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Helping you navigate Africa's VAT landscape

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Preface

Africa is an incredibly exciting place to do business in this day and age. This continent, with its 54 independent states, over one billion inhabitants and more than 2 000 languages spoken, offers incredible opportunities for growth to investors. But the complexity of such a diverse place also brings a lot of challenges, like ongoing political instability, lack of reliable infrastructure and ever-changing regulatory environments.

According to The African Economic Outlook annual report for 2016 (AEO), African countries require strong policy action to promote faster and more inclusive growth. Three out of every four Africans still live under poor human conditions, compared to one in five globally. African countries must deepen structural and regulatory reforms to achieve the development objectives set by African institutions and the international community.

In the past years, tax laws have evolved, revenue authorities have become more sophisticated and a conversation has started at the regulatory level to apply a more unified approach when it comes to tax. In addition, a much larger focus is being placed on transactional taxes and how they are applied across the continent, with an increase in the number of indirect tax audits as well as the monetary value of these audits.

Most of the 54 countries have value-added tax (VAT) systems, with an increasing number of amendments being introduced into VAT legislation. The information in this guide is based on the law in force as at 31 December 2016 and outlines the VAT principles regarding VAT rates, registration with the relevant authorities, output tax, exemptions, zero-rating, input tax, international trade, VAT accounting, VAT records and record-keeping issues as well as the basic principles relating to other indirect taxes in each of these countries.

This guide is intended to provide an overview of the application of VAT in Africa and does not contain a comprehensive summary of all VAT principles applying in each country. Having access to local experts who understand the specific circumstances as well as the laws and their interpretation remains an important recourse for any business.
















Africa continues to be a promising place to invest for many international business owners and investors. However, not understanding the tax environment could result in a large tax liability for the foreign investor. Managing compliance and 'getting it right' across Africa therefore remains one of the priorities for tax managers.

Charles de Wet
Director, Africa Indirect Tax Leader

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Botswana

Contact details

Website: www.pwc.com/bw
Postal address: PO Box 294, Gaborone
Telephone number: +267 395 2011
Fax: +267 397 3901

PwC contact persons **Contact details**
 Butler D Phirie butler.phirie@bw.pwc.com
 Letitia Hager letitia.hager@bw.pwc.com



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 taxable 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 by a registered person and the importation of goods or services into Botswana, other than an exempt import. Any supply that is not listed as an exempt supply is a taxable supply, other than 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.



VAT registration

Compulsory registration

Any person (including the State, local authorities, boards, partnerships, natural persons, trusts and companies) who carries on a taxable activity and makes taxable supplies, in Botswana Pula, of BWP1 million (approximately USD92 000) or more per annum, or expects that this limit will be exceeded during the following 12 months, is required to register for VAT. Auctioneers are required to register for VAT irrespective of their annual taxable turnover. The State or a local authority that carries on a taxable activity must be registered from the date of commencement of that activity.



Output tax

Compulsory registration is not required if the Commissioner-General is satisfied that the value of taxable supplies exceeded BWP1 million solely as a consequence of the following:

- The cessation, or a substantial and permanent reduction in the size or scale, of a taxable activity carried on by the person; or
- The replacement of capital goods, used in the taxable activity carried on by that person.

A taxable activity is an activity:

- That is carried on continuously or regularly by any person in Botswana or partly in Botswana (whether or not for a pecuniary profit) that involves in whole or in part the supply of goods or services (other than an exempt supply) to another person for a consideration; or
- Of a local authority or unincorporated association or body that involves, in whole or in part, the supply of goods or services for consideration.

Voluntary registration

A person who makes or intends to make taxable supplies, but is not liable to register, may apply to the Commissioner-General for registration, provided that the person's taxable supplies in a 12-month period exceed BWP500 000. 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

No group registration is catered for in Botswana. Divisions or branches of a company may register separately, subject to certain conditions, e.g. maintenance of independent accounting systems, and if the branch/division can be separately identified by the nature of its activities or location.

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 BWP1 million.

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. Every person liable to be registered must apply to the Commissioner for registration within 21 days of becoming so liable.

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 VAT. The registration number format is based on the income tax file reference of the entity.

Deregistration

A registered person may apply in writing to deregister at any time that the taxable supplies of such person fall below BWP1 million 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.

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 prominently. 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 deemed not to be 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;
- Certain prescription drugs;
- Sectional title management levies;
- Domestic passenger transportation by road or rail, other than transportation of tourists;
- Cash grants made by or received from the State;
- Supply of condoms;



- Donations; and
- Supply of tractors specified under Customs Tariff Heading 8701.90 when acquired for farming to the extent provided in the regulations.

Zero-rated supplies

Adequate documentation must be retained to satisfy the Commissioner-General that a supply qualifies for zero-rating. 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 a 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 at the time the services are rendered, and goods temporarily imported;
- Certain services supplied directly to a non-resident, non-registered person, other than through an agent, relating to foreign-going aircraft or a container temporarily imported;
- Repair of a railway train operated by a non-resident, 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 immovable property situated in Botswana or directly in connection with movable property situated in Botswana (unless the movable property is exported from Botswana subsequent to the supply of services), or when the supplier refrains from undertaking an activity in Botswana;
- Services relating to intellectual rights for use outside Botswana;
- A taxable activity supplied to a registered person as a going concern;
- Sorghum or maize meal supplied for human consumption, but not when furnished as a meal or as cooked or prepared food;
- Goods or services for the personal or official use of the President or any dependent member of his family;
- Millet grain, millet meal, wheat grain, maize cobs, flour, sugar and Setswana beans in their natural state and not mixed with other products;
- Pesticides;
- Fertilisers;
- The first 5 000 litres of water per month by the Water Utilities Corporation to a residential dwelling; and
- Brown bread, vegetables, fruit, rice, samp, milk and bread flour as specified.



Input tax

Input tax allowed

Input VAT incurred on goods and services acquired solely for the making of taxable supplies is generally deductible as input tax. The tax authorities are very particular that valid tax invoices be held for claims made, and that the claims are made in the correct VAT period.

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 refreshments 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 taxable 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 relates to 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, 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 or post-deregistration 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.

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.



International trade

Imports

Goods

All goods imported into Botswana are subject to VAT, except goods expressly exempted from VAT on importation. An import of goods occurs, in the case of goods required to be entered for home consumption, when the goods are so entered, or in any other case, when the goods are brought into Botswana. Goods held in a bonded warehouse are not subject to VAT until they are cleared for use.

VAT on imports may be deferred where the importer provides adequate security or the Commissioner is satisfied that the importer has regularly paid all tax due on imports within the prescribed period. 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.

As a general rule, 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.

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 furnish the Commissioner with an import declaration and pay the VAT due within 30 days of the import of the service.

Exports

As a general rule, 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.

The supply of various services to persons who are not residents of Botswana and are not registered for VAT purposes in Botswana is zero-rated.

It is important to note that where a registered person has applied the rate of 0% to a supply, the registered person must obtain and retain documentary proof acceptable to the Commissioner to substantiate the person's entitlement to apply the zero rate.

In addition to the above, the Minister may by order deny zero-rating of supplies exported from Botswana if such action is necessary to protect revenue or to offset restrictions placed on zero-rating of comparable supplies by the export country.

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 BWP500 000. The Minister may authorise a refund of tax to diplomats, diplomatic missions and other persons under certain international laws and conventions.



Place, time and value of supplies

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 – regarding the supply of goods: when the goods are removed or made available; or in the case of a supply of services: when the services are performed, unless the time of supply has already taken place in accordance with the general rule;
- Credit agreement – when the goods are delivered or the time at which any payment for the supply is received, whichever is the earlier;
- Lay-by agreement – when the goods are delivered to the purchaser;
- Change of use – when the goods or services (acquired for taxable use) are transferred to a non-taxable activity;
- Repossession of goods under credit agreement – when the goods are repossessed or the day after the last day of any period during which the debtor may be reinstated;
- Machine, meter or other device operated by coin, note or token – when the coin, note or token is taken from the machine, meter or other device by or on behalf of the supplier;
- 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;
- Token, voucher or stamp – when the token, voucher or stamp is issued;



VAT compliance

Accounting basis and tax period

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 BWP12 million, and one month for those exceeding BWP12 million per annum.

The Commissioner can also require a person to report on a monthly basis on the ground that the person has regularly defaulted in performing any obligations under the VAT Act.

Returns and payment of VAT

The VAT return must be filed within 25 days after the end of the tax period, whether or not VAT is payable in respect of that period. Where output tax exceeds the input tax, the VAT return must be accompanied by a payment equal to the difference.

Interest and penalties

Monthly compounded interest is levied on late payment at 2% per month or part of a month, on the unpaid amount, calculated from the date on which the payment was due until the date on which payment is made.

The Commissioner-General may, if 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 satisfied that it is just and equitable to do so, or where satisfied that such tax is irrecoverable.

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

- Goods removed from a VAT-registered manufacturing warehouse, or services rendered by an international financial services centre company – when the goods are removed from the warehouse, or when the services are rendered by the international financial services centre company;
- Forfeiture of deposit (other than a deposit on a returnable container) – when the deposit is forfeited;
- Immovable property – when the transfer deed is registered with the Registrar of Deeds or when payment is received, whichever is the earlier; and
- 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.
- Supply made for no consideration or for consideration 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;
- Credit agreement – cash value of the supply;
- Repossession of goods under a credit agreement – an amount equal to the balance of the cash value of the supply of those goods to the debtor, that has not been recovered at the time of the supply;
- Granting of a right to receive goods or services for a monetary value stated on a token, voucher or stamp – an amount equal to the amount by which the consideration exceeds the monetary value of the token, voucher, or stamp;
- Token, voucher or stamp such as discount coupons – the value of the supply of such goods or services by the supplier includes the monetary value stated on the token, voucher, or stamp, less the tax fraction of the monetary value if the token, voucher or stamp is surrendered for a taxable supply;
- Mixed supplies (taxable and exempt) – the 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 (excluding tax) or fair market value of the supply;
- Supply made for no consideration – the value is nil;
- Bets – amount received in respect of the bet, reduced by an amount equal to the tax fraction multiplied by the amount received in respect of the bet;
- Goods removed from a VAT-registered manufacturing warehouse – the fair market value of the supply; and
- Consideration paid or payable in kind – the fair market value of the consideration.

Value of supply

The general rule is that the value of a supply is the amount of the consideration for the supply.

'Consideration' includes the total amount in money or kind, paid or payable for the supply or import by any person, directly or indirectly, including any deposits on returnable containers, duties, levies and fees.

If the price includes VAT, the value is determined by deducting an amount equal to the tax fraction of the price: Value = VAT-inclusive price less (12/112 x VAT-inclusive price).

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

- Related persons (if the supply is made for no consideration or for a consideration less than the fair market value) – fair market value, i.e. the value that the supply would generally fetch if freely offered, between persons who are not related parties;



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.

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 that 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, and it should be made within 30 days of the assessment.

Upon application in writing by a person dissatisfied with an appealable decision, the Commissioner may, where satisfied that owing to absence from Botswana, sickness, or other reasonable cause, the person was prevented from lodging an objection within 30 days and there has been no unreasonable delay by the person in lodging the objection, accept an objection lodged after 30 days.

