foreigners

VAT refunds by tourists and non-residents are processed by a private VAT Refund Administrator (‘VRA’) appointed by Inland Revenue and are subject to a commission (depending on VAT amount claimed, e.g. if exceeding N$5 000, the commission withheld will be limited to N$450).

Non-residents and tourists qualify for refunds of VAT upon presentation of proof of export (Customs-stamped export bill of entry) and an original Customs-stamped tax invoice, and such other documents as may be required by the VRA from time to time. However, such refunds do not apply to goods and services consumed in Namibia.

Value of supply

VAT is levied on the consideration received. If a supply is carried out between connected persons, the supply is deemed to be made at the open market value if the recipient of the supply is not registered for VAT purposes. If the recipient is registered, the value of the supply is the amount of the consideration.

The Revenue Authorities will not cancel the VAT registration if they have reasonable grounds for believing that the registered person will carry on any taxable activity at any time within 12 months from the date of cessation.

Where VAT registration is cancelled and there are any goods, including capital goods (property) on hand in respect of which input tax was claimed or allowed, the registered person will be deemed to have made:

- a taxable supply (15%) of such goods;
- at the time the registration was cancelled; and
- at the open market value of the supply.

The registered person will therefore have to declare and pay Output VAT of 15% to the Namibian Revenue Authorities on the open market value of such goods on hand at the time of VAT de-registration.

Other

Rebates

Diesel rebates

Fuel users in the mining sector are entitled to partial fuel levy refunds on bulk fuel purchases (diesel) for off-road use. To qualify for such refunds, fuel users should register with the Namibian Road Fund Administration (“RFA”) and submit claims on a specified form accompanied by the original purchases invoices issued in the name of the refund claimant by wholesalers registered in terms the Namibian Petroleum Products and Energy Act.
**Incentives**

Namibia offers limited investment incentives. The incentives currently available are those applicable to EPZ entities (exemption from income tax, VAT, Import VAT, customs duties, etc.).

The other exemption available in terms of the VAT Act is an import exemption on goods imported for use solely in operations in connection with the prospecting for, or the mining of, natural oil or natural gas.

**Joint Ventures**

Profit distribution by a JV is not considered a supply for VAT purposes. However, the JV is subject to VAT registration where its turnover or revenue will exceed, or is likely to exceed the current VAT threshold in Namibia, in which case the JV will account for VAT on its revenue streams, and will be entitled to input tax claims on its expenses incurred post VAT registration unless specifically denied (passenger vehicles or entertainment expenses etc.).

**Rehabilitation and deregistration**

**Rehabilitation**

This is not specifically addressed or denied per the Namibian VAT Act.

It is therefore implied that input tax can be claimed provided the entity is still registered for VAT when the rehabilitation expenses are incurred. It is however advisable to clear this with the Namibian Revenue Authorities in advance.

**Deregistration**

A registered person can only deregister after a period of two years of being registered. Input tax can be claimed on expenses incurred prior to the suspension of the registered person’s VAT account by the Revenue Authorities (i.e. on the last VAT return prior to de-registration).

There are 2 instances where a registered person qualifies for VAT de-registration:

1. Where a registered person makes taxable supplies below the N$200 000 VAT threshold in any 12 month period, the registered person may only apply for de-registration after the expiration of a 2 year period from VAT registration.

2. Where a registered person ceases to carry on all taxable activities (in other words no longer operates or only makes exempt supplies), the registered person is required to notify the Namibian Revenue Authorities in writing within 21 days of such date of cessation.

**Revenue authority contact information**

Inland Revenue
Private Bag X 13185
Windhoek
Namibia

T: +264 61 209 2940
**Introduction**

VAT (Imposto sobre o Valor Acrescentado) was introduced in Mozambique in 1998 through Law no. 3/98 of January 8, 1998 and Decree no. 51/98 of September 29, 1998, hereby approving the first VAT Code in Mozambique. Due to the approval of the new Constitution of the Republic (CRM) in 2004, it is mandatory to approve all the tax codes by law. Thus, and in order to comply with the CRM, VAT is currently governed by the new VAT Code (Código do Imposto sobre o Valor Acrescentado or CVAT), approved by Law no. 32/2007, of December 31, 2007, which replaced Decree no. 51/98 of September 29, 1998, together with its regulations approved by Decree no. 7/2008 of April 16, 2008 (RCVAT).

**Rates and scope**

The Mozambique (unique) VAT rate is 17%. Certain goods or services are charged at 0%. However, there are cases when VAT is not due on the full price, leading in practice to lower effective rates, namely:

- Public works for the construction or rehabilitation of roads, bridges and water or power infrastructures for supplies to rural areas – due on 40% of the taxable basis;
- Power (price is established by authorities) – 62%; and
- Services whose price is determined based on aeronautic excises – 85%.

VAT is levied on the:

- Supply of goods – i.e. the transfer of the right to dispose of tangible property as owner, which includes commercial transactions, hire purchase, sale in instalments with reservation of ownership, commission, consignment, and application of goods forming part of a business for private use or for non-business purposes when tax has been deducted on such goods, use of goods on which tax has been deducted for a purpose or in a sector where right of deduction is excluded;

Mozambique

| Population: | 25.83 million |
| Minerals: | Oil and gas, coal, gold, ruby, some precious stones, iron, tantalite, uranium |
| Revenue from mining operations: | USD$470 million (2012) |
| Languages: | English, Portuguese |

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**Population:** 25.83 million
**Minerals:** Oil and gas, coal, gold, ruby, some precious stones, iron, tantalite, uranium
**Revenue from mining operations:** USD$470 million (2012)
**Languages:** English, Portuguese
or of its staff, or to purposes not related to the company, and the personal use of a company's goods as well as its use for purposes not related to the company and in exempt sectors of activity when input tax has been deducted on such goods; and

• Importation of goods, being the entry of goods into the territory of the country.

The following persons are liable for the payment of VAT:

• Any person carrying on an economic activity on an independent and regular basis;
• Any person carrying on an operation on an occasional basis;
• Non-residents carrying on operations;
• Importers (whether or not they are entrepreneurs);
• Cases of self-assessment;
• Any person who unduly charges VAT on an invoice; and
• The State, except if those activities are not carried out in a significant manner (including telecommunications, water, gas and electricity distribution, transport, ports and airports, TV and radio, etc.).

**State involvement**

There is a requirement in Mozambique that the Government should be a 5% shareholder in all mining companies.

**Company start up**

The general requirements to incorporate a company are as follows:

• Obtaining a name admissibility certificate (“Certidão de Reserva de Nome”);
• Drafting the company’s statutes and having it signed by all the partners/shareholders and certified by the Notary;
• Publication at the official gazette of the company’s statutes;
• Registration at the Legal Entities Registrar Office;
• Registration at the Tax, Labour and Social Security authorities

Besides the general requirements to incorporate a company, the Mining Law provides for other requirements (i.e. technical and financial capacity) and steps to be followed (i.e. recognition of the area to be explored, prospecting and research, explorations) up to obtaining one of the mining licenses at the relevant authorities (i.e. Ministry of Minerals Resources or National Directorate of Mineral Resources).

**Mining rights**

Mining rights can be acquired through obtaining one of the licenses established on the Mining Law and the payment of the respective fees. There is no VAT applicable on the acquisition of such rights.

Once obtained, these rights or parts of it can be traded normally. As a rule, transactions within Mozambique are subject to VAT; sale of rights to non-residents are not subject to VAT.

**Non-residents**

Non-resident entities without permanent establishment in Mozambique that carry out transactions in the national territory should appoint a resident legal representative to comply with the respective VAT obligations.

If the VAT representative of the non-resident company is an entity already registered with the tax authorities, the registration of the non-resident entity is made through the completion and submission of the form titled ‘Declaration of Amendments’.

If the VAT representative of the non-resident company is an entity not registered with the tax authorities, the registration of the non-resident entity is made through the completion and submission of a form designated Model No. 01/C – ‘Declaration of registration of companies’.

The legal representative and the non-resident entity are severally liable to the tax authorities. Should the non-resident entity fail to appoint a legal representative in Mozambique, the purchaser of the goods or the recipient of the services must comply with the tax obligations.

A non-resident entity can register any incorporated body or a branch in Mozambique and that registration is made for all tax purposes including VAT.

**Application for registration**

Tax registration is done by completing and submitting to the tax authorities the application form Model No. 01/C – ‘Declaration of registration of companies’ to obtain a tax number. The form called Model 02 – ‘Declaration of start of activity for tax purposes’ must be submitted 15 days prior to the commencement of tax activities.
The registration number normally comprises 9 or 10 numerals and is called NUIT – Unique Number of Tax Identification (‘Número Único de Identificação Tributária’), and it is also the tax number for all taxes (direct and indirect).

Once a NUIT is obtained, a start-up return has to be filed, which is made through Model 02 (M/02) – ‘Declaration of start of activity for tax purposes’ – 15 days prior to commencement of activities.

The corporate tax provisions have a concession rights based ring fencing regime for companies exploring natural resources. As this regime may imply the use of one NUIT per each concession, this would have impact at VAT level as well. However, the ring fencing provisions are yet to be completed with practical application rules.

### VAT Compliance

- **Investment**
- **Extraction/Mine**
- **Processing and Operations**
- **Rehab and Deregistration**

### Returns and payment of VAT

The following returns must be submitted either manually or electronically:

- Return applicable to starting of activity – to be submitted to the Tax Department 15 days before starting the activity (Modelo 02);
- Tax registration return – to be submitted to the Tax Department before starting the activity (Modelo 01/C);
- Monthly returns with payment – to be submitted up to the last working day of the following month;
- Amendments return – to be submitted within 15 days after the alteration of any information included in the Declaration of Start of Activity of the company; taxpayers should submit a Declaration of Alterations to the same entity; and
- Closedown return – to be submitted within 30 days of the relevant declaration.

VAT payments must be made as follows:

- VAT due by taxpayers for the month must be paid to the Tax Department by the last working day of the following month;
- VAT assessed must be paid within 30 days after termination; and
- VAT deduction will be made within the period corresponding to the issuance date of the invoice or equivalent document, or within the following 90 days.