The Commissioner shall serve the person objecting with a notice in writing of the decision on the objection.

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 valid tax invoice. Only VAT-registered persons may issue tax invoices. The following particulars must appear on a tax invoice:

- The words 'tax invoice', displayed prominently;
- Date of issue;
- Serial number;
- Names, addresses 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.

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 their request.

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.

Additional export documentation

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

Record-keeping

A registered person, or any other person liable for tax under the VAT Act, 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 and is liable on conviction –

- Where the failure was made knowingly or recklessly, to a fine not exceeding BWP10 000 or to imprisonment for a term not exceeding two years, or to both; or
- In any other case, to a fine not exceeding BWP5 000 or to imprisonment for a term not exceeding one year, or to both.



Specific VAT rules

Bad debts

VAT paid in respect of a supply which eventually has to be written off as a bad debt can effectively be reclaimed by a VAT-registered person. The amount of the deduction allowed is the amount of tax paid in respect of the supply which corresponds to the amount of the debt treated as bad.

A deduction is only allowed if the debt was written off in the enterprise's books and the relief cannot be claimed until at least 12 months after the VAT was originally paid.

If VAT relief was allowed and the bad debt is subsequently recovered, VAT must again be accounted for by the registered person.

Land and buildings

An exemption from transfer duty applies if VAT is paid on a transaction involving the sale or transfer of land and buildings. Transfer duty paid can be claimed as input tax (subject to normal input tax rules).

Leasing

Lease or hire purchase capital repayments are not subject to VAT. Interest is exempt from VAT.

Promotional gifts

Basically, all promotional gifts can be taken at fair market value to impute output VAT. Cash donations to an association not for gain are not subject to VAT.

Second-hand goods

When a registered person supplies second-hand goods that are taxable, VAT has to be charged on such supplies, and the recipient would normally be entitled to an input tax deduction under the normal rules.

Input tax is claimable on second-hand goods acquired from a non-registered person, provided that:

- The goods must be second-hand as defined;
- The goods must have been supplied by a person not registered for VAT;
- The goods must be acquired from a person resident in Botswana;
- The goods must be acquired in Botswana, i.e. not imported;
- The amount of the claim may not exceed the tax fraction of the lower of the amount to be paid or the fair market value, including tax;
- Records of the transaction as required by the Commissioner-General must be kept, e.g. the full names and address of the supplier, taxpayer identification number, the date on which the goods were acquired by the person, the quantity/volume, a description of the goods, etc.; and
- The input tax credit may not exceed the amount of tax charged on the subsequent sale of the goods.

Where a notional input tax credit has been claimed in respect of second-hand goods purchased from a non-registered person, and these goods are subsequently exported at the zero rate, the amount so claimed must be declared as output tax due and shown in the return for the relevant period as an output tax adjustment.

Tourism industry

Where a non-resident sells a tourism package which includes services to be rendered to a tourist in Botswana, the domestic goods and services component will be subject to VAT.

If a Botswana travel agent supplies a domestic tour package to a person, whether resident or non-resident, the full package will be taxable at the standard rate. Where such a package includes services to be provided both within and outside Botswana, only the domestic component of the services will be taxed.

Currency conversion

For VAT purposes, an invoice in foreign currency is converted to BWP at the exchange rate applicable on the date of the invoice. Subsequent differences in exchange on date of payment are not subject to VAT.

Transfer of a business

The sale of a business as a going concern is treated as a zero-rated supply. The sale of part of a business can also qualify for zero-rating. For the zero-rating to be applicable, all goods and services necessary for the business operation must be transferred, the activity must be on-going at the time of transfer, both parties to the transaction must be registered for VAT, and details of the transaction must be reported in writing to the Commissioner-General within 21 days.

Warranty repairs

Where goods or services are supplied by a VAT-registered person in Botswana in terms of a guarantee provided by a non-registered resident, the supply would be treated as a standard rated supply.

Where goods or services are supplied by a VAT-registered person in Botswana in terms of a maintenance plan or agreement with a non-registered resident, the supply would be treated as a standard rated supply.



Other indirect taxes

Import duties

There are no import duties on goods brought in from within the Common Customs Union, which includes South Africa, Namibia, Lesotho and Swaziland. Import duties are levied on numerous goods brought in from other countries, at varying rates.

Excise duties

Excise duties are levied at varying rates on cigarettes, perfume and liquor.

Cameroon



Contact details

Website:	www.pwc.com/ac
Physical address:	PricewaterhouseCoopers Tax & Legal Sarl, Immeuble PwC, Rue Christian Tobie Kouoh
Postal address:	PO Box 5689, Bonanjo, Douala, Cameroon
Telephone numbers:	+237 233 43 24 43/45/46
Fax:	+237 233 42 86 09
PwC contact persons	Contact details
Nadine Tinen	nadine.tinen@cm.pwc.com
Bernard Noutsawa	bernard.noutsawa@cm.pwc.com



Introduction

VAT was introduced in Cameroon by the Law of Finance No. 98/009 of 1 July 1998 to replace the turnover tax ('Taxe sur Chiffres d'Affaires' (TCA) in French). The VAT authority in Cameroon is the Directorate General of Taxation.



Rates and scope

The standard VAT rate is 19.25%, unless the zero rate (0%) applies.

Taxable operations include transactions carried out within the context of an economic activity against payment. An economic activity means all activities relating to production, importation, provision of services, and distribution, including mining activities, agriculture, agro-industry, forestry, handicraft, and activities of independent or related professions. The following supplies fall outside the scope of the VAT system:

- Interest on foreign loans;
- Free distribution of goods for advertising or sales promotion purposes;
- Disbursements that are merely refunds to the buyer or customer of the exact amount invoiced; and
- Cash receipts, such as interest on arrears or damages for non-performance of contract terms, which are not payments for any business transaction.



VAT registration

Compulsory registration

No specific registration number is required to comply with the VAT rules.

In Cameroon, there is a single tax identification number which taxpayers must use to fulfil all their duties regarding all taxes.

However, it is important to note that the persons authorised to invoice VAT must be either natural persons or corporate/commercial entities realising an annual turnover before tax equal to or in excess of XAF50 million (EUR76 224.50).

Non-residents

Non-residents must appoint a solvent representative accredited by the tax authority. A bank account in Cameroon is not required.



Application for registration

Any natural or legal person liable as a statutory or actual taxpayer to payment of a tax, duty or levy, or an instalment thereof, by virtue of the provisions of the General Tax Code, must file an application for registration with the competent tax authority of the area within 15 working days following the start of the activities, and attach a site plan to such application.

Deregistration

In the event of an establishment being closed down as a result of death, a court ruling, or petition in bankruptcy, or owing to expulsion or expropriation, all the taxes due as at the date of the closedown become payable. A business licence is due only up to the end of the current month.



Output tax

Transactions subject to VAT

Prices must be advertised inclusive of VAT. For the calculation of VAT or excise duty, the basis of assessment must be rounded down to the nearest thousand francs.

The following transactions are subject to VAT:

- Supply of goods, i.e. the transfer of power to dispose of tangible property as owner even if such transfer is effected at the behest of a public authority; exchanges; assets brought into the business; and hire purchase sales;
- Supply of goods to oneself, i.e. transactions carried out by taxpayers either for the benefit of their enterprise or for other professional needs, excluding supplies made for the normal needs of the manager of a private enterprise for himself, and supplies made to himself by any group for the personal needs of its members, where such supplies concern premises constituting the main place of residence;
- Provision of services to third parties, i.e. all activities relating to industry rental contracts or work contracts by which a person undertakes to perform a given job in return for payment, and, generally, all transactions other than supplies of tangible property;

- Services rendered to oneself, i.e. services performed by taxpayers to satisfy either the needs of their enterprise or other needs related to their normal professional activities;
- Transactions related to the importation of goods;
- Real estate activities and transactions of any kind carried out by real estate developers (since the Finance Law for Fiscal Year 2011, 'real estate activities' include various forms of direct business and intermediation carried out by professionals in the sector of real estate transactions);
- Sales of second-hand articles and materials by professionals;
- Transfers of assets that are not exempt;
- Transactions carried out by enterprises approved under the Free Zone regime;
- Sales of petroleum products imported into or produced in Cameroon;
- Games of chance and games of entertainment;
- Leasing transactions with or without option of purchase;
- Commercial subsidies of any nature whatsoever;
- Reduction and writing off of debt for commercial reasons; and
- Payment of commissions to travel agencies for the sale of domestic flight tickets.
- International traffic transactions concerning:
 - Ships and boats used for industrial or commercial activities on the high seas,
 - Lifeboats and assistance boats,
 - Aircraft and ships used for maintenance and refuelling operations, and
 - Certain inter-state transit operations and services related thereto, in accordance with the Economic and Monetary Community of Central Africa (CEMAC) Customs Code;
- The importation or sale by the State of fiscal stamps, postage stamps, and stamped papers;
- Sums paid by the Treasury to the Central Bank, which has the currency-issuing privilege, and also the proceeds from the transactions of this Bank in connection with the issue of notes;
- Tuition and boarding fees collected by authorised schools and university institutions;
- Essential goods listed under Annex 1, namely:
 - Pesticides, fertilisers and inputs, as well as other agricultural, livestock and fishery inputs used by the producer,
 - Small fishing equipment, seeds, agricultural machinery and tools, their inputs and spare parts for plants for manufacturing the said machinery and tools, and
 - Pharmaceutical products and the inputs thereof, as well as the material and equipment used in the pharmaceutical industry;
- Leasing transactions carried out by credit establishments for borrowers, towards the acquisition of specialised agricultural equipment to be used in farming, livestock, breeding and fishing;
- Sales of oil products for refuelling the aircraft of companies that have a registered office in Cameroon;
- The social consumption of water of up to 10m³ per month;

Exempt supplies

The following transactions are exempted, provided they are subject to specific taxes exclusive of tax on turnover:

- Sale of mining products;
- Real estate transactions of all kinds carried out by non-professionals;
- Interest on external loans;
- Interest on deposits in credit and financial institutions by non-professionals;
- Transfer of rights to real estate, and transfer of business assets subject to a transfer duty or equivalent duty;

- The social consumption of electricity of up to 110kW per month;
- The composition, printing, import and sale of newspapers and periodicals, except proceeds from advertising, certain inputs and capital goods for these transactions, acquired by press, newspaper, and periodicals companies;
- Imports of certain exempted goods under the CEMAC Customs Code;
- Tests, consultations, health care, hospitalisation, medical and biological analysis, and the provision of prostheses in health facilities;
- Life and health insurance contracts and commissions;
- Local transformation of finished and semi-finished wood products, especially logging, modelling and assembly;
- HIV/AIDS control equipment under certain conditions;
- Subject to reciprocity, headquarter agreement and quotas laid down by the competent authorities, goods and services destined for the official use of foreign diplomatic and consular missions, and international organisations in conformity with modalities provided by regulation;
- Material and equipment used in harnessing solar and wind energy;
- Interest on real estate loans contracted by natural persons to acquire low-cost houses, provided that it is their first dwelling house, on the basis of a clearance issued by the tax authority;
- The sale of low-cost houses to natural persons acquiring their first dwelling house subject to a clearance from the tax authority; and
- Provision of services invoiced by promoters to members of approved management centres (AMCs) (AMCs provide management assistance and guide their small-size members in the accomplishment of their tax obligations).

Zero-rated supplies

The zero rate applies to exports of taxable goods.



Input tax

Input tax allowed

VAT levied for prepayment on a taxable transaction is deductible from the final tax paid on the transaction in the case of registered taxpayers assessed on the basis of actual earnings and the simplified taxation system.

Input tax expressly denied

- VAT incurred on the following expenses is expressly denied as an input tax deduction:
 - Expenses for housing, lodging, catering, receptions and shows, and the cost of hiring a private car or passenger transport vehicle;
 - Importation of goods for use for business purposes, but that are unused and re-exported as is;
 - Goods and services purchased by the enterprise, but that are used by third parties or the management or employees of such enterprises; and
 - Services relating to goods exempted from the right to deduction.

Partial exemption

For taxpayers not exclusively carrying out transactions giving a right to deduction, the deduction must be made proportionately. Such deduction applies to fixed assets and to goods and services. It is calculated from the fraction of turnover pertaining to taxable transactions.

The fraction is calculated as follows:

- The numerator – the amount of the income corresponding to the transactions liable to VAT-including exports; and
- The denominator – the amount of all income realised by the taxpayer.

When they pertain to goods liable to tax by nature, the following transactions are included in the numerator:

- Transactions exempted from VAT as mentioned above; and

- Transactions exempted from VAT within the frame of specific conventions signed with the State.

In the case of haulers engaged in inter-state freight-forwarding operations and related services in the CEMAC region, the specific turnover of these operations must appear in both the numerator and denominator.

A deduction is acceptable only following verification of the proportional deduction.



International trade

Imports

VAT is payable on the importation of goods. This applies equally to supplies of imported services to the State, regional and local authorities, public establishments, companies with partly or entirely public capital, and some enterprises from the private sector (generally with a turnover amounting to XAF3 billion, or where the taxpayer is an affiliate of such enterprise, and mentioned on a list established by Ministerial Order).

The VAT is deducted at source at the time of payment of invoices, and remitted to the competent tax service or the competent accounting office with territorial jurisdiction. This deduction is subject to the same conditions and deadlines applicable to other transactions.

Exports

The exportation of products entails a right to deduction and, where applicable, a tax credit where VAT on such product was pre-paid.

In the case of services provided directly at the manufacturing, processing or packaging stages of exported products, as well as for the transportation and transit operations relating thereto, the deduction is not final until proof of actual exportation and prepayment of VAT is shown.

In application of the principle of territoriality of VAT in Cameroon, foreign entities do not qualify for a refund.



Place, time and value of supply

Place of supply

Transactions carried out in Cameroon that are not listed among the exemptions are liable for VAT even when the residence or head office of the real taxpayer is situated outside Cameroon.

Time of supply

The tax is due as follows:

- On the supply of goods – when the chargeable event takes place;
- On receipt of the price, payment by instalments, or advances made for real estate in relation to low-cost housing and the development of industrial zones, as well as phases of services and works; such liability also concerns State suppliers, government services with an annex budget, public establishments, and corporations, as well as regional and local authorities;
- On transfers of fixed property – on the date of conveyance or transfer of the property;
- On importation or entry of goods and merchandise into Cameroon – at the time of registration of the statement of home use entry; and
- On consumer credit or leasing transactions carried out by a financial establishment – on the date when the interest or lease payments fall due.

Value of supply

The value of supplies is as follows:

- Supply of goods, for any amount or value – all benefits, goods and services received or to be received in return for the supply;
- Provision of services – all sums and benefits received and, where applicable, the value of material consumed during the execution of the services;
- Exchange of goods – the value of the products received in return for payment for the goods and, where applicable, the value of the additional payment;

- For construction works – the amount stipulated in the contract, bill or invoice;
- For leasing transactions with or without option to buy, by the amount of rent billed by leasing companies, and, by the end of the contract, by the transfer price agreed upon in the contract when the purchase option is exercised by the lessee, or by the transfer price where sale is to the third party;
- For transactions carried out in the enterprises of chance and entertainment games, by the total proceeds of such games; and
- Supplies to oneself – the purchase price, exclusive of taxes, of goods bought, and used as is, or the cost price of the extracted, manufactured or processed goods.



VAT compliance

Returns and payment of VAT

VAT credits may be offset and, where applicable, refunded under certain conditions. Tax returns may be filed by electronic means, which are subject to certain conditions.

Where the tax authority notices a shortcoming, an inaccuracy, or an omission in the data used as a basis to calculate any taxes, duties or sums due under the General Tax Code, the corresponding adjustments will be made following the adversary procedure. The onus of proof will lie with the tax authority.

Interest and penalties

Inadequacies, omissions or inaccuracies affecting the tax base or data that have led the tax authority to make adjustments will result in the application of a 1.5% interest on arrears per month up to a maximum of 50%, which is calculated on the basis of charges to be borne by the taxpayer following notification of the last procedural deed in case of control. Interest on arrears is calculated with effect from the first day of the month during which the return showing an inadequacy, omission or inaccuracy was

filed up to the last day of the month of notification of adjustment. The maximum amount of the interest on arrears will be 50%.

Interest will not be waived if the non-compliance does not result in a loss to the State or a benefit for the taxpayer.

Refunds

VAT credits may be refunded on condition that their beneficiaries do not owe any taxes and duties whatsoever that can be compensated, and that the credits are justified.

No application for a refund or offsetting of VAT may be submitted based on receipts of payments in cash.

Objections and appeals

A taxpayer who feels wrongly taxed or overtaxed may submit a written claim to the head of the Regional Taxation Centre of the place of assessment, to the head of the structure responsible for managing the 'Large Taxpayers Unit' or to the Director-General of Taxation within 30 days from the date of issue of the notice of issue for collection.

The head of the Regional Taxation Centre, the head of the structure responsible for managing the 'Large Taxpayers Unit', and the Director-General of taxation will respond within a maximum period of 30 days.

Where the Head of the Regional Taxation Centre, the Director in charge of the Large Tax Unit or the Director General of Taxation fails to react after 30 (thirty) days, the taxpayer may automatically forward their claim to the Minister in charge of Finance.

Where the taxpayer's arguments are justified, the tax relief is granted as follows:

- The Head of the Regional Taxation Centre will grant tax relief up to the sum of XAF30 million; and
- The Director-General of Taxation will grant tax relief up to the sum of XAF100 million.

Where the decision of the Regional Taxation Centre, of the head of the structure responsible for managing the 'Large Taxpayers Unit', or of the Director-General of Taxation does not fully satisfy the claimant, they may forward their claim within 30 days to the Minister in charge of Finance, who will respond within a time limit of 60 days. Where the taxpayer's arguments are justified, tax relief exceeding the sum of XAF100 million may be granted by the Minister in charge of Finance.

Time limits

Sums due from taxpayers for taxes and duties assessed by virtue of the General Tax Code are barred after a period of four years following the due date, where no instrument has been issued to end the limitation. This limitation may not be invoked in the case of taxes deducted at source or those for which the person liable is only a collector.

The maximum period for claiming input tax credits is two years.



VAT records

Tax invoices

Receipts must be issued for all payments. Such receipts are exempted from stamp duty. A duplicate thereof may be issued to a taxpayer who so requests.

A tax invoice may be issued in French or English, and may not be in a foreign currency.

Credit notes and debit notes

Cash receipts such as interest or damages for non-performance of contract terms, which are not payments for any business transaction, are excluded from the basis of assessment.

Additional export documentation

Additional export documentation required includes a CEMAC-origin certificate for supplies from the CEMAC zone and a health certificate for supplies of animal origin.

Record-keeping

The accounts of a subsidiary or branch of an undertaking established outside Cameroon may not be invoked in litigation with the tax authority unless they show the profits made by the same subsidiary or agency.

Records must be kept for a period of ten years. Where accounting via a computer, the tax authority may seek technical assistance from experts in order to conduct tests on the equipment used by the enterprise and check the following:

- The accounting system used;
- All of the information, data and processing directly or indirectly used to produce the accounting or tax results or draft the documents that are mandatory under the General Tax Code; or
- Documents concerning analysis, programming and execution of processing.

Taxpayers must produce, at the request of the tax authorities, all mandatory accounting documents and records, supplemented where necessary by the accounting items applicable to the nature of the activity undertaken, in order to establish the genuineness of the information mentioned in a tax return.



Specific VAT rules

Bad debts

For taxes that cannot be collected due to a change in the situation of the taxpayer at the time of assessment, the collector of taxes will submit lists of irrecoverable taxes to the Director of Taxation.

For each irrecoverable tax, the relevant list must indicate the nature of the tax with reference to the issue prohibiting collection, and the amounts not collected, as well as any information or details showing clearly that such taxes have become irrecoverable. They will be submitted along with documents to support the measures taken to recover the said taxes. The collectors of taxes who are personally and financially responsible for tax recovery may be

discharged and freed from performing such duty where the bad debts are officially listed. The Minister in charge of Finance will issue a registered certificate for all taxes considered as bad debts.

Land and buildings

Real estate transactions of any kind carried out by real estate developers are taxable. For transfers of property, liability for payment of VAT is due on the date of conveyance or transfer of the property.

Leasing

VAT credits may be refunded, within three months of the filing of an application, to industrialists and leasing establishments that have purchased equipment and whose corresponding VAT cannot be offset through the recovery mechanism within a period of one year.

Promotional gifts

Free distribution of goods for advertising or sales promotion purposes is excluded from the basis of assessment.

Small retailer scheme

A scheme that involves small retailers is subject to a discharge tax, excluding payment of their business license, personal income tax and VAT (Category A).

Tourism industry

Tourist guides are subject to a discharge tax, excluding payment of their business license, personal income tax, and VAT (Category C).



Other indirect taxes

Import duty

The basis of assessment for imports is determined by adding the amount of customs and excise duties to the taxable value.

For goods entering the territory of a member state, the basis of assessment is the ex-works value, excluding forwarding costs. The basis of assessment for the excise duty on imports will be determined by adding the amount of the customs duty to the taxable value.

The basis of assessment for VAT and excise duty on imports of some alcoholic beverages and tobacco products will be the taxable value, i.e. the price agreed on by the parties to the transaction. For goods and merchandise entering the territory from a CEMAC member state, the basis of assessment is the ex-works value, excluding forwarding costs.

Excise duty

Excise duties are imposed on luxury goods (natural fruit juices, mineral water, gaseous drinks, wines, spirits and other fermented drinks, tobacco and cigarettes, caviar, slot machines, lottery machines etc.) as well as mobile telephone communications and Internet services. The taxable base is the turnover. As for imports of luxury goods, this base consists of the customs value, increased by customs duties applicable; where certain tobaccos and alcoholic beverages are concerned, the value is the transactional value. There are minimum taxes applicable to tobaccos and alcoholic beverages.

The general excise duty rate is 25%, the reduced rate is 12.5% and the extra-reduced rate is 2% (for mobile telephone communications and Internet services).