### Interest and penalties

The non-payment or late payment of the VAT due is subject to a fine that may vary from the amount of unpaid tax to double this amount, but not exceeding (in Mozambican Metical) MZN2.5 million (approximately USD83 500). Interest may also be applicable should there be an amount of VAT due. The applicable interest rate is MAIBOR – 12 months plus 2% in force on the date of assessment. Interest and fines would not be waived even if the non-compliance does not result in a financial loss to the State.

### Refunds

Whenever there is a right to deduct VAT, the amount of deductible VAT must be offset against the amount of VAT payable on a monthly basis. If the amount of deductible VAT exceeds the amount due, the difference will be deductible within the subsequent months. If after 12 months the amount of credit subsists, and is higher than MZN50 000, the taxpayer may apply for the relevant refund.

Irrespective of the 12-month term, the taxpayer is allowed to request a VAT refund when:

- It ceases its activities;
- It starts carrying on exclusively VAT-exempt operations with no right to deduction, or qualifies under the exemption or under simplified regimes; or
- The amount of credit exceeds the fixed limit of MZN50 000.

The deadline legally established for the tax authorities to refund VAT is 30 days. If the deadline is not met, interest will be paid on special request by the taxpayer. In practice, refunds are being paid with some delay.

### Objections and appeals

Tax authorities issue assessments and taxpayers are entitled to contest such assessments, and the process is regulated not only for objection, but also for appeal to the administrative court.

### Administration acts

Law no. 32/2007, of 31 December, Value-Added Tax Code (CIVA) and the Regulation on VAT Code, approved by decree nº 7/2008 of April 16, 2008 with subsequent amendments are in place to regulate VAT.

### Time limits

The tax liability for any taxpayer exists for up to five years. There is no prescription period for the obligation to charge VAT on a transaction, but it is assumed that this obligation falls away after five years. After one year, input tax may be claimed only upon recognition by the tax authorities of such tax credit.

### VAT records

#### Tax invoices

Invoices must be issued by any person/entity that carries out an economic activity on an independent and regular or occasional basis. Therefore, we understand that agents may also issue invoices.

Regardless of the process of issuance of the invoice, all wording must be in Portuguese and local currency. However, the tax authorities do
accept that English can be used alongside with the Portuguese wording.

An invoice will only be valid for VAT purposes if it is either printed by a local printing company, authorised by the Ministry of Finance, or issued using invoicing software authorised by the Ministry of Finance.

VAT invoices have to comply with the following requirements:

- Name, address and tax registration number (NUIT) of the supplier and customer;
- Date and unique sequential number;
- Number and type of goods supplied;
- The price net of VAT;
- The VAT rate (17%), the value of the VAT charged and (separately) any exempt goods, with specific indication of the legal article granting exemption;
- If the invoice is issued by an authorised printer it should include the name of the printer, the authorisation number and the tax registration number of the printer;
- If the invoice is issued using software previously authorised by the Ministry of Finance, it has to include the expression ‘Processed by Computer’; and
- Invoices must be issued in MZN.

**Credit notes**

Credit notes are used in the case of the cancellation or reduction of the value of a past operation, adjusting the relevant value.

Credit notes must always make reference to the invoices to which they relate.

VAT on credit notes may or may not be included, i.e. credit notes may only adjust the operation’s value without modifying the VAT position since in normal circumstances VAT charged by the supplier has been deducted by the customer.

**Additional export documentation**

Export transactions should be supported in the company’s records through the specific form issued by the customs authorities for every export made (namely the DU – ‘Documento Único’), as well as any other documentation that supports the transaction (e.g. invoices).

**Record-keeping**

The following records must be kept for a period of 5 years:

- Statutory accounting system – records of all operations according to their VAT treatment; original invoices received and duplicates of invoices issued;
- Special records when invoicing is waived (e.g. sales by retailers and traders in market places; supply of services in certain circumstances); and
- VAT books (for taxable persons without a statutory accounting system) – records of inventories, supplies of goods and finished products, services rendered, operations on fixed assets and inventories, by-products and consumables, as at 31 December each year.

All books, records, supporting documents, and other documentation related to programming and treatment of data when accounting is carried out through a computer system, must be kept for 10 years. The accounting documentation must be kept within the country at the company’s headquarters or by its legal representative to allow the tax authorities access to the documents when required. As the scanning of documents is not expressly allowed, authorisation for scanning should be requested from the tax authorities.

**Acquisition of Debt/Equity**

The issue of shares is not a taxable transaction for VAT purposes. Furthermore, the granting of a loan is not a taxable transaction for VAT purposes. Interest paid is VAT exempt, but may be subject to stamp tax in certain conditions.

**Input tax**

**Input tax allowed**

VAT is fully recoverable subject to complying with the legal requirements in the case of taxpayers carrying out fully taxable activities. VAT incurred on the acquisition of assets and construction of a mining plant may be claimed as long as it has been incurred for the purpose of performing a taxable activity. Taxpayers carrying out VAT-exempt activities are not entitled to claim any input credit. Mixed taxpayers will have to use an apportionment method to determine a percentage of deductible VAT.

**Input tax expressly denied**

Input tax recovery is expressly denied in the following circumstances:

- Passenger or passenger/goods vehicles, pleasure boats, helicopters, aircraft and motorcycles;
- Fuel used for cars, except for diesel fuel, where 50% of the tax is deductible. However, diesel is fully deductible if related to tractors used for agricultural purposes, certain machines, and large vehicles licensed for the transportation of people or goods, excluding those used in the car rental sector;
- Expenses on business trips and transport for entrepreneurs or employees;
- Lodging, food and drink, tobacco and entertainment expenditure;
- Telephone communication costs, except those related to fixed telephones in the name of the company; and
- Diversion and luxury expenses.
Partial exemption

Taxpayers simultaneously carrying out taxable and exempt activities can recover VAT on inputs on an apportionment basis using pro rata or direct allocation methods.

Adjustments

The use or allocation of goods that are part of a business for private use or for non-business purposes is considered as a supply of services when VAT has been deducted on such goods. Therefore the taxpayer must pay VAT to the tax authority.

Pre-registration VAT

There are no specific rules regarding the recovery of VAT prior to registration or after deregistration. Companies intending to recover pre-registration VAT should submit an application to the tax authorities requesting their legal opinion on such a procedure.

Output tax

Output tax is calculated by applying the VAT rate of 17% to the selling price.

Single exemptions

Single exemptions (without credit) are applied, amongst others, to transmission or supplies of the following goods and services:

- Medical and sanitary services and strictly connected operations carried out by hospitals, clinics, and dispensaries;
- Wheelchairs and similar vehicles for disabled people and any prosthetic or compensation material intended for substitution of any limb or organ of the human body, or intended for treatment of fractures, as well as those intended to be used by blind people or for hearing deficiency correction;
- Transport of sick or wounded people in ambulances by duly authorised entities;
- Mosquito nets;
- Medicines, including those intended for veterinary purposes, pharmaceutical specialities and other pharmaceutical products intended exclusively for therapeutic and prophylactic use, as well as plasters, bandages, cotton, cotton wool, adhesive bands and other similar products;
- Services and strictly connected goods, supplied by nurseries, kindergartens, centres of leisure, establishments for abandoned children and youth, homes for the aged and invalids, establishments for children and youth with disabilities, rehabilitation centres and other similar establishments pertaining to public entities or non-profit organisations;
- Intellectual property rights and the authorisation to use intellectual property by the respective authors or heirs;
- Insurance and reinsurance operations;
- Lease of immovable property for residential purposes or for commercial, industrial or services use, provided that the immovable property is located in a rural area;
- Operations subject to property transfer tax (SISA);
- Acquisition of raw material, intermediary products, spares, equipment and components made by the national industry of sugar; and
- Acquisition of services related to drilling, exploration and construction of infrastructures within the mining and oil industries during the exploration and development phases.

Complete exemptions (zero-rated supplies)

The following transactions are fully exempt from VAT:

- Exports (international transport); and
- Transmission of goods to be used as raw material in the alimentary oil and soap industry, resulting from the industrial activity of production of alimentary oil and soap, carried out by the relevant factory.

Inter-company transactions

Intercompany supplies, i.e., supplies between companies of the same group are treated as normal supplies for VAT purposes. Intercompany loans are VAT exempt.

International Trade

Goods

VAT is payable by any importer on the importation of goods. However, importation of the following goods is exempt from VAT:

- Goods that are exempt when sold within the country;
- Certain goods that are duty exempt or declared subject to suspension procedures;
- Importation of gold by the Bank of Mozambique;
- Re-importation of goods by the entity that exported the goods, when they are exempt from import duties;
- Ships and aircraft used in the international trade and goods for provisioning and fuelling thereof;
- Certain other exemptions and reductions recognised by the Minister of Finance; and
- Goods classified as class K according to the customs tariff schedule.

All goods imported may be stored in a customs warehouse, and are exempt from the payment of VAT until that regime is kept. The period allowed to store the goods under the referred regimes varies.
according to the nature of the goods and the customs warehouse regime authorization.

The importation of warranty replacement parts and equipment are treated as normal imports for VAT purposes.

An agent can be appointed as an importer of record and depending on the arrangement; either the importer or its legal representative may claim the related input tax deduction.

The VAT on importation may be claimed in the period which the tax respects, or within the following 3 months after which the taxable fact occurred. The supporting documentation for the VAT claim is the customs receipt, which provides evidence of the duties and VAT payment upon import.

**Services**
The general rule is that any performance of services is taxable if the service provider has its headquarters, permanent establishment or domicile from which the services are rendered, in Mozambique.

However, the performance of the following services is always taxable regardless of whether the service provider has its headquarters, permanent establishment or domicile in Mozambique:

- Services related to an immovable property located in Mozambique;
- Services performed on movable tangible goods and inspections related to them, if executed totally or essentially in Mozambique;
- Transport for the distance travelled in Mozambique.

The following services are also always taxable when the customer is established or domiciled in Mozambique:

- Cession or authorisation for use of copyright, licences, trademarks and similar rights;
- Services provided by consultants, engineers, lawyers, economists and accountants, as well as study offices in several areas, such as organisation, research and development;
- Supply of information and data;
- Dismissing of personnel in favour of a third party;
- Intermediary services that intervene in the name and on behalf of a third party in the performance of services;
- The obligation of not exercising, even if partially, a professional activity or a right mentioned above; and
- Leasing and renting of movable assets.