Stamp duty

Stamp duty in CEMAC countries is established independent of registration fees on all papers to be used for civil and legal instruments and documents that may be brought before courts of law as proof.

Stamp duty is fixed according to the nature of the instruments subject thereto. It is paid by use of stamp paper, a stamping machine, and adhesive stamps or by endorsement for stamp duty, or against declaration or on production of statements or extracts, or at a fixed rate.



Cape Verde

Contact details

Website:	http://www.pwc.com/cv
Postal address:	Edifício BAI Center, Piso 2 Dto., Avenida Cidade de Lisboa, Cidade da Praia, Cape Verde
Telephone number:	+238 2615 934 R. Sousa Martins nº1, 2º, 1069-316 Lisboa, Portugal <i>(The Indirect Tax department is located in PwC Portugal)</i>
Telephone number:	+351 213 599 699
PwC contact persons	Contact details
Leendert Verschoor	leendert.verschoor@pt.pwc.com
Susana Caetano	susana.caetano@pt.pwc.com
Armando Rodrigues	armando.rodrigues@pt.pwc.com
Liza Helena Vaz	liza.helena.vaz@pt.pwc.com



Introduction

VAT was introduced in Cape Verde with effect from 1 January 2004 by Law 21/VI/2003 of 14 July 2003.



Rates and scope

The standard VAT rate is 15%.

VAT is levied on the supply of goods taking place in the Cape Verdean territory by a taxable person acting as such.

Examples of supply of goods:

- The transfer of the right to dispose of tangible property as owner;
- Supplies of electricity, gas, heat and refrigeration;
- The actual handing over of goods pursuant to a hire purchase agreement;
- The transfer of goods pursuant to a contract under which commission is payable on purchase or sale; and
- The application of business assets for purposes other than those of the business, where the VAT on those goods was wholly or partially deductible.

VAT is levied on the rendering of services taking place in the Cape Verdean territory by a taxable person acting as such. Services are all operations carried out that are not the supply or importation of goods.

Examples of rendering of services:

- The use of goods forming part of the assets of a business for the private use of a taxable person or of their staff or, more generally, for purposes other than those of their business, where the VAT on the goods was wholly or partially deductible; and
- The supply of services carried out free of charge by a taxable person for their private use or for that of their staff or, more generally, for purposes other than those of their business.



VAT registration

Compulsory registration

VAT is also levied on the importation of goods.

The following persons will be liable for the payment of VAT:

- Any person resident in Cape Verde or with a permanent establishment or representing office there, carrying out an economic activity independently and on a regular basis, whatever the purpose, or performing operations on an occasional basis, that is liable to income taxes;
- Non-residents carrying out taxable transactions if liable to income taxes;
- Importers (in accordance with the customs legislation);
- Any person who unduly charges VAT on an invoice;
- The State – provided the activities are not carried out on such a small scale as to be negligible (including telecommunications, water, gas and electricity distribution, transport, ports and airports, TV and radio, and warehousing); and
- Any person resident in Cape Verde or with a permanent establishment there that acquires services from non-residents, such as consultancy, engineering, accounting, supply of staff, licenses etc.

The reverse-charge rules apply to construction services. Invoices issued for construction services in which the reverse-charge rule is applicable, i.e. where the customer is the taxable person, must contain the wording 'IVA –autoliquidação'.



VAT registration

Compulsory registration

All corporate and individual entities carrying out taxable economic activities are obliged to register with the competent tax department. The start-of-activity documentation has to be submitted prior to the start of operations.

Voluntary registration

No provision is made for voluntary registration.

Group or branch registration

No provision is made for group registration.

Non-residents

Non-resident entities without a permanent establishment in Cape Verde who carry out transactions in the territory should appoint a resident legal representative to comply with VAT obligations. The legal representative and the non-resident entity are jointly liable towards the Cape Verdean Tax Authorities.

If the non-resident entity does not appoint a legal representative in Cape Verde, the taxable entity that purchases the goods or the recipient of the services will be responsible for compliance with the VAT obligations.

Application for registration

The taxpayer must file form 109 in order to obtain a fiscal identification number. Tax registration is done by submitting the application form (form 110) to the competent tax office at the start of activities. The registration number is also the tax number for all taxes (direct and indirect taxes).

Whenever there is a change in any information included in the starting-of-activities return, an amendment return must be submitted within 15 days from the date of the change.

Deregistration

Deregistration is achieved by the completion and submission to the tax authorities of the proper application form within 30 days from the cessation of activities.



Output tax

Calculation of output tax

Output tax is calculated by applying the applicable VAT rate (15%) to the taxable amount.

Exempt supplies

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

- Medical services, and closely related activities, carried out by hospitals, clinics and other institutions of a similar nature;
- Non-commercial activities carried out by public TV and radio entities;
- Human organs, blood and human milk;
- Transport services for sick or injured persons in ambulances by duly authorised entities;
- Goods and services, limited to welfare and social security work provided by public entities or non-profit organisations;
- Services and goods supplied by nurseries, kindergartens, after-school centres, establishments for abandoned children and teenagers, homes for the aged and invalids, establishments for children and teenagers with disabilities, rehabilitation centres, and other similar establishments owned by public entities or non-profit organisations, duly recognised by the competent authorities;
- The supply of services by public entities or non-profit organisations engaged in the pursuit of sports, cultural, and physical education activities;
- Educational services and goods closely related thereto, carried out by approved entities;
- Services and goods supplied by public or non-profit entities in relation to conferences, seminars or similar activities of a scientific, cultural, educational or technical character;
- Intellectual property rights;



Input tax

Input tax allowed

- Services supplied by non-profit entities of political, religious, humanitarian, philanthropic, recreational, sport, cultural, environmental, civic or economic interest, in the collective interest of its members, provided that the consideration given by the members is only a fixed fee in terms of the entity's Articles of Association;
- Stamps at their face value;
- Public service of garbage removal;
- Funeral services and accessory goods;
- Banking and financial transactions;
- Insurance and reinsurance transactions;
- Lease of immovable property (with some exceptions);
- Transactions subject to property tax (IUP);
- Betting, lotteries and other forms of gambling;
- Goods exclusively applied for an exempt activity or an activity for which VAT is not deductible; and
- Sand and certain equipment, seed, fertilizers and fishing tools.

Zero-rated supplies

The zero-rated supplies include (but are not limited to) supplies of goods and services for export by the seller or by a third party.

The supply of the following goods in Cape Verde is also zero-rated:

- Meat, fish, milk, eggs, fruit and vegetables;
- Newspapers, magazines and books of a cultural, educational or technical character; and
- Medicines and other pharmaceutical products exclusively for therapeutic and prophylactic purposes.

VAT is fully recoverable in the case of taxpayers carrying out fully taxable activities, subject to complying with the legal requirements. Taxpayers carrying out VAT-exempt activities are not entitled to claim any input VAT.

Input tax expressly denied

Input tax is expressly denied in the following instances:

- Passenger 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;
- Vehicles licensed for the transportation of goods;
- Expenses on business trips and transport for entrepreneurs or employees; and
- Lodging, food and drink, tobacco and entertainment expenditure.

Partial exemption

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



International trade

Imports

Goods imported into Cape Verde are subject to the payment of VAT by the importer. However, the following are exempt (as examples):

- Goods that are exempt if supplied within the country;
- Re-importation of goods by the entity that exported the goods when they are exempt from import duties;
- Music instruments when imported by music schools and music groups if not made in Cape Verde, if benefit was derived from import duty exemption;
- Some equipment and machinery if import duty exemption applies;

- Importation of gold by the Bank of Cape Verde; and
- Importation of goods by entities under projects of international cooperation.

The general rule is that the rendering of services is taxable if the service provider's head office, permanent establishment or domicile from which the services are rendered is in Cape Verde. However, the following services are always taxable regardless of the place of establishment of the provider of the services (if acquired by a Cape Verde taxpayer):

- Services related to immovable property located in Cape Verde, which includes services of architects, on-site supervision, estate agents and experts, consultancy, lawyers, and the preparation and coordination of construction works;
- Services performed in relation to movable tangible goods if performed totally or mainly in Cape Verde;
- Services of an artistic, scientific, sports, entertainment, educational or similar nature that take place in Cape Verde;
- Transport services provided in Cape Verde;
- Transfers and assignments of copyright, licenses, trademarks and similar rights;
- Advertising services;
- Telecommunication services;
- Services of consultants, engineers, consultancy bureaux, lawyers and accountants, and other similar service providers, including services related to research and development;
- Supply of information and data;
- Banking, financial, insurance and reinsurance operations;
- Leasing and renting of movable assets;
- Supply of staff;
- The obligation of not exercising (even if partially) a professional activity or a right mentioned on this list; and



- Services by intermediaries acting in the name and on behalf of other persons in the rendering of the above services.

Exports

The following goods are subject to VAT exemption (as examples):

- Goods shipped or transported abroad by or on behalf of the seller;
- Goods shipped or transported abroad by a customer without residence or establishment in Cape Verde, except goods supplied for ships, tourism aircraft or any other means of conveyance for private use;
- Supply of provisions for vessels used for navigation on the high seas and carrying passengers for reward, or used for the purpose of commercial, industrial or fishing activities, or for rescue or assistance at sea, or for inshore fishing;
- Supply of goods under diplomatic and consular relations in accordance with international agreements;
- Supply of provisions to war vessels destined for a port located abroad;
- Supply of goods to certain international entities; and
- Supply of goods to recognised entities that export the goods abroad in the ambit of their humanitarian, charitable or educational activities.

The following services are subject to VAT exemption (as examples):

- Services directly related to goods exempt from tax, whether it is temporary imports or transits, or entered in warehouses subject to the customs regime;
- Transport of persons proceeding from or going abroad and within the Cape Verdean islands; and
- Works on movable assets acquired or imported for purposes of such works, which are afterwards shipped or transported abroad.

The Cape Verdean VAT legislation provides for a special VAT refund regime for non-resident companies that incur Cape Verdean VAT and do not perform taxable transactions in Cape Verde.



Place, time and value of supplies

Place of supply

VAT is levied on the supply of goods or services carried out in Cape Verde as well as on imports.

In the case of goods, the general rule is that the place of supply is the place where the goods are located at the time when the supply takes place or, where goods are dispatched or transported, the place where the goods are located at the time when dispatched, or where transport of the goods to the customer begins.

In the case of services, the general rule is that the place of supply of services is the place where the supplier has established their business or has a fixed establishment from which the service is supplied, or in the absence of such a place of business or fixed establishment, the place where they have their permanent address or usually reside.

Exceptions to the above rules include:

- Services connected with immovable property located outside Cape Verde – place where the property is located;
- Services relating to movable tangible property performed totally or mainly outside Cape Verde – place where the service takes place;
- Cultural, artistic, sporting, scientific, educational, entertainment or similar activities, performed outside Cape Verde – place where the service takes place; and
- Transport services – place where the transport takes place in proportion to the distances covered.

Time of supply

- The general rule is that a supply of goods or services occurs:
- 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 by customs;
- Supply of goods with transport – when the transport begins;
- Supply of goods with assembling – time of conclusion;
- Supply of continuous services – at the expiry of the periods to which payments relate; and
- Supply of goods from principal to commissionaire – when the goods are delivered to the customer.

Value of supply

For the supply of goods and services, the taxable amount includes everything that constitutes consideration obtained or to be obtained by the supplier in return for the supply from the customer or a third party (including any taxes and duties other than VAT, and expenses related to commissions, packaging, transport and insurance paid on behalf of the customer).

In respect of the importation of goods, the taxable amount is the value for customs purposes determined in accordance with the provisions in force in Cape Verde (including customs duties and other import taxes and complementary expenses such as packaging, transport and insurance, up to the first destination of the goods in Cape Verde).



VAT compliance

Accounting basis and tax period

Under the normal VAT regime, taxpayers must account for VAT on a monthly basis.

Returns and payment of VAT

The following returns must be submitted:

- Start-of-activity return – to be submitted before starting the activity (form 110); this return should not be submitted if the taxpayer performs one single taxable transaction;



VAT records

Tax invoices

Invoices must be issued by any person or entity that carries out an economic activity on an independent basis, whether regularly or occasionally.

For VAT purposes, invoices must be issued no later than the fifth working day following that in which the goods were put at the disposal of the acquirer or the services were supplied. Invoices should be issued in duplicate (the original sent to the client, and the duplicate kept in the taxpayer's files).

The law imposes control measures over the issuance of invoices, as follows:

- Issuing invoices is mandatory for any supply of goods or services;
- Rectifying documents must contain cross-references to the invoice which is amended, and must explicitly mention the amendment;
- The wording 'equivalent documents' has been deleted from VAT law; and
- New mandatory disclosures have been introduced for invoices issued for construction services when the customer is a taxable person for VAT purposes.

Invoices must contain the following references:

- Name, address and tax registration number of the supplier and customer;
- Date and unique sequential number;
- Description or nature of the goods supplied or services rendered, which mentions all required elements to determine the applicable VAT rate;
- Quantity of the goods supplied or the extent of the services rendered;
- Price of the goods supplied or the services rendered, and all other elements included in the taxable base (excluding VAT) per VAT rate, or exemption (in the case of services rendered, it may show only the price of the services supplied including VAT, and the applicable VAT rate);
- VAT rate(s) applied and the corresponding VAT amount(s); and
- If no VAT has been applied, specific indication of the reason for not charging VAT.

- Amendments return – to be submitted within 15 days after the alteration of any information included in the Declaration of Start of Activity of the taxpayer;
- Closedown return – to be submitted within 30 days after the cessation of activities in Cape Verdean territory; and
- Monthly VAT return:
 - To be submitted until the last business day of the following month if the VAT return is filed on paper at the local tax office; and
 - To be submitted until the last day of the following month when the VAT return is submitted by electronic means.

In these VAT returns, the taxpayer must calculate the VAT due or the VAT credit amount to be refunded under certain conditions, or carried forward to the following VAT return.

VAT due by taxpayers for the month must be paid to the competent tax department by the last working day of the following month.

Obligation to submit VAT adjustment maps

If VAT is adjusted in a credit or debit note, the taxable person is obliged to submit VAT adjustment maps that provide information on the adjustment to the authorities.

Interest and penalties

In the case of negligent conduct, the non-payment or late payment of the VAT due is subject to a fine that may vary from 10% of the amount of unpaid tax to the amount of tax unpaid. This fine cannot exceed (in Cape Verde Escudo) CVE40 million, and cannot be lower than CVE7 000.

Interest may also be applicable if there is an amount of VAT due.

Refunds

Whenever there is a right to deduct VAT, the amount of deductible VAT must be offset against the amount of VAT due 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 remains outstanding and is higher than CVE50 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 transactions with no right to deduction or qualifies under the exemption for simplified regimes; or
- The amount of credit exceeds the fixed limit of CVE250 000.

The deadline legally established for the tax authorities to refund VAT is the last day of the third following month. If the deadline is not met, interest will be paid upon special request by the taxpayer.

In addition, the Cape Verdean VAT legislation provides for a special VAT refund regime for non-resident companies that incur Cape Verdean VAT and do not perform taxable transactions in Cape Verde.

Objections and appeals

The tax authorities issue assessments, and taxpayers are entitled to challenge such assessments. The challenge can take the form of an administrative claim or a judicial claim (court). Short deadlines apply to claims.

Time limits

The tax liability for any taxpayer is five years. The deadline for the Cape Verdean tax authorities to charge the VAT due is eight years, which means that the tax authorities have five years to notify the taxpayer of any VAT due (the deadline counts from the date the VAT is due), and have eight years to effectively charge the VAT due where the deadline counts from the beginning of the year following that in which the VAT was due.

The taxpayer can deduct VAT on invoices issued in the preceding 12 months. A request to the Director of Taxes must be made to allow VAT recovery for the previous four years. Therefore, the taxpayer has five years to deduct any VAT incurred for the provision of taxable transactions.



Specific VAT rules

Credit notes and debit 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 comply with various requirements applicable to invoices, must always make reference to the invoices to which they relate, and must explicitly mention the amendment. The rules applicable to credit notes apply to debit notes as well.

VAT may or may not be included on credit notes. Normally, the inclusion of VAT on credit notes does not have a financial effect.

Additional export documentation

Export transactions should be reflected in the company's records through the specific form issued by the customs authorities for every export (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:

- Statutory accounting system – records of all operations according to their VAT treatment, original invoices received and duplicates of invoices issued; 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.

When accounting is carried out through a computer system, all books, records, supporting documents and other documentation related to the programming and treatment of data must be kept for five years.

The accounting documentation must be kept within the country at the company's head office or by its legal representative, to allow the tax authorities access to the documents when required.

Bad debts

A taxpayer may deduct VAT previously invoiced to a debtor only if the debt has been formally recognised by the court as a bad debt under an enforcement, bankruptcy or insolvency process. If the taxpayer subsequently recovers all or part of the outstanding debts, they must account for output tax.



Land and buildings

The supply of land and buildings is, in principle, subject to property transfer tax. Operations subject to property transfer tax are exempt from VAT. As the transfer of land and buildings is subject to property transfer tax, these operations are VAT-exempt. The letting of immovable property is also exempt from VAT (with some exceptions). These exemptions do not give the supplier the right to deduct the VAT incurred on its inputs.

Leasing

Leasing is considered a supply of services subject to the standard VAT rate of 15% in Cape Verde.

Promotional gifts

The supply of promotional gifts and samples is not considered a supply of goods, and is therefore not subject to VAT if the unit value of the promotional gift or sample being supplied is lower than CVE3 000, and the total amount of supplies of these goods does not exceed 0.5% of the annual turnover of the taxpayer in the previous year.

Second-hand goods

Second-hand goods are subject to VAT. The tax is applicable to the difference between the sale price and the purchase price. Invoices issued by taxpayers engaged in selling second-hand goods must contain the wording 'VAT – second-hand goods', and must not include the VAT amount. Exports of second-hand goods are, in most cases, zero-rated.

Tourism industry

The tourism industry is very important for Cape Verde's economy.

There is a special regime for travel agencies and tour operators. Where these operators deal with clients in their own name, and use supplies of goods or services provided by other taxable persons in the provision of travel facilities, VAT is due based on the margin. As for second-hand goods, invoices issued under this regime must not include the VAT amount, but should include the statement 'VAT included'.

Currency conversion

When invoices are issued in foreign currency, the taxable basis should be determined using the Cape Verdean Central Bank exchange rate on the date on which the VAT becomes chargeable or on the first working day of the month in which the VAT became chargeable.

Transfer of a business

The transfer of a totality of assets (business) or part thereof (if constituting an independent activity) is excluded from tax, provided the recipient is or will become a taxable person.

Warranty repairs

No specific VAT rules apply to warranty repairs.



Other indirect taxes

Import duties

Import duties are levied on the importation of goods. The taxes vary according to the Customs Tariff Schedule.

Excise duties

Excise duties are charged on the import, production or introduction to consumption of several goods, including beverages, tobacco, perfume, cars, jewellery, clothing, weapons, etc. The tax rates range from 10% to 150%.

Tourism tax

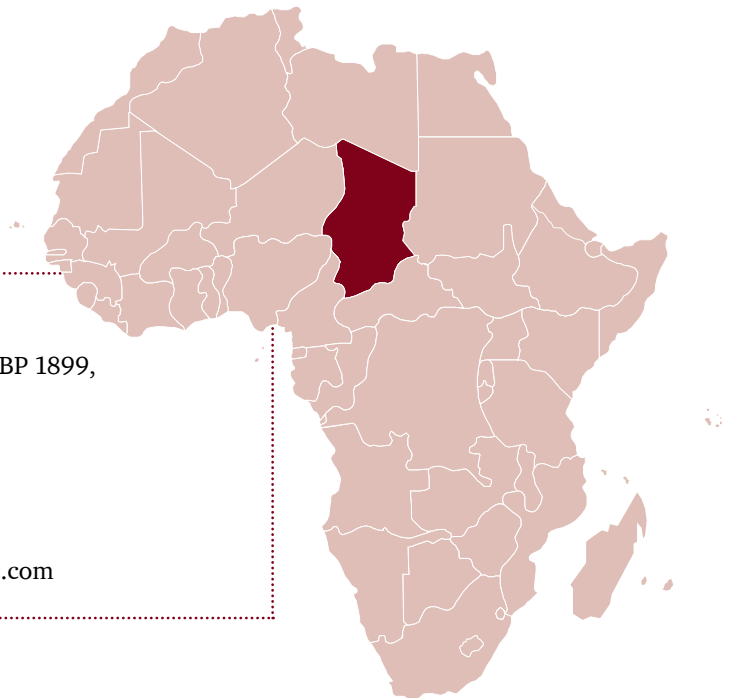
Since 1 May 2013, a tourism tax applies to accommodation in the hotel sector. The tax amounts to CVE220 (EUR2) per person, per night, for people aged over 16 years for a period not exceeding ten consecutive nights.

Customs statistics tax (TEA)

TEA is charged on services provided to private individuals under the SYDONIA++ system, and is applied inter alia to customs statements on each addition of goods to a customs declaration, and to each process for a customs exemption.



Chad



Contact details

Postal address:	Immeuble Star National, BP 1899, N'Djaména, Chad
Telephone number:	+235 22 52 38 96
Fax:	+235 22 52 07 24
PwC contact persons	Contact details
Guy Emmanuel Ngankam	guy.e.ngankam@cm.pwc.com



Introduction

VAT was introduced into Chadian legislation on 1 January 2000 by Law Number 024/PR/99 to replace turnover tax.



Rates and scope

There are two rates:

- The standard rate is 18% on a 'without taxes' basis and applies to all taxable operations; and
- The 0% rate applies to exports and related international transportation.

An operation performed in Chad which constitutes an economic activity and for which payment is made, unless included in the list of exemptions, is liable for VAT even if the residence of the natural person or the registered office of the legal entity is located outside of Chad. The tax basis corresponds to the amount of money paid for the provision of goods or services.

In the case of importation, the tax base corresponds to the customs valuation (price of sale of goods plus cost of insurance and transportation, etc. until arrival in Chad), plus any excise duties.