Should the service provider not have appointed a legal representative in Mozambique, the tax obligations in respect of the transmission of goods and performance of services must be complied with by the purchaser of the goods or the recipient of the services by the application of the self-assessment rules.

**Exports**

**Goods**
Exportation of the following goods is subject to full exemption from VAT (i.e. zero-rated):

- Goods shipped or transported abroad by or on behalf of the seller; and
- Goods shipped or transported abroad by a customer without residence or establishment in Mozambique, except goods destined for the supply of ships, tourism aircraft or any other means of conveyance for private use.

The following supplies of goods are considered as operations assimilated to exports, and therefore, are subject to VAT exemption:

- Supply of provisioning goods for vessels that carry out maritime navigation on the high seas, the remunerated transport of passengers, a commercial, industrial or fishing activity, rescuing or maritime assistance, and coastal fishing;
- Supply of goods under diplomatic and consular relations, in accordance with international agreements;
- Supply of goods to certain international entities; and
- Supply to the Bank of Mozambique of gold ingots or other forms of gold.

Export transactions should be supported in the company's records through the specific form issued by the customs authorities for every export made (namely the DU – ‘Documento Único’), as well as any other documentation that supports the transaction (e.g. invoices). They must be in the hands of the exporter at the shortest notice.

Customs duties and VAT are applied based on the shipping lists and customs returns. Custom duties are not value-based, so there are no differences to consider between the shipping invoice and the final tax invoice. The transaction value is the first criterion for determination of customs value and VAT. If the final tax invoice shows a value different from the one initially declared customs value and VAT must be adjusted in favor or against the importer depending on the correction made.

**Agent**
An agent can be appointed as an exporter of record and depending on the arrangement.

**Drop Shipment**
Drop shipments are treated like normal exports for VAT purposes.

**Flash titles**
No specific rules for flash title transactions. Therefore, normal exports rules will apply.
Services

The following services are also considered as operations assimilated to exports and, therefore, are subject to VAT exemption:

- Transmission, transformation, repair, maintenance, freight and lease of vessels relating to certain activities;
- Transmission, transformation, repair, maintenance, freight and lease of aircraft used by airline companies dedicated to international traffic, and the supply of provisioning goods for the said aircraft;
- Services directly related to goods exempt from tax, being temporary imports or transits, or entered in deposits of the customs regime;
- Services related to the shipping of goods abroad; and
- Works on movable assets acquired or imported for purposes of such works, which are afterwards shipped or transported abroad.

Furthermore, as stated above, the general rule is that all performance of services is taxable provided that the service provider has its headquarters, permanent establishment, or domicile in Mozambique from which the services are rendered.

However, the aforesaid rule has a few exceptions, namely that the performance of certain services is not taxable when the customer is established or domiciled outside of Mozambique, even if the service provider has its headquarters, permanent establishment or domicile in Mozambique. The said services that are VAT exempt are the following:

- Cession or authorisation for use of copyright, licences, trademarks and similar rights;
- Services provided by consultants, engineers, lawyers, economists and accountants, as well as study offices in several areas, such as organisation, research and development;
- Supply of information and data;
- Disposal of personnel in favour of a third party;
- Intermediary services that intervene in the name and on behalf of a third party in the performance of services therein;
- The obligation of not performing, even if partially, a professional activity or a right mentioned above; and
- Leasing and renting of movable assets.

Refunds to foreigners

To PwC Mozambique’s best knowledge, the Mozambican Authorities have not yet implemented mechanisms that allow tourists and foreign entities to be refunded the VAT paid on their local purchases when they leave the country.

Place, time and value of supplies

Place of supply

VAT is levied on the supply of goods or services carried out in Mozambique (territoriality concept), as well as on imports. In the case of goods, the general rule is that the taxable operation takes place where the transport to the person to whom the goods are supplied begins or where the goods are when the supply takes place except in the case of transactions by the importer before clearance of the goods upon importation.

In the case of services or works, the general rule is that the taxable operation takes place at the supplier’s business or permanent establishment from which the services are rendered, or its permanent address.

The following exceptions apply:

- Services related to immovable property located outside Mozambique – place of the property;
- Works on movable goods executed totally or mainly outside Mozambique – place where the service takes place; and
- Transport – where effected or distance covered.

Under the self-assessment rules, supplies of specific services (such as telecommunication, royalties, licences, trademarks, copyrights, advertising consulting, engineering, lawyers, economists, accountants and research and development services, supply of staff, lease including financial leasing of movable goods, etc.) are taxable in Mozambique, even if the supplier fails to register provided the customer is a taxable person. On the other hand, these supplies would not be taxable if the customer is a foreign entity even if the supplier is a resident entity.

Time of supply

The time-of-supply rules determine when VAT becomes chargeable and the time from which the tax authorities may reclaim tax. These two relevant moments may not occur simultaneously whenever an invoice or equivalent document is issued, although the term for invoicing is counted from the taxable event.

As such, the normal rules of a taxable event are the following:

- Supply of goods – when the goods are delivered to the customer;
- Supply of services– when the service is concluded;
- Imports – when the goods are cleared at customs;
- Supply of goods with transport – when the transport begins;
- Supply of goods with assembling – time of conclusion;
- Supply of continued services – at the end of each period;
- Self-consumption and free supplies – when they occur;
- Supply of goods from principal to commissioner – when the goods are delivered to the customer;
- Consignment stock – when delivered to customer or after 180 days; and
• Delivery of goods before the transferring effect of a contract (except hire purchase and sale on instalments) – when such effects take place.

VAT becomes chargeable as follows:

• Date of invoice – if the term for issuing is complied with (five working days counting from the taxable event);
• End of term – if the term is not complied with; and
• Up-front invoices and advance payments – immediate chargeability of VAT.

**Value of supply**

In the case of goods and services, the value is the value of the consideration (including any taxes and duties other than VAT, and expenses related to commissions, packaging, transport and insurance paid on behalf of the customer).

In the case of imports, the value is the customs value, increased by customs duties and other import taxes and ancillary expenses (such as packaging, transport and insurance) up to the first destination of the goods in Mozambique.

**Other**

**Rebates**

There are no specific rebates or incentives for benefit to the mining industry. The government recently approved new Law granting fiscal benefits to oil and gas companies for the construction of a power plant in the Northern part of Mozambique.

**Joint Ventures**

There is no VAT applicable as long as there are no transactions to consider at the stage of profits distribution from an unincorporated JV.

Unincorporated joint ventures are not legal entities and as such cannot be registered for VAT in Mozambique.

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**Rehabilitation and deregistration**

Input tax may be claimed on rehabilitation expenses incurred as part of the taxable supplies.

Deregistration is done by the completion and submission to the tax authorities of the application form, Model 03 – ‘Declaration of ceasing of activity’. Companies intending to recover post-deregistration VAT should submit an application to the tax authorities requesting their legal opinion on such a procedure.

**Revenue Authority Contact details:**

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South Africa

### Introduction

Value-added tax (VAT) was introduced in South Africa with effect from 30 September 1991 by way of the Value-Added Tax Act No. 89 of 1991 (VAT Act) to replace sales tax. The VAT system is administered by the South African Revenue Service (SARS). The Head of SARS is the Commissioner.

Since 1 October 2012, the administration of tax acts, including the VAT Act, is mainly regulated by the Tax Administration Act 28 of 2011. Certain VAT administration provisions are, however, still contained in the VAT Act.

### Rates and scope

South Africa has two VAT rates:

- **Standard rate of 14% or zero rate (0%)**
  - The standard VAT rate of 14% applies to all supplies of goods or services (which do not qualify for the zero rate, an exemption or another exception), the importation of goods by any person, and (in certain instances) the importation of services. There is no higher VAT rate or any reduced VAT rate (except for the zero rate).

VAT is levied on ‘taxable supplies’, which are supplies of goods or services made by a ‘vendor’ (a person registered or required to be registered as a VAT vendor with SARS) in the course or furtherance of an enterprise carried on by the vendor wholly or partly in South Africa.

The concept of ‘goods’ includes corporeal movable goods, immovable (fixed) property, and electricity. The concept of ‘services’ includes anything done or to be done, the granting, assignment, cession or surrender of any right, or the making available of a facility or advantage.

A ‘supply’ includes performance in terms of a sale, rental agreement, instalment credit agreement, and all other forms of supply, whether voluntary, compulsory or by operation of law.

### State involvement

There is currently no nationalisation of mining companies. This said, the Mining Charter sets a target of 26%
black ownership of South Africa’s mining assets by 2014, and provides that all levels of management of mining companies should constitute 40% of the total. Currently, the Department of Minerals and Resources (DMR) does not issue new order mining rights unless companies are BEE-compliant. Companies that are granted licences need to have BEE credits and allotments in place.

**Mining rights**


The MPRDA transferred all ownership of privately held minerals to the State, hereby making the State custodian of all minerals in South Africa.

Mining rights are acquired through the application to the DMR, which are subject to the provisions of the MPRDA.

**Company start-up**

**External company registration**

Certified copies of the following documents are required in respect of the foreign company for which registration is sought as an external company for SA law purposes (i.e. a SA branch of the “head office” company):

- the Memorandum of Incorporation (i.e. the registration documents) of the head office company;
- it’s initial registration certificate (i.e. issued on date of incorporation); and
- it’s current registration certificate (if different from initial one).

If these documents are not in one of the official languages of the Republic, an English translation will also be required.

Additional documentation required for the registration:

- Year end (same as that of foreign head office company);
- Principal office address of foreign company outside of the Republic;
- Principal office address inside the Republic;
- Name and address of person (if any) within Republic who accepted appointment as representative of the foreign company, as well as a copy of his/her identity document or passport; and
- Names and addresses of directors, copies of their identity documents or passports.

**Private company registration**

Three proposed names will be required to reserve with the CIPC for approval. The necessary change of name documents will be prepared for signature and lodged with CIPC when the name is approved.