VAT registration

Compulsory registration

Every person who is liable for paying VAT has to make a declaration of existence and register with the Directorate of Large Companies ('Direction des Grandes Entreprises') within 15 days from the beginning of its activity.

Group and branch registration

A foreign company can establish economic activities in Chad either by setting up a branch or through a Chadian legal company (subsidiary). Branches must be registered in the Trade Register. A branch must have a legal representative, who has to perform several administrative formalities (administrative authorisation for pursuing a commercial activity, foreign merchant's card, etc.).

Non-residents

Financial operations carried out between Chad and foreign countries are subject to either a declaration or an authorisation.



The setting up of every direct investment in Chad is subject to a prior declaration to the Ministry of Finance by:

- Natural or legal persons with their main residence or head office in a foreign country;
- Companies in Chad of which at least 10% is owned directly or indirectly by a foreign firm; and
- Foreign companies' establishments in Chad.

VAT applies when the service is used or where the product is manufactured or first put on the market. Where such a place is different from the head office or the main establishment, the taxpayer must appoint a solvent representative accredited by the tax authority of the said place, who is a resident in Chad. This representative will be jointly and severally liable for VAT. In case of failure to appoint a representative, VAT and, where applicable, the attendant penalties will be borne by the client on behalf of such taxpayer without a fixed or permanent professional establishment in Chad.

It is not a requirement for persons carrying out taxable transactions to have a bank account in Chad.

Deregistration

Any termination, transfer or modification of taxable activities is subject to a declaration.



Output tax

A taxpayer must deliver an invoice for every taxable operation entered into with other taxpayers. The invoice must show (inter alia) the amount without taxes, the applicable VAT rate, the VAT amount and the amount inclusive of VAT.

If some operations of the taxpayer are not subject to VAT, the invoice must separate the operations that are subject to VAT from the rest.

Exempted supplies

The following supplies, activities and income streams fall outside the scope of the VAT system:

- Sales made directly to consumers by farmers, ranchers and fishermen of their unprocessed products;
- Transactions involving postage stamps, tax stamps and stamped papers issued by the State and local authorities;
- Import operations and the sale of newspapers and periodicals, with the exception of advertising revenues;
- Services or operations of a social, health, educational, sporting, cultural, philanthropic or religious nature rendered by non-profit organisations whose management is voluntary and disinterested, when these operations are directly related to the collective defence of the moral or material interests of their members (unless the operations are performed in a competitive industry);
- Amounts paid to the central bank responsible for the privilege of issue, and the products of the operations of this generative bank of the issuance of tickets;
- The lease of undeveloped land and bare premises;
- Benefits under the lawful exercise of medical and paramedical professions, with the exception of accommodation and catering costs;
- Supplies by educational institutions operating under a licence issued by the Ministry of Education and practising with an approved price;
- Imports of certain petroleum and mining research materials;
- Sales made by painters, sculptors, engravers and weavers of the products of their art only, if their annual turnover does not exceed (in Chadian Central African CFA Franc) XAF20 million (approximately USD40 700);
- Fuelling of aircraft departing to a foreign country;
- Sales, transfers or services provided by the State, local authorities and public institutions;
- Products of prime necessity which are exempt from turnover tax;
- Equipment and property solely intended for oil and mining exploration, which are subject to an order of the Minister of Finance;
- Potable water and electricity produced by the Chadian Water and Electricity Company, or any other company that might replace it;
- Interest paid on foreign loans;
- Interest paid on deposits made by non-professionals with credit institutions or financial institutions;
- Examinations, consultations, treatments, hospitalisation, analytical work of medical laboratories, and prosthetic supplies made by health facilities;
- Inputs used by producers of livestock products and fisheries;
- Rental of empty premises for housing;
- Small fishing equipment, machines and agricultural equipment;
- Materials, equipment and services used for the production and export of cotton fibre;
- Materials, equipment and services used for the production and distribution of water and electricity;
- Baked bricks manufactured locally;
- Interest paid on credit from XAF1 to XAF1 million that has been granted by financial institutions providing micro credit subject to a repayment schedule of at least six months and monthly instalments of less than or equal to XAF100 000;
- Interest on housing loans (mortgages) granted by financial institutions;
- Games of chance (gambling) and entertainment;
- The purchase and import of materials and products used to combat HIV/ Aids, malaria, tuberculosis, yellow fever and severe viral infections related to childhood diseases and diseases of the aged who are destitute, under the conditions laid down by regulation; and



- The acquisition of materials and equipment for the production and promotion of renewable energy.

Zero-rated supplies

There is a 0% rate for certain exports and related international transportation. This 0% rate applies only to exports for which a duly stamped statement in this regard has been obtained from Customs.



Input tax

Input tax allowed/Tax allowance

Only registered taxpayers that are subject to the simplified tax system ('Système simplifié d'imposition') or to the effective system ('Système du réel') are entitled to a tax allowance.

These are taxpayers who carry out taxable operations in their normal course of operations or occasionally, in an independent manner. VAT is only refundable if the goods or services are necessary for their activities. VAT is refundable until the end of the second fiscal year following the financial year of the generating event.

Tax paid on sales of goods or the provision of services that have been cancelled, annulled or not yet paid for may be deducted from the VAT to be paid in the future.

Input tax expressly denied

Non-taxpayers and persons who are subject to the general and full discharge of tax ('Impôt Général Libérateur' – income tax for small entities) are not allowed to deduct VAT, except if they have chosen the simplified tax system.

VAT deduction is expressly denied for certain operations, such as:

- Expenditure on housing, accommodation, catering, reception, entertainment, car rental and the transportation of persons;
- The importation of goods and merchandise re-dispatched in the State;
- Services linked to goods for which a VAT deduction is denied;

- Petroleum products, except fuel purchased for resale by importers or wholesalers;
- Property transferred without compensation or for a fee well below its normal price, particularly as a commission, salary, bonus or gift, whoever the beneficiary or whatever the form of distribution may be; and

Partial exemption

Some firms are subject to a partial exemption because they carry out both operations that are subject to a VAT deduction and operations that are not. When performing taxable and non-taxable (exempted) operations, the deductible VAT is calculated on a pro rata basis, which is determined as follows:

$$\text{Pro rata} = \frac{\text{Taxable operations} + \text{exports}}{\text{Taxable operations} + \text{exempt operations} + \text{exports}}$$

The taxpayer may also choose to divide itself into sectors for VAT purposes (subject to conditions), namely a taxable sector (where VAT paid to providers is fully deductible) and an exempt sector (where VAT paid is not deductible). VAT paid to providers for goods and services used by both sectors is deductible on a proportional basis, calculated as indicated above.

For the calculation of the relevant proportional shares, the following elements are not taken into account:

- Self-supply of and subsidies for non-taxable equipment;
- Sales of assets;
- Indemnities that are not considered for VAT-taxable operations; and
- Reimbursements.

Deductible VAT is determined by means of a pro rata calculation, and the deduction may be made only after verification of the ratio. The amount of the final proportion must be settled at the latest by the filing date of the Statistical and Tax Declaration.

Deductible VAT will only be approved after the pro rata calculation has been verified by the Tax Administration. In order to obtain the VAT deduction, the taxpayer must complete a declaration setting out the pro rata VAT calculation, and request that the Tax Administration validates it at the same time.

- Vehicles or machines of whatever nature designed and fitted for the carriage of persons or for mixed usage, constituting an asset, as well as spare parts, accessories and maintenance costs, and/or the repair of such vehicles or machines.

VAT deduction on foreign services

For service providers with no professional installation in Chad, the VAT charged on taxable transactions may be deducted the month following that in which the transaction was performed.

Adjustments

When VAT has been deducted on fixed assets and there is either a change in the law or a change of use before the fourth year following the year in which the assets were purchased, the taxpayer must pay back a part of the VAT previously deducted, calculated as one fifth per year that has passed since the asset was purchased. The full amount of VAT deducted must be paid back where services and goods that are not fixed assets are subsequently used for non-taxable operations.

In case of transfer, if the good is an asset to the buyer, the buyer can deduct the corresponding VAT or the amount repaid by the seller as regularisation, provided the buyer itself is subject to VAT. However, this deduction is subject to the seller providing the recipient with a certificate indicating the amount of tax which is deductible.



International trade

Imports

For the importing of goods, the VAT base consists of the value of the goods as defined by the CEMAC Custom Code plus customs duties and excise taxes, except the VAT and the 4% tax deduction at source.

Usually, the value of the goods is the cost, insurance, and freight value upon arrival in Chad with the exclusion of VAT, and 4% tax deduction at source. VAT on imports will be paid at the same time.

Exports

There is a 0% rate for exports and related international transportations. This rate only applies to exports where the documentation has been duly stamped by the Customs Services.

To the best of our knowledge, there are no specific rules relating to refunds to foreigners.



Place, time and value of supply

Place of supply

An operation is generally deemed to be performed in Chad in the following cases:

- The sale of goods – when the sale is realised according to the conditions of delivery of goods applied in Chad;
- For other operations – when the service is used or the right assigned to Chad, or exploitation of the leased property takes place in Chad;
- International transport – if the carrier has its domicile or habitual residence (individuals) or offices (legal person) in Chad; and
- Travel agencies – if commission is collected exclusively in Chad as soon as the agency is established in Chad.

Time of supply

The time when payment of VAT must be made for a supply is as follows:

- For sale, delivery, and self-supply – at the occurrence of the initiating event;

- For provision of services and businesses to the State and local authorities – on payment of the price or instalment (in the case of a discount of a commercial bill, the VAT is payable on the date of maturity of the commercial bill); and

For importation – at the time of the customs clearance.

Service providers and contractors, or companies that operate mixed supplies of goods and services, may be authorised to pay VAT on a debit basis. This authorisation does not apply to business conducted with the State or local authorities. In case of collection of the instalment before the debit note, the tax is due at the collection time.

Value of supply

The value of supplies, which constitutes the taxable base, is as follows:

- Provision of services – the price of the services, or all sums, values, goods or services received or that will be received as consideration;
- Construction works – amount of the detailed account of the work, markets, invoices, or deposits as well as the works given to the subcontractor by the contractor;
- Deliveries and other kinds of exchange of goods carried out in Chad – customer sale price or all sums, value, goods or services received or that are receivable as consideration;
- Markets financed either by the State budget or through loans, grants or donations regardless of the origin – the amount of all taxes, duties and fees, including withholding taxes except VAT, and the 4% provisional instalment;
- Self-supply – purchase price (excluding VAT) of goods bought and used in the State, and manufacturing cost of extracted, manufactured and produced goods or services, with a share of the overheads and head office costs;
- Imported goods – value of the goods as defined by the CEMAC Customs Code, plus the amount of custom duties, excise taxes and other possible taxes, except the withholding tax of 4% (usually, the value of the goods is the value of cost, insurance and freight, excluding VAT and the withholding tax);
- Second-hand goods – either the full price without taxes if the seller bought the goods from another seller subject to VAT, or the purchase price increased by the mark-up without taxes if the seller bought the goods from another seller who is not subject to VAT; and
- Returnable packages (that can be identified, returned, and reused) – the transfer price when these packages are not returned at the end of the time of use in the profession.
- The bases defined above consist of all included costs and taxes with the exception of the VAT and withholding tax liquidated by natural and legal persons. The following amounts also form part of the value of a supply:
- All taxes, fees, duties and withholding taxes, except the VAT and the 4% withholding tax;
- Incidental expenses for the delivery of goods and services invoiced to customers;
- Allowances – not having any characteristics of damages and interest;
- Subsidies that are consideration for a taxable operation or that are the additional price for such an operation or that are assigned to compensate for the overall insufficiency of the business activity revenues; and
- Reimbursement of the expenses made by a supplier for one of its customers, unless they are re-invoiced for the exact amount (disbursements), and on the express condition that the invoice is accompanied by the original documents.



The following items do not form part of the value of the supply:

- Discounts, rebates, and other price reductions made directly to customers in the usual course of the activity;
- Payment received upon delivery of identifiable, recoverable, and reusable packages; and
- Receipts that are not consideration for a business (e.g. damages).



VAT compliance

Accounting basis and tax periods

The amount of VAT payable corresponds to the VAT collected minus the deductible VAT. The balance has to be paid when submitting the return to the Tax Administration. Even if there is neither taxable nor deductible VAT for a month, the form should be filled in and submitted.

At the end of the fiscal year, when the turnover is determined, the proportion of deductibility has to be recalculated accordingly, and deductible VAT regularised. If the taxpayer has chosen to divide into sectors for VAT purposes, it is possible to adjust the sectors according to exempted/non-exempted activities performed.

Returns and payment of VAT

VAT returns must be submitted:

- Within 10 days of the month following the carrying out of the taxable operations for taxpayers with a VAT-exclusive turnover of more than FCFA500 million; and
- Within 15 days of the month following the carrying out of the taxable operations for the other taxpayers.

If there are no taxable operations during the month, a blank tax return with the wording 'néant' (none) must be returned to the Tax Administration.

Penalties

Penalties concerning declaration:

- A fine of XAF500 000 for the failure to declare existence, transfer, termination, or death.
- A fine of XAF200 000 per month for failure to file the return for the real tax regime and XAF500 000 quarterly for the simplified tax regime.
- Interest of 5% for late payment per month or fraction of a month sanctioned for untimely payments, with a maximum of 50%. This interest is levied concurrently with the fine for failure to produce the declaration.
- A fine of XAF100 000 for failure to file the return on calculating the provisional or final proportion.

Penalties for good and bad faith

- A fine of XAF200 000 for failure to file the return or in case of filing a 'néant' (none) return in bad faith. Bad faith is defined as when a taxpayer filed a 'none' VAT return, while he later deposited one or more VAT declarations involving operations for the period under which he filed a 'none' return.
- If adjustments are made in good faith, a penalty of 5% is applied monthly or by fraction of months with a maximum of 50%. This penalty may be increased to 100% when bad faith is established.

Penalties concerning sales invoices:

- For sales without invoices – a tax penalty equal to 50% of the duties compromised, and a fine of 100% of duties for a repeated offence.
- For a request for deduction of tax paid on an invoice which does not correspond in part or in full to an acquisition of property or to a provision of service – a penalty of 100% of the unpaid taxes.

- The absence of the tax ID number (NIF) on accounting records such as invoices, on both sides of a business transaction (i.e. customer and supplier / provider and recipient), will result in the non-deductibility of the VAT mentioned on the invoice, and the non-deductibility of the amount charged in the expenses of the beneficiary, provided that:
- The non-deductibility of VAT applies to taxable income and to invoices exceeding XAF25 000 (all taxes included)
- All invoices without NIF are eligible for an administrative tolerance if the total of invoices without the NIF does not exceed XAF2 million for a fiscal year.

There is a 5% interest for late payment per month or fraction of a month sanctioned for late payments, with a maximum of 50%.

The interest will not be waived if the non-compliance does not result in a loss to the State or in a benefit to the taxpayer, but the taxpayer will be sanctioned for late filing with a fine of XAF200 000 per month.

Refunds

To the best of our knowledge, there are no refunds of the excess in practice. If the amount paid exceeds the VAT payable, the tax credit can be offset against the VAT payable during the 12 months following the tax credit-generating event.

Time limits

If there is any insufficiency, mistake or omission, the Tax Administration can claim the VAT owing within a period of three years from the time the VAT became due (Article 1057 of General Tax Code).

If the credit (resulting from excess input tax) is not offset against the VAT payable during the 12 months following the issuing of the credit, it will be lost. Such a loss is an expense that is deductible under corporate tax.



VAT records

Tax invoices

Invoices delivered by the taxpayer to the customer must indicate the following:

- The exact name and address and tax identification number (TIN/NIF) of the taxpayer;
- The tax identification number if the customer is liable;
- The date and serial number of the invoice;
- The name and address of the client;
- The description and the quantity of goods or services;
- The amount of tax-free transactions;
- The VAT rate applied and the amount of the VAT;
- The amount inclusive of all taxes;
- The registration number with the Register of Commerce and Companies;
- The amount of capital (for companies);
- The words 'invoice (facture)' or 'avoir'; and
- The form of the company (for legal persons).

Finally, partial taxpayers must distinguish between transactions subject to VAT (some of which may be exempt), and those that are out of scope (i.e. not within the scope of VAT).

Additional export documentation

Exporters have to show written proof in the form of a receipt from the country to which the goods were exported, and proof of the repatriation of the money by the foreign exchange transaction service.

Record-keeping

In the case of the simplified tax system, taxpayers must have regular and available bookkeeping in Chad with the following documents:

- A numbered and initialled journal book;
- A sales book;
- A purchase book; and
- An inventory book.

Under the normal (real tax) system, taxpayers must keep the following documents:

- A sales book;
- A purchase book; and
- An inventory book.

All these documents must be kept for a period of ten years.



Specific VAT rules

Land and buildings, and insurance and reinsurance contracts

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

- Operations relating to the rental of undeveloped land and bare premises; and
- Rental of bare premises used for housing.

The following are subject to specific taxation exclusive of any tax on the turnover:

- Operations with the aim of transferring real property and intangible personal property subject to registration fees, excluding operations of the same nature carried out by property dealers or those of credit lease; and

- Transactions related to insurance and reinsurance contracts made by insurance and reinsurance companies in the normal course of their business, as well as services relating to these transactions by brokers and other insurance intermediaries.

Leasing

The VAT base for leasing operations consists of the amount of rentals invoiced by leasing companies, and at the end of the contract it is the transfer price agreed in the agreement (sale) if the option to purchase is raised by the lessee; or by the transfer price in case of sale to a third party.

Second-hand goods

For second-hand goods, the VAT base consists of the following:

- The full price excluding tax if the taxpayer acquired the property from another taxpayer and deducts the VAT charged to him; and
- The purchase price plus the margin exclusive of tax if the taxpayer acquired the property from a non-taxpayer, or has decided not to deduct the VAT charged by the taxable supplier.

Transfer of business

The transfer of real estate and intangible personal property is liable to taxes on transfer (registration fees). However, operations carried out by a property or leasing agent fall outside the scope of the transfer tax system, and thus, under the scope of the VAT system.



Other indirect taxes

Import duty

The tax base of customs duties corresponds with the customs valuation, namely the selling price of the goods, including the cost of delivery to Chad (costs of insurance, transportation, etc.).

The rates of customs duties depend on the nature of the goods and range from 5% to 30%, with the rate for essential goods being 5%; raw materials and equipment goods: 10%; intermediate and various goods: 20%; and convenience goods: 30%.

Excise duty

Excise duty applies to consumer goods: cigarettes, drinks (water, beer, and wines), cosmetics, and luxury products. Excise duty rates depend on the nature of the goods, ranging from 5% to 25%. According to the Tax Administration, the tax base is as follows:

- Goods manufactured in the CEMAC zone – price of the goods delivered at the factory; and
- Other goods – same valuation as for customs duties.

Transfer duty

Fixed or proportional transfer duties are due on the transfer of ownership, usufruct or enjoyment of personal property and real estate either by gift or as a result of death. They are also due on contributions to companies, because of marriage, and in the case of the division of property.

Stamp duty

Stamp duties are due on each civil or judicial document that is intended to be used as evidence. Stamp duty is generally XAF1 000 per page. There is no stamp duty greater than XAF2 000 or less than XAF900, whatever the size of the paper. Some amendments (1 January 2013) consist of the following:

- All claims for reimbursement submitted to the administration are subject to a stamp duty of XAF2 000;
- Requests to the administration for professional competitions are subject to a stamp duty of XAF1 000;
- Applications for allocation of land are subject to a stamp duty of XAF1 000;
- Invoices for supplies to the administration of less than XAF1 million are subject to a stamp duty of XAF5 000, and the same applies to certificates of sale of reshaped vehicles and materials of vehicles of the State and public bodies (article 529 of GTC modified by the finance law for 2013);
- All invoices that accompany an order of the Administration in lieu of a service contract or a public market are subject to a stamp duty of CFA 5 000 (article 529 of GTC modified by the finance law for 2013);
- Any application other than those mentioned above addressed to the Tax Authorities is subject to a stamp duty of XAF2 000.



Congo



Contact details

Website:	www.pwc.com/cg
Physical address:	88, avenue du Général de Gaulle Pointe-Noire, Avenue William Guynet Brazzaville
Postal address:	B.P. 1306, Pointe-Noire, Congo, B.P. 1140
Telephone number:	+242 05 534 0907
Fax:	+242 94 23 34
PwC contact persons	Contact details
Prosper Bizitou	prosper.bizitou@cg.pwc.com
Moïse Kokolo	moise.kokolo@cg.pwc.com
Benic Mbanwie	benic.m.mbanwie@cg.pwc.com



Introduction

The VAT system was introduced in the Congo on 12 May 1997 to replace turnover tax.

The VAT authority in the Congo is the General Directorate of Taxes and Domain (la Direction Générale des Impôts et des Domaines), which is divided into the Unit for Large Businesses (UGE) and the Unit for Medium Businesses (UME), depending on the total amount of turnover (XAF100 million to XAF2 billion for UME and above XAF2 billion for UGE), and the Oil-Related Taxation Inspectorate (IDFP) for oil and gas subcontractors.



Rates and scope

The standard rate of 18% applies to all taxable operations not covered by the zero rate, or subject to the reduced rate.

A reduced rate of 5% is applicable to petroleum products imported from Cameroon by companies in the forestry sector, and to certain common goods such as cement, sugar, tomatoes, salt etc.

A reduced rate of 5% has been extended to the importation of certain goods.

Additional tax is payable to the advantage of local communities at the rate of 5% of the amount of VAT.

VAT is a tax that consumers pay on the importation of goods or the consumption of goods and services. In general, all economic activities conducted for consideration by a taxpayer in the Congo are subject to VAT regardless of their purpose.



VAT registration

Compulsory registration

Both legal entities (in the private and public sectors) as well as individuals can be considered liable for VAT if they carry out taxable operations within the scope of VAT, independently and habitually, and the operations consist of economic activity for valuable consideration.