The following documentation will be required to finalise the company registration:

- The particulars of the directors;
- Certified copies of the directors identity/passport documents;
- The registered office address ;
- Financial year end; and
- The details of the shareholder/s for the share certificate to be issued.

**VAT Registration**

**Compulsory registration**

Every person who carries on an enterprise becomes liable to register for VAT at the end of any month where the total value of taxable supplies made exceeds R1 million for the preceding 12 months, or at the commencement of any month where the total value of taxable supplies in terms of a contractual obligation in writing to be made by that person will exceed R1 million in the period of 12 months.

A ‘person’ includes natural persons, legal persons (e.g. companies), bodies of persons (e.g. partnerships and joint ventures), public authorities, municipalities, estates, trust funds and foreign donor-funded projects.

Registration is not required where the threshold will be exceeded solely as a consequence of the cessation of, or substantial and permanent reduction in, the size or scale of an enterprise, the replacement of capital assets or abnormal circumstances of a temporary nature.

**Voluntary registration**

A person may apply for voluntary registration if:

- the taxable supplies exceeded R50 000 in a preceding 12-month period;
- it carries on an enterprise that can be expected to result in taxable supplies in excess of R50 000 during a 12-month period due to its nature;
- it acquires a business as a going concern if the previous owner made taxable supplies in excess of R50 000 in a 12-month period; and
- it is continuously or regularly carrying on an activity of a nature set out in any regulation made by the Minister in terms of the VAT Act and in consequence of the nature of the activity is likely to make taxable supplies only after a period of time.

**Group and branch registration**

Different companies in the same group cannot be registered as a group under one VAT registration number.

Separate enterprises carried on by a vendor or branches, or divisions of an enterprise carried on by a vendor, may be registered separately.

**Non-residents**

For a non-resident to register in South Africa, they must furnish SARS with the particulars of their fiscal representative (who must be a natural person and reside in South Africa), and their bank account details in South Africa.
**Application for registration**

A person must complete form VAT 101 and submit it to the local office of SARS. The application for registration must be accompanied by (inter alia) the following documents:

- A copy of the identity document (ID) of the individual, or of the two most senior partners or directors, shareholders, members or trustees;
- A copy of the certificate of incorporation or constitution;
- A letter of authority if the application is submitted by a registered tax practitioner;
- The banking details as required by SARS;
- A copy of the ID or passport of the fiscal representative;
- A copy of municipal account of business and representatives; and
- Copies of the past three months' bank statements for purposes of determining value of business's taxable supplies.

There are no penalties for late registration or for failing to do so. However, output VAT plus penalties and interest will be due on supplies that have not yet been declared at the time the business should have been registered for VAT purposes.

The registration number of resident and non-resident businesses consists of 10 digits, starting with a '4', for example, 499 9999 999.

**VAT compliance**

**Investment**

**Extraction/Mine**

**Processing and Operations**

**Rehab and Deregistration**

**Accounting basis and tax period**

Tax periods are periods of one, two, four, six or twelve months, depending on the vendor’s circumstances.

- One month – compulsory for vendors with annual taxable turnover in excess of ZAR30 million, other vendors may apply
- Two months – all other vendors.

**Returns and payment of VAT**

VAT returns must be filed by the 25th day after the end of the tax period. The return may be filed electronically, in which case the time limit for filing the return is the last business day of the month. However, a VAT return that contains a diesel refund claim (refer to “Rebates/Incentive” for more detail) must be submitted on or before the 25th day after the end of the tax period.

VAT payments can be made at SARS offices, at certain commercial banks, and by way of Internet payments. Payment may be made at any SARS branch office between 8h30 and 15h30 on business days by means of cheque payment not exceeding R50 000. For bulk payment, i.e. for than 5 cheques, the vendor is required to use the drop box at the SARS branch office and must be delivered before 15h00.

The other payment options available to vendors are the payment through the use of e-filing (as outlined in the SARS payment rule guide), EFT or deposit at the bank.

VAT payments must be made to SARS by the 25th day after the end of the tax period (or the last preceding business day). When using the e-filing and e-payment options, payment must be made by the last business day of the month.

**Interest and penalties**

Interest and penalties are levied in the case of the following:

- Late payment by a vendor – penalty of 10% is levied on the outstanding VAT amount;
- Payment made after the first day of the month in which payment is due – interest is levied on the outstanding VAT due at a rate fixed from time to time by the Minister of Finance;
- Understatement of VAT – understatement penalty levied with reference to a table, which takes the seriousness of the behaviour of the taxpayer into account; and
- Evasion of VAT or fraud – criminal prosecution.

SARS may waive interest and penalties in the following circumstances:

- Interest may be waived if the non-compliance was due to circumstances beyond the control of the vendor;
- Penalties may be waived in the case of nominal or first incidence of non-compliance, or if the non-compliance was due to certain exceptional circumstances. These include a natural or human-made disaster, civil disturbance or disruption in services, serious illness or accident, serious emotional or mental distress, an error or delay on SARS’s side, a serious financial hardship, or other circumstances of analogous seriousness. (Prior to 1 October 2012, penalty could be waived to the extent that non-payment of VAT was not due to an intent not to make payment or to postpone the liability for the payment of tax); and
- Understatement penalty may, in certain circumstances, be waived if the taxpayer made full disclosure to SARS and was in possession of an opinion by a registered tax practitioner that confirmed that the taxpayer’s position is more likely than not to be upheld should the matter proceed to court.

**Refunds**

Where the input tax claim exceeds the output tax declared, the VAT credit is to be refunded by SARS to the vendor. Currently, SARS’s system automatically request details and reasons for the VAT credit. Upon review and approval of the documents submitted relating to the VAT credit, SARS should refund the credit.
If a payment is not made within 21 business days of the return being received, interest is payable by SARS provided that the return was completed correctly, and SARS was not prevented from auditing the refund claim.

**Objections and appeals**

A person who is aggrieved with an assessment or certain decisions may lodge an objection in the prescribed form within 30 business days. If the person is dissatisfied with SARS’s decision, an appeal may be lodged within 30 business days. Depending on the specific circumstances, an appeal may be dealt with by the following:

- The 'alternative dispute resolution' (ADR) process – an informal and cost-effective method of dispute resolution outside the litigation arena;
- The Tax Board – an informal and inexpensive process for appeals not exceeding ZAR500 000;
- The Tax Court – a formal court process; or
- The High Court and or Supreme Court of Appeal – appeal by any party who feels aggrieved by the judgment of the Tax Court.

**Time limits**

The maximum period for the recovery of VAT by SARS is five years. This limitation does not apply where the VAT has already been assessed during the five-year period, the failure to pay VAT was intentional, the responsible person did not act in good faith, and any assumption as to VAT liability was not based on reasonable grounds, but was due to negligence.

Input tax must generally be deducted within five years of the time when the input tax was first claimable. However, if the non-deduction of input tax was in line with the practice generally prevailing, the input tax must be claimed within six months.

**VAT records**

**Tax invoices**

A full tax invoice must be issued within 21 days of the date of a taxable supply if the consideration for the taxable supply exceeds ZAR5 000. The tax invoice must be in South African Rand and contain the following information:

- The words 'tax invoice';
- Individual serialised invoice number;
- Name, address and VAT registration number of the supplier;
- Name, address and VAT registration number (if applicable) of the recipient;
- Date of issue of invoice;
- Quantity or volume of goods or services;
- Full and proper description of goods or services supplied; and
- Amount charged excluding VAT, VAT charged, and amount charged including VAT, or amount inclusive of VAT with a statement to the effect that VAT is included at a specified rate.

If the consideration for the taxable supply does not exceed ZAR5 000, the supplier vendor may issue an abridged tax invoice instead of the full tax invoice. The abridged tax invoice must contain all the information required for a full tax invoice except the name, address, and VAT registration number of the recipient, and the quantity or volume of the goods or services.

Electronic invoicing is accepted on certain conditions. A foreign language may not be used on invoices. Invoicing in a foreign currency is allowed if it is a zero-rated tax invoice. For standard-rated tax invoices, the conversion to the South African rand must be reflected on the tax invoice.

**Credit notes and debit notes**

Credit and debit notes are issued when the initial consideration for the taxable supply must be adjusted. Credit notes and debit notes must contain the following information:

- The words ‘credit note’ or ‘debit note’;
- Name, address and VAT registration number of supplier;
- Name, address and VAT registration number of recipient (only if a full tax invoice was issued for the original supply);
- Date of issue of credit note or debit note;
- Reason for issuing the credit note or debit note;
- Sufficient information to identify the transaction to which the credit note or debit note relates; and
- Amount charged excluding VAT, VAT charged, and amount charged including VAT, and a statement that VAT is included and the rate of VAT charged.

A credit note is not required where the terms of a prompt payment discount are clearly reflected on the face of the tax invoice.

A supplier must increase his output tax for the period in which the debit note was issued, and the recipient (if a registered vendor) may increase his input tax to reflect the debit note. Where a credit note was issued, the supplier has an option either to decrease his output tax or to increase his input tax. The opposite applies to the recipient (if registered as a vendor).

**Record-keeping**

Records must be kept for a period of five years. SARS can do an unannounced inspection to ensure that records are retained. Records must be kept for inspection in South Africa (unless approval has been granted by SARS for the records to be kept outside South Africa). The records must be kept or retained:

- In their original form, in an orderly fashion, and in a safe place;
- In the form, including electronic form, as may be prescribed by SARS in a public notice; or
• In another form acceptable and specifically authorised by SARS.

Debt/Equity

The allotment or transfer of shares is regarded as an exempt financial service. Where shares are issued to a foreign non vendor, VAT at the zero-rating is applicable. This enables the issuer to claim input tax incurred on the issue of the shares.

The provision of a loan is a non-supply for VAT purposes.

Input tax

Input VAT incurred on goods or services acquired for the purpose of consumption use or supply in the course of making taxable supplies (including zero-rated supplies) is generally deductible as input tax, provided all documentary requirements are met and the deduction is made in time (generally speaking within five years). VAT incurred in the making of exempt (without credit) supplies cannot be deducted as input tax.

Input tax expressly denied

The deduction of VAT incurred is expressly denied as input tax in the following circumstances:

• To the extent that goods or services are acquired for purposes of entertainment (i.e. the provision of food, beverages, accommodation, entertainment, amusement, recreation or hospitality), except where –
  • food and drinks are included in the fee for a seminar
  • covers all direct and indirect costs of such entertainment, such as the provision of meals to employees where the cost of the meals are covered through a charge.

• Motor cars, except if acquired by a motor dealer or rental firm for resale or rental purposes or as demonstrators, or where the motor car is awarded as a prize (conditions apply); and
• Membership fees relating to sports, social or recreational activities.

Partial exemption

Where goods or services are acquired for making both taxable supplies and exempt supplies, an apportionment of VAT incurred must be made. This is typically where the head office function includes that of treasury, investments (external and internal) and service level agreements. The standard method for calculating the apportionment is the turnover-based method. If the turnover-based method does not give a fair result, or if the vendor wants to apply another method, SARS's written approval must be obtained.

If the intended use of goods or services acquired is more than 95% taxable supplies, the VAT incurred may be deducted in full.

Output tax

Output tax is calculated by applying the tax fraction (14/114) to the price charged. Advertised prices must include VAT. If the VAT inclusive and exclusive prices are advertised or quoted, both prices must be advertised or quoted with equal prominence. Prices charged for taxable supplies are deemed to include VAT, whether or not the vendor has included VAT in the price.

Exempt supplies

Supplies of (inter alia) the following goods or services are exempt:

• Certain financial services;
• Residential accommodation in a dwelling;

Zero-rated supplies

Supplies of (inter alia) the following goods or services are zero-rated, provided that all documentary and procedural requirements have been met:

• Exportation of goods;
• Supply of an enterprise as a going concern;
• Unmanufactured gold supplied to the South African Reserve Bank, the South African Mint Company or a registered bank;
• Certain gold coins;
• Fuel levy goods and petroleum oil;
• Goods transferred to a foreign branch;
• Goods supplied by a vendor to a person who is a non-resident and non-vendor, but delivered to a vendor-recipient who will use the goods wholly for taxable supplies;
• Services relating to land and improvements outside South Africa;
• Services supplied to a non-resident, if not directly in connection with movable or immovable property in South Africa (with certain exceptions);
• The granting of, and other services relating to, intellectual property rights to the extent that the rights will be used outside South Africa;
• Supply of goods in a licensed customs and excise storage warehouse, if the goods have not been entered for home consumption (if approval has been obtained to zero-rate instead of exempt the supply).

**Mining rights**

The supply of a mining right by a vendor is subject to VAT at the rate of 14%. Approval should be sought from the DMR where mining rights are ceded/supplied/transferred to persons.

**International Trade**

**Exports**

**Goods**

Where the supplying vendor sells and consigns or delivers movable goods to a customer at an address outside South Africa, the export is regarded as a ‘direct export’. The vendor may zero-rate the sale if all documentary and procedural requirements are met.

Where the recipient from outside South Africa removes or arranges for the removal of goods purchased in South Africa, the export is regarded as an ‘indirect export’. The supplier must generally charge VAT at 14%, but may elect (subject to certain requirements) to zero-rate the supply where the supplier accepts the responsibility to ensure that the goods are delivered to a designated commercial port from where they will be exported by the purchaser. In this regard, the Export Incentive Scheme (EIS) provided the requirements for indirect exports and the documentary requirements. With effect from 2 May 2014, the EIS was replaced with the Export Regulation, which contains the updated and latest requirements in terms of indirect exports.

It should be noted that indirect exports via road is now permissible under the Export Regulation, provided the documentary requirements are adhered to by the supplier, agent, cartage contractor and purchaser.

**Flash title transactions**

The Export Regulation provides for the zero-rating of supplies made in terms of a flash title arrangement. This means that a supply of goods by a vendor to a foreign entity, which are subsequently supplied by the foreign entity to a third party after having the goods only for a moment in time and before the goods are exported from the Republic, is subject to the zero-rate, provided all the requirements are met.

**Coal trading platform**

The Export Regulation provides for the zero-rating of supplies under the Coal Trading Platform arrangements. This means that goods (coal) supplied by a vendor to a vendor are subject to the zero-rating provided the goods are situated at a designated harbour or airport, and the goods are destined to be exported.

**Drop shipments**

A drop shipment transaction is where Company A supplies goods to Company B, but Company B instructs Company A to deliver the goods in an export country.

Where a drop shipment entails a supply from a foreign entity to a local entity for delivery to a place outside the border of South Africa, the supply of goods would be zero-rated for VAT purposes. However, where the supply is between two local entities with the delivery to a place outside the border of South Africa, the normal export rules will apply for direct and indirect exports.

**Export documentation – indirect export**

The documentary requirements are contained in the Export Regulation. Vendors should strictly comply with the documentary requirements to avoid the reversal of the zero-rated export to the standard rate of 14%.

**Services**

Services physically rendered outside South Africa are zero-rated. Services supplied to a non-resident are zero-rated except where the services are:

• Rendered directly in connection with land in South Africa;
• Supplied directly in connection with movable property in South Africa, except where the property is exported after the services have been rendered, or the services are rendered in connection with movable property supplied by the non-resident to a vendor in South Africa; or
• Supplied directly to the non-resident or any other person who is in South Africa when the services are rendered.

**Imports**

**Goods**

VAT at the rate of 14% is payable on the importation of goods except where a specific exemption applies.

Where goods are imported from a South African Customs Union (SACU) country, namely Botswana, Lesotho,
Namibia or Swaziland, the VAT payable on importation is calculated as 14% of the customs value of the goods. Where goods are imported from outside the SACU region, the VAT payable on importation is calculated as follows: [customs value of goods + 10% upliftment + customs & excise duties] x 14%.

Regular importers may apply to SARS for access to a VAT deferment account, which allows for a credit facility for the customs duty and VAT payable on the importation of goods.

**Bonded warehouse**

Goods imported into a bonded warehouse are deemed not to be cleared for home consumption, therefore, the duties and VAT is deferred until the goods are cleared from the bonded bond.

The supply of goods in bond is subject to VAT at the zero rate. When the supplied goods are cleared for home consumption, the value to be placed on the goods will be the greater of the original value when entered into the bonded warehouse, or the transaction value when supplied in bond. The normal 10% upliftment, duties, and VAT will be added to the above value.

**Agents**

A principal is allowed to make use of an agent to import goods into South Africa. It is important to bear in mind that the principal is still required to be registered as an importer. The same applies to foreign principals using South African agents to import goods into South Africa.

**Claiming of import VAT**

The vendor importing the goods into South Africa is entitled to claim the import VAT paid. It is important to note the import VAT may only be claimed when paid to SARS by either the vendor or agent.

Where a deferred facility is used by the vendor or agent to defer the import VAT upon importation of goods, the same rule as above applies, i.e. the deferred account to which the import relates must first be settled before the import VAT may be claimed.

**Services**

A reverse charge rule applies when a non-resident (being a non-vendor) provides services, which would be neither exempt nor zero-rated if made by a VAT vendor in South Africa, to recipients in South Africa to the extent that the services are acquired for purposes other than making taxable supplies. If the South African recipient is a VAT vendor, they must account for the VAT on their normal VAT return, otherwise VAT must be accounted for by way of a separate declaration and payment must be made to SARS. VAT on imported services is not payable if the value in respect of the supply does not exceed R100 per invoice.

**Refunds to foreigners**

Where foreigners purchase goods in South Africa, VAT will (generally) be charged at 14%. If all requirements are met, a qualifying purchaser (i.e. a non-South African resident, tourist, foreign enterprise or foreign diplomat) may claim a refund from the VAT Refund Administrator (VRA). The purchaser must remove the goods from South Africa within three months. The refund request must be received by SARS within three months after the date of export.

**Time of supply**

The time of a supply generally determines the tax period in which output tax must be accounted for and input tax may be claimed, as the vendor’s VAT accounting basis (invoice basis or payments basis) may also affect the timing of accounting for VAT.

The general rule is that a supply takes place when an invoice is issued or any payment of consideration (excluding a deposit) is received, whichever is earlier. Various special time of supply rules apply, for example:

- Rental agreements and service agreements providing for periodic payments – when each payment becomes due or is received;
- Goods supplied progressively or periodically and construction services – when each payment becomes due or is received, or invoice is issued, whichever is earlier;
- Instalment credit agreement – when the goods are delivered or any payment is received, whichever is earlier; or
- Fixed property – when registration of transfer is effected in the Deeds office, or any payment is made, whichever is earlier.

**Value of supply**

The general rule is that the value of a supply is the consideration (price) paid for the supply. As all prices must include VAT, ‘consideration’ is a VAT-inclusive concept.

Consideration = value + 14% VAT

VAT = consideration x 14/114
Various special rules apply, for example:

Supply to a connected person for less than the open market value of the supply where, had a market-related price been paid, the recipient would not be entitled to a full input tax deduction – value is the open market value of the supply;

• Cancellation of vendor’s VAT registration – value is the lesser of the cost or the open market value of all assets at deregistration;
• Instalment credit agreement – value is the cash value (i.e. cash price, excluding finance charges);
• Application of goods (which were acquired for taxable purposes) for non-taxable purposes – value is the open market value of the goods;
• Exportation of second-hand goods – the value to be placed on the second hand goods exported on which a notional input tax was claimed will be the purchase price of the said goods acquired;
• Fringe benefits – value is the cash equivalent of the benefit for income tax purposes;
• No price is paid and a special rule does not apply – value is nil.

Other Joint Ventures
In terms of section 51 of the VAT Act, where a body of persons (other than that of a company) carries on an enterprise, that body of persons should be registered separately from its members. The normal VAT registration requirements apply to the body of persons.

Where the body of person consists of companies, the normal VAT registration requirements apply.

The distribution of profits to the members of the Joint Venture (other than that of a company) is currently not subject to VAT. However, a ruling could be sought from SARS to have this distribution regarded as a service supplied by the members of the Joint Venture.

Rebates/Incentives
Part 3 to Schedule 6 of the Customs and Excise Act No. 91 of 1964 provides for a diesel refund to certain industries, including the mining industry. This diesel refund entails the refund of the fuel levy and road accident fund levy levied on distillate fuel by the State.

In order to qualify for the diesel refund, the vendor must purchase and use the distillate fuel in the production of own primary mining activities. Where the vendor contracts with a subcontractor to conduct the mining operation, the distillate fuel must be provided to the subcontractor on a dry basis, i.e. the vendor must purchase and supply the distillate fuel to the subcontractor.

Furthermore, the vendor must be in possession of the necessary authorisation granted in terms of the MPRDA and the mining activities should be conducted on the mining site.

It is imperative that the vendor keeps a logbook that details the usage of the diesel for own primary mining activities on the mining site, i.e. date, description of vehicle, litres used, diesel purchased, place and purpose of utilisation.

For more information, SARS has published a Diesel Refund Guide

Rehabilitation
The claiming of input tax incurred relating to the rehabilitation of the mining side is permitted, provided it is in the furtherance of the vendors enterprise.

Revenue Authority Contact Information:
SARS
Contact Centre: 0800 00 7277
299 Bronkhorst Street
Pretoria
0181
T: 012 422 400

Deregistration and rehabilitation

Deregistration
A vendor whose taxable supplies do not exceed the R1 million limit has the option to deregister. A vendor must apply for deregistration if his taxable supplies did not exceed the R50 000 voluntary registration limit, or when the vendor ceases to carry on an enterprise. SARS may deregister a vendor who voluntarily registered if they no longer have a fixed place of business, a bank account or proper accounting records.
Introduction

VAT was introduced in Zimbabwe with effect from 1 January 2004 to replace Sales Tax. The VAT legislation is contained in the VAT Act (Chapter 23:12). The Zimbabwe Revenue Authority (ZIMRA), the head of which is the Commissioner-General, administers the VAT system.

Rates and scope

Zimbabwe has three different VAT rates:

• The standard rate of 15%;
• A 15% rate applicable to the export of rough diamonds with effect from January 2015;
• A 15% rate applicable to the export of unbeneﬁciated platinum with effect from 1 January 2017.
• A 20% rate applicable to the export of unbeneﬁciated chrome; and
• The zero rate of 0% generally on exports and basic foodstuffs.
• VAT is not charged on commodities as such but rather on the supply of commodities and is imposed on the following:
• The supply of any goods and services in Zimbabwe by a registered operator in the course or furtherance of a trade (enterprise);
• Goods imported into Zimbabwe in certain circumstances;
• Services imported into Zimbabwe in certain circumstances; and
• Export of raw hides, unprocessed leather, rough diamonds as well as unbeneﬁciated chrome and platinum.

State involvement

Mining is not one of the sectors reserved for nationals, but is a priority industry where government would want to see 51% of the shareholding being in the hands of indigenous investors (10% of which must be in the name of the local community who reside in the mining location – normally held through a Trust).

Company start-up

The first step will be to ﬁle an application to The Zimbabwe Investment Authority (for foreign investors).
• Complete CR21 for Name Search;
• Once name accepted, lodge Articles and Memorandum of Association – will show the initial holders of subscriber shares;
• CR14 showing the list of Directors and the company Secretary;
• Annual return within 18 months of incorporation, annually thereafter.

**Mining rights**
Any permanent resident of Zimbabwe above 18 years of age or his agent may acquire one or several prospecting licences on payment of the appropriate fee. The licence acquired is valid for 24 months. One may purchase mining rights, and thereafter, register the licence with the Ministry of Mines.

Any person may apply in writing to the Board for an Exclusive Prospecting Order (EPO) over any defined area in Zimbabwe. EPOs are valid for up to three years, but the Minister of Mines may extend the period for periods not exceeding an additional three years.

For preservation of mining rights, the holder of any block of base mineral, reef or placer deposit claims registered as precious metal, or of any mining lease is required to apply to the Commissioner for a certificate of inspection in respect of work executed on the mining location shall. This is expected to happen within six weeks of registration.

**VAT Registration**

**Compulsory registration**

Any person who carries on or intends to carry on any trade(s) in the course of which taxable supplies (including zero-rated supplies) are made, and whose taxable value of supplies exceeds the prescribed limit, must register for VAT.

A person is liable to register at the end of any month when the total value of all his supplies of goods or services (turnover) has exceeded the prescribed amount in the preceding period of 12 months, or there are reasonable grounds for believing that the total value of supplies of goods and services that will be made in the following 12 months will exceed the prescribed amount.

The threshold for compulsory registration (with effect from 30 January 2009) is USD60 000 p.a.

However, registration will not be required if the prescribed amount has been or will be exceeded as a result of:

• Sales due to cessation of or reduction in the size of the business;
• Sales due to replacement of capital assets; or
• Abnormal circumstances of a temporary nature.

**Voluntary registration**

A person may apply for voluntary registration even if the total value of taxable supplies is less than the prescribed amount for mandatory registration. The person must satisfy the Commissioner that a trade is carried on. However, the Commissioner has set no minimum threshold and a decision to register is made on an individual basis.

The Commissioner may refuse to register a person for voluntary registration if the applicant:

• Has no fixed place of abode or business;
• Does not keep proper accounting records; or
• Has not opened a banking account.

**Group or branch registration**

Group registration is not permissible, as the law requires each separately registered entity to register individually. In exceptional circumstances, separate persons carrying on specified trades may, under an anti-avoidance provision, be deemed to be one for purposes of registration.

Branch or divisional registration is no longer permissible, with effect from 1 January 2010.

**Non-residents**

Non-residents conducting taxable activities in Zimbabwe are required to be registered. However, it is mandatory that they appoint a resident representative registered operator.

**Application for registration**

Application for compulsory and voluntary registration must be made on the prescribed registration form (Rev 1), together with any other documents that the Commissioner may require from time to time (such as a company registration certificate, articles and memorandum of association, copies of identity documents for directors and representative person, proof of residence of the above, copy of current bank statement and documentary evidence to support turnover, especially the invoices issued from the date of commencement of trade). There are no special registration requirements under VAT for mining companies.
Registration timeline

Application for compulsory and voluntary registration must be made on the prescribed registration form (Rev 1), together with any other documents that the Commissioner may require from time to time (such as a company registration certificate, Articles and Memorandum of Association, copies of identity documents for directors and representative person, proof residence of the above, copy of current bank statement and documentary evidence to support turnover, especially the invoices issued from the date of commencement of trade). For compulsory registration, this must be completed not later than 30 days from the date of first becoming liable for such registration.

For existing trades, ZIMRA may require that an applicant provides original invoices issues for a period of at least three months to prove the existence of trade and also that the level of turnover qualifies for registration. ZIMRA officials currently pay an inspection visit to the premises of the applicant to satisfy themselves that a business exists. An application for registration currently takes up to 30 days to be processed.

VAT compliance

Accounting basis and tax periods

Generally, registered operators are required to account for VAT on an invoice basis. Cash basis is an exception that may be permitted on approval of application and is generally reserved for local authorities, public authorities or associations not for gain.

Tax periods are as follows:
- Category A and B – Two-month periods and applicable to traders with a turnover below $240,000;
- Category C – One-month periods and applicable to traders with a turnover above $240,000, or high-risk traders, regardless of turnover; and
- Category D – Any other tax period (except if the Category C tax period was allocated to the registered operator). Category D may be applied for by the farming, pastoral and agricultural sector.

Returns and payment of VAT

A VAT return in the prescribed form must be submitted to ZIMRA for each tax period. With effect from 1 January 2012, the VAT return must be submitted to ZIMRA not later than the 25th day of the month commencing after the end of a tax period, or where such day falls on a public holiday or a weekend, the last business day before that date.

VAT returns (form VAT 7) are physically submitted to any of the stations in the appropriate Region an operator is registered. The country is divided into four regions and operators may lodge their VAT returns at any nearby station that is located within their region. Payment is strictly by bank transfer. ZIMRA operates various bank accounts and avails the banking details to registered operators for the convenience of the tax paying public.

Refunds

A registered operator is entitled to a refund of VAT when, in a particular tax period, his input tax exceeds his output tax. A routine refund must be performed to the registered operator within the prescribed period (currently 30 days) after the date on which the VAT return is received by ZIMRA. Where the refund is not paid out within this period interest is payable at a rate fixed by the Minister, which is equal to interest chargeable on delayed payments made to ZIMRA.

Currently, late refunds accrue interest at a rate of 10% p.a. but interest will not be automatically credited to a claimant’s account. In practice, a written application is required before interest may be processed only after an audit for the refund has been completed. Payment of the refund maybe by crediting to an applicant’s account or setting-off against current or future tax or customs duties liabilities.

Interest and penalties

There are two different ways of penalising a registered operator, namely:
- Penalty (up to a maximum of 100% of tax liability) and interest for failure to pay VAT when due; and
- Additional tax (equal to a maximum of 100% of tax liability) in the case of evasion or causing a refund in excess of that properly refundable.

For any month(s) while VAT remains unpaid, an additional percentage interest at the prescribed rate per month or part thereof will become payable. Interest is applicable in all circumstances where non-compliance results in the fiscus being prejudiced. The effective rate is not subject to a maximum. This interest can only be charged from the first day of the month following the month in which the return is due. The interest rate applicable is currently 10% per annum.

Objections and appeals

The VAT Act provides for lodgment of objections against decisions taken by the Commissioner such as refusal to register, cancellation of VAT registration, refusal to process a VAT refund or against any assessment issued. The objection must be lodged in writing within 30 days from the date the decision being contested was communicated to the taxpayer. Payment of the given tax liability is not suspended by mere lodging of an objection letter.
Where the commissioner does not communicate his position on the objection within three months of submission, the objection is deemed to be disallowed to enable the aggrieved taxpayer to appeal to the Fiscal Appeal Court within 30 days calculated from the date of disallowance of the objection.

Again, the taxpayer may appeal against the determination of the Fiscal Appeal Court to the Supreme Court within 30 days from the date the Appeal Court makes a determination of an appeal.

**Record-keeping**

Where the records are kept in book form (e.g. a sales journal, cash book or bank deposit book) these records must be kept for a period of six years from the date of the last entry in that book.

Where not kept in book form (e.g. tax invoices, individual deposit slips, stock sheets, etc.) they must be kept for a period of six years after the completion of the transactions, acts or operations to which they relate.

The registered operator must keep the original documentation. Under certain circumstances ZIMRA may authorise the retention of microfilm copies or computer tape records in lieu of the originals.

**Time limits**

The recovery of output tax is subject to a general prescription period of six years. In cases of fraud or suspected fraud, cases may be opened beyond the prescription period.

The maximum period for claiming input tax is 12 months from the end of the tax period in which the relevant tax return had to be filed.

**VAT records**

**Tax invoices**

A registered operator is required to issue a tax invoice within 30 days from the date of supply, but if the consideration in money does not exceed USD10, a tax invoice is not required. However, in such cases, some type of source document is required in order to enable the purchaser to claim input tax, e.g. a till slip or petty cash slip.

A tax invoice must contain the following particulars:

- The words ‘tax invoice’ or ‘fiscal tax invoice’ in a prominent place;
- Name, address and VAT registration number of the supplier;
- Name, address and VAT registration number of recipient;
- Individual serialised number and date of issue;
- Description of goods or services;
- Quantity or volume of goods or services supplied; and
- The price of the goods including VAT, in one of the following ways:
  - the amount excluding VAT, plus the VAT charged and the amount including VAT; or
  - where VAT is included in the final price, the consideration, together with a statement that VAT is included and the rate of tax, or the amount charged including VAT and the amount of VAT.

From the advent of the multicurrency system in Zimbabwe, a tax invoice may be in any foreign currency (mainly US Dollar or South African Rand), and VAT is accounted for in the relevant currency in which it was invoiced or the payment for the supply of goods or services was made.

Agents may issue tax invoices on behalf of principals. Special permission needs to be obtained to use electronic data interchange (EDI).

Where a registered operator purchases second-hand goods from a non-registered operator, the purchaser has to record the following to support his claim for input tax:

- Name, address and identity (‘ID’) number of the supplier (ID number of the representative person if it is a company);
- Date of acquisition;
- Quantity or volume of goods; and
- Consideration for the supply.

The recipient must verify the person’s ID number or passport number. Where the amount of the supply is USD10 or more, the recipient must obtain and retain a copy of the person’s ID document. In the case of a company, a business letterhead or similar document that shows the name and registration number allocated by the relevant authority is also required.

Where the goods concerned have been repossessed from a non-registered operator, the person (registered operator) exercising his right of repossession is required to keep details as mentioned above.

**Fiscalised recording of taxable transaction**

With effect from 1 July 2010, every registered operator in Category C (or with an annual turnover of USD240 000 and above) is required (for the purposes of recording his or her taxable transactions) to use:

- A fiscalised electronic register;
- A non-fiscalised electronic register with a fiscal memory device; or
- An electronic signature device.

The above devices have prescribed features and can only be supplied by approved suppliers. The following are the essential features:

- A screen on which the customer can see simultaneously displayed the input being made by the till operator;
- It must be capable of printing sales slips for the customer with the following details:
  - the name and address of the registered operator,
  - the date and time of the transaction,
  - the VAT registration number of the registered operator,
  - the business partner number (BPN) of the registered operator,
• the unique identification number of the register,
• the description, quantity, price and the value of sales of the goods and services in question,
• the amount of the tax payable, and
• the total amount payable inclusive of the tax;
• It must be capable of retaining for a period of not less than three years fiscal memory of total daily sales, total VAT charged and total sales in the following tax liability categories:
  • sales exempt from tax,
  • sales charged at the zero rate of tax,
  • sales charged at the standard rate of tax, or
  • sales charged at a special rate of tax, as the case may be;
• It must be capable of reading, displaying and printing the sales for the day as and when required and of keeping details of such readings and the final daily readings of sales, including details of any previous readings done during that day;
• It must incorporate a backup master audit facility; and
• It must incorporate or be capable of being upgraded to incorporate a feature enabling the fiscalised electronic register to be linked to an input facility operated by ZIMRA or any other network facility.

Credit notes and debit notes
The details are almost exactly the same as the details for a tax invoice. In addition, the amount of the adjustment (consideration and VAT) must also be reflected and it must refer to the original tax invoice that is affected by the adjustment (i.e. the invoice date and number), as well as reasons for issuing the credit or debit note. Credit notes issued and debit notes received are to be reflected as instalment tax on VAT returns, while debit notes issued and credit notes received are to be reflected as output tax on VAT returns.

Additional export documentation
These may change from time to time, but the major documents are bill of entry, CD1 forms from the Reserve Bank of Zimbabwe, an air waybill, bill of lading, rail or road consignment notes, bill of entry, and invoices bearing foreign addresses.

Acquisition of debt/equity
The issue, allotment or transfer of shares is regarded as an exempt financial service. Provision of debt security or loan guarantee is exempt from VAT as it is included in the definition of exempt financial services.

Input tax

| Investment | Extraction/Mine | Processing and Operations | Rehab and Deregistration |

Input tax allowed
Where a registered operator incurred VAT on the acquisition of goods or services for the purposes of making taxable supplies, the VAT can, as a general rule, be deducted as input tax, provided the operator is in possession of the required tax invoice or bill of entry.

Where a registered operator purchased second-hand goods, being fixed property, from a non-registered operator, and the recipient has paid for the supply and has kept the necessary details of the supplier and the transaction in terms of the prescribed documentary requirements, he may (generally) claim the tax fraction of the amount paid as input tax. This input tax is commonly referred to as ‘notional input’. The input tax is limited to the stamp duty payable.

Where a registered operator (such as a leasing company) repossesses goods from a debtor (who is not a registered operator) under an instalment credit agreement, the registered operator may deduct input tax.

This is calculated by multiplying the tax fraction (at the time the supply was originally made) by the balance of the cash value still owing to the supplier.

To qualify as input tax, two requirements have to be met, namely:

• the goods or services must be acquired by the registered operator wholly or partly for the purpose of consumption, use or supply in the course of making taxable supplies; and
• the goods supplied must have been subject to VAT at the standard rate or the goods must qualify as ‘second-hand goods’ (previously owned and used), which have been acquired from a non-registered operator.

Generally input tax is claimable on all items purchased for the purposes of making taxable supplies. In the case of purchases made after the morning entity is registered for VAT purposes, the related input tax credit can be claimed based on the tax invoice (valid tax invoice) while on the other hand in respect of assets bought prior to registration for VAT purposes, the input tax can be claimed by way of an adjustment and at the time the asset is brought into use to make taxable – based on the tax fraction of the lesser of cost or open market value of the asset at the time the asset is brought into taxable use.

An exception to claiming input tax relates to the purchase of “passenger motor vehicles” where such claims are specifically prohibited.

Input tax expressly denied
VAT paid by a registered operator for the following purposes may not be deducted as input tax:

• passenger motor vehicles
• entertainment;
• Non-commercial motor vehicles, with the exception of VAT incurred by motor-dealers.
• Exportation of raw hides, rough diamonds; un-beneficiated chrome and platinum.

**Partial exemption**
Where goods or services were acquired only partly for taxable supplies and partly for some other purpose, a fair and reasonable portion may be claimed as input tax. The general basis for apportionment is the turnover basis. However, the law permits the Commissioner to approve some other reasonable basis for apportionment.

**Adjustments**
A registered operator is allowed to claim additional input tax credit where he previously claimed input tax for a reduced taxable usage and has increased the taxable application of a capital asset worth at least USD60.

**Pre-registration and post-deregistration VAT**
Where a company reimburses the person who is a registered operator and who originally purchased goods or services for the costs incurred, and the goods or services were acquired for the purposes of the trade to be carried on by the operating company, the company may claim the VAT as input tax in the tax period during which the reimbursement is made. However, the company may not claim the deduction where:

• the supply of goods or services by the person to the company is a not a taxable supply, or is a supply of second-hand goods not being a taxable supply;
• the goods or services were acquired more than six months before the date of incorporation; or
• The company does not hold sufficient records (in this case no input tax can be claimed at all under any section of the VAT Act).

The operator whose registration is cancelled must pay VAT on stocks on hand at the time of cancellation as this is deemed to be a supply in the operator’s hands. Arrangements for settling VAT due can be made on an individual basis.

**Output tax**

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**Calculation of output tax**
Output tax is calculated by applying 15% to the value of a taxable supply. Where the supplier has not specified whether VAT has been included, the tax fraction of 15/115 is applied to the amount deemed to be consideration for the supply. In all advertisements or quotations, all prices are to be stated on a VAT-inclusive basis. Where this is not stated, the price is deemed to be the VAT-inclusive price.

**Exempt supplies**
Supplies that are exempt from VAT, in respect of which the supplier may not make any input tax deductions, include:

• residential accommodation in a dwelling;
• leasehold land used to erect dwellings, and for existing dwellings;
• letting of land outside Zimbabwe;
• transport by public road or railway of fare-paying passengers and their luggage;
• certain fuel and fuel products (including ethanol fuel);

**Zero-rated supplies**
Supplies that are zero-rated, in respect of which the supplier may deduct input tax, include supplies of the following goods or services –

• goods (including consumables) supplied to repair goods temporarily admitted into Zimbabwe;
• goods supplied under a rental agreement if used exclusively outside Zimbabwe;
• goods supplied under a rental agreement if used in or paid for from outside Zimbabwe – this zero-rating only applies to foreign-registered businesses;
• business supplied as a going concern;
• gold supplied to the Reserve Bank or a registered bank;
• services supplied by a registered operator to his branch situated in an export country.

The above services can only be zero-rated if the registered operator obtains and retains the necessary documentary proof acceptable to the Commissioner, or as prescribed in the circumstances.

**Inter-company supplies and loans**
There are no concerns with loans as these are considered to be of a financial nature.

Inter-company supplies are subject to VAT. Special rules apply to supplies made between “connected persons” in that the value of supply for VAT is based on the open market basis where the recipient is not or would not rank for entitlement to full input tax credit.

Transfers between related parties, management fees, and cost recoveries are deemed to be supplies between “connected persons”

**Sale of mining rights**
The definition of services includes the granting, assignment, cession or surrender of any right. The supply of mining rights is a supply of service that is standard rated under VAT.
**International trade**

**Investment**

**Extraction/Mine**

**Processing and Operations**

**Rehab and Deregistration**

**Imports**

**Goods**

VAT is levied and paid on the importation of any goods into Zimbabwe by any person unless an exemption applies or the goods qualify for zero-rating. An importer of goods is liable to pay the VAT levied on importation.

Goods are deemed to be imported on the date the goods are entered for home consumption (i.e. cleared through customs). This date is reflected on the customs bill of entry or Form 49 receipt (for importations valued at USD1,000 or less). The VAT on importation must be paid at the same time as the customs duty. The value to be placed on the importation is the aggregate of the value of the goods for customs duty purposes as provided under the Customs and Excise Act, plus the customs duty paid.

Excise, however, clear on the fact that “goods of an inflammable or dangerous nature or goods likely to cause damage to other goods shall not be placed in a warehouse containing other types of merchandise”.

Normal duty and VAT is paid on the value of the importation of parts and equipment generally on cost insurance and freight basis (CIF).

**Customs warehouse**

The customs and excise warehouses in question are technically referred to bonded warehouses. The customs duties and VAT related to goods placed in the bonded warehouses are deferred to the time of consumption. Such goods will be liable to VAT (as well as customs duties) applicable at the time the goods are withdrawn from the bonded warehouse for consumption.

As a general rule, warehoused goods can be held in the bonded warehouse for periods not exceeding 24 months. However, this general rule does not apply to oil in bulk storage tanks or petrol or any other spirit derived from petroleum, shale or coal tar, in bulk storage tanks.

Although the Commissioner has the powers to determine what goods can be warehoused, it would appear that any class of goods can be placed in a bonded warehouse.

**Imported services**

VAT is levied and paid on the supply of any ‘imported services’ by a supplier, who is not a resident of Zimbabwe or who carries on business outside Zimbabwe, to a recipient who is a resident of Zimbabwe, to the extent that the services will be utilised or consumed in Zimbabwe otherwise than for making taxable supplies. An apportionment may therefore have to be made in the case of mixed supplies.

The VAT is payable by the recipient of the imported services. The recipient must declare and pay VAT on the prescribed form (VAT 9) within 30 days of importation. In practice, ZIMRA has adopted the ordinary VAT return (VAT 7) for the purposes of accounting for VAT on imported services in respect of regular importers of services such as financial and insurance institutions.

The input tax related to importation is claimable on the basis of the bill of entry (the customs clearance document), and in the period in which the goods are cleared for consumption, or at the latest within 12 months from the date of the bill of entry. The VAT claimable is reflected on the bill of entry as a distinctive line item.

**Agent/principal**

The principal/agent relationship is acceptable for both customs and VAT purposes with the principal remaining the importer or exporter of the goods concerned. In most cases, minerals are not directly exported by the producer, but rather through the Zimbabwe Chamber of Mines or other designated authority is mandated with the export process.

Where there is a principal/agent relationship, the input tax is claimable in the hands of the principal, even when the import bill of entry is in the name of the agent. In such cases, it would be prudent to have the relationship reduced to a written contractual agreement for the avoidance of doubt. Section 56 of the VAT Act governs transactions involving principal/agent relationship.

**Export**

**Goods**

Generally goods that are exported directly (the seller is responsible for the export process as opposed to selling to walk-in clients who then export on their own) qualify for the zero-rating. However, the following goods are subject to VAT at rates other than 0%:

- With effect from 1 August 2010, 20% VAT is chargeable on the export of unbeficiated chrome (chrome ore and fines, which have not been subjected to the processes of crushing, milling and washing to remove waste material, and the smelting of the resulting chrome concentrate into pellet or ingot form).
- A 15% rate is applicable to the export of un-beneficiated platinum and rough diamonds with effect from January 2015.

The same VAT rates as enumerated above are applicable to the different classes of goods, and no cognizance is taken of the difference in modes of transport.

The zero-rating of exports must be validated by export documents (export bill of entry, export invoice, consignment note or waybill or bill of lading, CD1 form) bearing the stamp of the Authority at the point of exit.
There is no prescribed time limit as to when the zero-rating documentary evidence must be obtained. However, generally such documentation is obtained at the time the goods are exported as the said documents are the authority for the goods to be moved across the border.

Besides the other documents mentioned above, the final authority for the export of goods is a ZIMRA double stamped consignment, waybill or bill of lading. Once the authority to export has been granted, the concerned goods must be removed from Zimbabwe “within 10 days of such authority having been granted”.

**Drop Shipments**

The term “drop shipment” refers to transactions (including cross border transactions) in which a consignment is invoiced to a whole seller or other middleman, but is sent directly to the retailer by the manufacturer. Such transactions are subject to VAT in two parts. Firstly, in respect of cross border transaction, the wholesaler is liable to import VAT at the time clearance of the goods as the goods are invoiced in his name and the obligation for import duties rest with him. The second leg would be the sale from the wholesaler to the retailer and this is again subject to VAT.

In the case of local supplies, two transactions are identifiable – that is one involving the manufacturer and the wholesaler, and the other involving the wholesaler and the retailer. Both transactions are subject to VAT.

**Flash title transactions**

Flash title entails transactions where goods are supply by a vendor to a foreign entity, whereby the purchaser is responsible for the transportation. However, the foreign entity or purchaser only has title to the goods for a moment in time. Before the goods are removed from the border of the said country, the goods are supplied by the foreign entity to a third party or subsequent parties.

No specific rules regarding flash title arrangements.

**Services**

Exported services (e.g. to non-residents or services physically rendered outside Zimbabwe) can be zero-rated, provided they are rendered to persons who do not utilise the services for the purposes of carrying on a trade in Zimbabwe.

Both the customs and VAT legislation recognises the principal/agent relationships and as such an agent can be appointed as an exporter of record. The principal remains liable of an import or export obligations.

**Tax invoices**

Generally, the shipping invoice and final tax invoices are expected to be same. However, our customs legislation recognises circumstances where the actual sale value is not determinable at the time of export (goods like flowers sold on auction floors or minerals as determined by quality as established through further refining). In such cases, a “value for customs purposes only” is acceptable at the time of export on condition that the proper values are declared by the exporter after the sale of the goods

**Refunds to foreigners**

There are no refunds of VAT paid on either goods or services purchased by a tourist who subsequently exports them directly or indirectly to foreign destinations. The law allows zero-rating of tour packages of tourism services that include accommodation and food, hunting safaris where tourists pay in foreign currency to operators of tourist facilities, hotels, and camping and safari or hunting facilities.

VAT regulations allow embassies, diplomatic missions and diplomats who pay VAT on the purchase of goods and services to claim relief by way of refunds as prescribed by the Ministry of Home Affairs on qualifying purchases. Vouchers in support of the tax claims will have to be attached to the claims.

The Commissioner may authorise VAT refunds on:

- Prescribed goods and services purchased by diplomats and foreign staff of specified diplomatic missions or certain representatives of international or regional organisations or agencies; or
- Goods or services supplied to prescribed persons.

An administration fee may be charged, but the amount has not been determined. Refund claims must be made within six years from the date of payment of the VAT.

**Place, time and value of supplies**

**Place of supply**

There are no elaborate rules in this regard. An operator is deemed to be trading for the purposes of VAT where the regular and continuous activities of supplying goods for a consideration take place in Zimbabwe or partly in Zimbabwe.

**Time of supply**

The general rule is that the time of a supply is the earlier of the time an invoice is issued or any payment is received.

Various other time-of-supply rules also apply, for example in the following cases:

- Rental agreements – the time is the earlier of payment being received or when payment becomes due;
- Progressive or periodic supply of goods – the time is the earliest of any payment being received, payment becoming due, or an invoice being issued relating only to that payment;
- Installment credit agreement – the time is the earlier of delivery or any payment being received; or
- Fixed property – the time is the earlier of registration of transfer or the date of any payment or, where no transfer or payment is made, the date of the agreement.
**Value of supply**

The general rule is that where the consideration is in money, the value of the supply is the amount of money less VAT. Where the consideration is not in money, the value is the open-market value (‘OMV’). Various specific rules apply, such as in the following cases:

- **Connected persons**, where no consideration is charged, or where goods or services are supplied for less than the OMV – the value is the OMV if the recipient is not able to claim the full input;
- **Cessation as a registered operator or transfer of goods or services to a branch outside Zimbabwe** – the value is the lesser of cost or OMV;
- **Instalment credit agreement** – the value is the cash value (being the price of the goods or services without any interest and other incidental charges);
- **Adjustment in respect of change in use of assets in the trade** – the value is the OMV;
- **Fringe benefits** – the value is the cash equivalent of the benefit;
- **Mixed supplies (taxable and exempt)** – value must be apportioned; or
- **Where any supply is made for no consideration** – the value is nil, unless the connected-persons rule applies.

**Other**

**Rebates/Incentives**

Various rebates are in place for the mining sector as enshrined in the Customs and Excise Act (Chapter 23:02). The rebates apply on the importation of:

- Chemical for use in the extraction of minerals by the flotation process
- Chemicals for use in any process for the concentration or refining of ore, or for assay or research purposes
- Goods approved by the Commissioner for prospecting and search for mineral deposits
- Goods imported by a contractor solely and exclusively for use in the exploration for or production of petroleum

Under the VAT Act, a fiscal incentive in the form of a 90 day deferment of Value Added Tax payment on importation of Capital goods for the exclusive use of mining operations is applicable.

**Joint Ventures**

There are no VAT implications regarding the share of profits amongst Joint Venture Partners. All VAT issues remain with the JV.

**Rehabilitation and deregistration**

Rehab and Deregistration

There is no restriction on the claiming of input tax credit provided the expenditure is incurred for the purposes of trade or in the course of business of making of taxable supplies.

A registered operator may be deregistered if:

- the value of his taxable supplies falls below the registration threshold;
- he ceases to carry on any trade and will not carry on any trade during the next 12 months;
- he has applied for registration in anticipation of commencing a trade and has not commenced that trade; or
- he has successfully applied for voluntary registration and subsequently fails to comply with the requirements.

Cancellation of registration, with the approval of the ZIMRA, will take effect from the last day of the tax period during which the Commissioner is satisfied with the trader’s eligibility for deregistration or such later date as may be determined by the Commissioner.