Apart from the general principle of liability, liability to account for VAT is compulsory when annual turnover exceeds XAF100 million (approximately EUR15 222.21) for all activities, including independent professions under the flat tax scheme. The following businesses and professions are automatically liable for VAT even if their annual turnover does not exceed XAF100 million: companies, whatever their legal form; regulated professions; bakeries; public works enterprises; wholesalers; importers; and chemists.



An operation consisting of imports, delivery of goods or the provision of services which forms part of an economic activity for consideration by a taxpayer is taxable if it is carried out for valuable consideration by individuals or entities.

The performance of an operation for a consideration implies that the acquirer of the goods or the beneficiary of the services provides consideration regardless of its nature (money, goods, services, etc.) and value. In this respect, it is irrelevant whether the operation is carried out for profit or speculatively, or whether it results in a profit or loss. Thus, the delivery of goods or the provision of services is liable to VAT even if such activity is undertaken at a loss.

Voluntary registration

Voluntary registration is not allowed if a business' annual turnover does not exceed the threshold for compulsory registration, or unless the activities undertaken by the legal entity meet the requirements for compulsory registration.

Group registration

Group registration is not allowed. Legal entities that are closely connected must register for VAT individually.

Non-residents

Non-resident businesses are required to appoint a solvent resident as tax representative in order to register for VAT in the Congo.

Services provided (or used) by a foreign company on Congolese territory are liable to VAT. A foreign service provider must designate a solvent resident as tax representative who is liable for VAT in order to prepay, declare, and transfer the tax due on the service provider's behalf. The VAT must be paid by the tax representative of the liable foreign company. It is then recorded in a VAT account on behalf of third parties, after which it is declared and transferred.

A foreign service provider and the resident tax representative will be jointly liable for payment of the tax due on taxable operations performed in the Congo.

The resident tax representative is subject to the penalties specified in matters where operations performed by the service provider are in its favour. In these terms, any operations performed in the Congo in favour of one or more third parties are not declared. A foreign service provider cannot deduct VAT charged to it.

A branch belonging to a foreign company and non-established businesses (carrying on their activity under the short-term licence regime 'Autorisation Temporaire d'Exercer des activités commerciales') must register for Congolese VAT.

Application for registration

If the liability threshold is reached during the financial year, or is envisaged for future years in the case of new businesses, the parties concerned are obliged to carry out all the administrative registration formalities at the General Directorate of Taxes and Domain ('la Direction Générale des Impôts et des Domaines') in order to comply with the statutory provisions.

The main formalities, which must be performed within a fortnight of exceeding the threshold or of the start of a specified activity, include drawing up and filing a declaration of existence and applying for VAT liability. This application, on a prescribed form, accompanies the declaration of existence and application for VAT liability (companies or individuals). The VAT department acknowledges the receipt of the application and issues a registration certificate, which then makes the party liable for VAT, and allocates a unique tax identification number (NIU) to the taxpayer.

New taxpayers undertaking a commercial activity in the Republic of the Congo are required to apply for an identification number (ID number). This reference must be mentioned on all invoices and on documentation provided to the Tax Administration. Failure to obtain a tax identification number will result in the company losing the ability to deduct the VAT paid to its suppliers, to proceed with customs clearance, or to receive payment from the Tax Administration. In order to obtain this tax identification number, the company has to pay a legal fee amounting to XAF10 000 (EUR15.24).

Deregistration

All taxpayers must inform the Tax Administration about the termination of their business. As there is no standard form, this declaration must be made on plain paper by the taxpayer within ten days of the event concerned in the case of individuals, and three months in the case of entities.



Output tax

Calculation of output tax

The amount of VAT is determined by applying the rates to the net selling price of goods and/or services, excluding the VAT itself. In practice, suppliers of goods and services show prices excluding VAT and will add VAT to the net price. Output VAT for goods must be recorded on the date the invoice is issued, and for services on the date the payment is received.

Exempt supplies

The following items are exempt:

- Sales of products relating to the activities of farmers, fishermen, breeders and hunters;
- Social, educational, sports, cultural, philanthropic or religious operations conducted for their members by organisations operating in a non-competitive sector, not for profit, and that are managed on a voluntary and disinterested basis;
- Operations involving stamps (revenue and postage) or the issue of banknotes;
- Imports of certain exempt goods;
- Services covered by the legal conduct of the medical and paramedical professions;
- School exercise books and textbooks;
- Certain medicines;
- The fraction of consumption of water and electricity said to be for social purposes, or for domestic purposes;
- Drawing, printing, imports and sales of newspapers, except for publicity resources;
- Renting of real property for housing purposes;
- Regulated activities of microfinance establishments;



Input tax

Input tax allowed

VAT charged in advance on the price of a taxable operation is deductible from the VAT applicable to such operation. The concordance between the payment and deduction of VAT implies that the right to deduct is created when the tax becomes payable by the taxpayer.

As regards foreign suppliers (including purchasing bodies or groups), the tax becomes payable when the invoice is issued. Taxpayers who have opted for the debit system (service providers as well as constructors are authorised to do so) must specify this option on their invoices so that the recipient can deduct the VAT paid as soon as they receive the invoice instead of at payment.

To deduct VAT, the VAT must be shown on the following accounting documents:

- Invoices issued by suppliers legally authorised to issue them;
- For imports – import documents; and
- For self-deliveries – a special declaration made by the taxpayer.

As soon as the right to deduct VAT arises, the taxpayer may claim the VAT deduction on the monthly return filed from the 10th to the 20th of the following month.

When a foreign supplier provides a service, VAT is deductible in the month during which the taxable operation was carried out.

Input tax expressly denied

Input tax is specifically denied in respect of:

- Housing, accommodation, meal and entertainment expenses, including all expenses relating directly or indirectly to the taxpayer's residence, e.g. caretaking expenses;
- Imports of goods and services forwarded as is;
- Purchases of oil products, except oil purchased by importers and wholesalers in order to sell or produce electricity for sale;

- Livestock (except food for dogs and cats);
- Certain agricultural and plant fertilisers; and
- Monies paid by the Treasury to the Central Bank, which has the exclusive issuing right, and income from the Bank's operations generated from the issuing of banknotes.

The following operations, which are subject to specific taxation, are exempt from VAT:

- Sale of products from extractive activities;
- Interest on external debt;
- Banking operations – operations connected with insurance and reinsurance policies, and services relating thereto, performed by brokers and other insurance intermediaries;
- Transfers of property assets subject to registration duties;
- Interest on loans made abroad and on non-professional bank accounts; and
- Gambling and leisure games.

Legislation (appendices 3 and 5) has been updated as follows:

- Flour and wheat was substituted by wheat flour;
- Glassware of glass was substituted by glassware and rimmed glasses; and
- Table salt and kitchen salt were substituted by salt.

Congolese oil companies do not pay VAT on the operations that they carry on with their oil sub-contractors. However, this exemption only covers:

- Operations linked with oil activity;
- Oil sub-contractors approved by the tax department; and
- Operations carried out with oil companies, or between approved sub-contractors; the latter are entitled to reimbursement of the VAT that they have paid for exempt operations.

Provided that the oil company lists the foreign contractor as an oil services contractor, the latter will benefit from an exemption from VAT for deliveries of goods and services related to the oil industry.

For deliveries of goods and services that are not related to oil activity, the foreign contractor must pay VAT to suppliers, but is allowed to claim a refund of VAT paid (except in relation to private and domestic use). If unsuccessful in receiving a refund of VAT from the Tax Administration, the foreign contractor may obtain a VAT credit from any other tax payment, including corporate income tax and personal income tax. The foreign contractor is also required to open a bank account in the Congo.

Zero-rated supplies

The zero rate applies to the local sale of produced woods, exports, international transport, and accessory international transport. Exports are considered as consignments of goods beyond the Congolese customs territory. The zero rate applies whether the goods are delivered directly by the exporter or via an agent.

However, the application of the zero rate is subject to the export being the subject of a declaration approved by the Customs Department, and the exporter appending the customs references of the goods that it has exported during the month up to the declaration. International transport is defined as all transport to or from a foreign country, whether passenger or goods transport, irrespective of the means used (air, sea, road, etc.).

In practice, the authorities accept that operations incidental to the international transport of goods made in the Congo are zero-rated, provided that the goods are exported.

Zero-rated operations are liable to VAT, and therefore attract an entitlement to deduct VAT incurred on expenditure. Likewise, these operations are taken into account in the calculation of the taxable turnover, and as a result must be included in both the denominator and numerator of the calculation of any deduction percentage.



- Vehicles and crafts designed or fitted out for passenger transport or for mixed use that constitute fixed assets, except:
 - Utility road vehicles (i.e. not priVATe cars) used by companies exclusively to transport their staff where the vehicle has more than eight seats in addition to the driver's seat,
 - Fixed assets of vehicle hire companies and public passenger transport companies, and
 - Goods transferred without payment or for payment well below the normal price, apart from low-value goods, and including goods transferred as commission, salary, and a gratuity or gift regardless of the capacity of the beneficiary or the form of the transfer (except where the unit price excluding taxes is below XAF5 000);
- VAT paid following tax audits;
- VAT paid in cash, on invoices exceeding or equal to XAF500 000; and
- Taxpayers that fail to provide an excerpt of their trial balance of each account on VAT in accordance with the accounting system used by the company.

Partial exemption

Under the allocation rule, taxpayers may deduct VAT in terms of the allocation of the goods (depreciable fixed assets) on which the VAT has been paid. In principle, an entrepreneur is entitled to deduct the VAT paid on their purchases of goods, equipment and services for use in their business (input VAT) against the total of the tax they charge to their customers for deliveries made and services rendered by them (output VAT).

Taxpayers not exclusively carrying out transactions giving them a right to deduct VAT may deduct VAT proportionally based on the portion of the income pertaining to taxable transactions, and not at a flat rate as was previously the case. This deduction applies to fixed assets and to goods and services, and is calculated on the turnover pertaining to the taxable transaction.

Adjustments

The adjustment system consists of payments by the taxpayer of a fraction of the tax initially deducted for fixed assets if the asset concerned is removed from the balance sheet, or if its position with respect to the deduction right changes. However, the tax department has specified that there is no need for an adjustment in the event of deliberate destruction or scrapping of the asset.

A deduction of 100% of the VAT on the purchase of a fixed asset is subject to the asset being retained as such by the company until the end of the third year following its acquisition.

Example: Assume that a fixed asset is bought in Year 0. The cost (exclusive of VAT) is 100 and VAT of 18 is paid. The total VAT-inclusive cost is 118 and the deduction right is 18.

If the asset is sold after Year 4, no adjustment is required. However, if the position of the asset changes with respect to the deduction right, the taxpayer must pay a fraction equal to the tax initially deducted less one fifth per year, or part thereof since the acquisition. Therefore, if the same asset is sold in the middle of Year 2, the following adjustment is required: $18 - (3/5 \times 18) = 7.2$.



International trade

Imports

VAT is payable on the importation of goods when cleared for home consumption. The tax base varies as follows:

- For goods imported inside CEMAC – the tax base is the ex-works value minus transportation expenses; and
- For goods imported outside CEMAC – the tax base is the customs value plus excise duties and other taxes.

To be deductible, the VAT paid on imports must be shown on the import documents.

Services provided abroad and used in the Republic of the Congo are subject to VAT. When a taxable person established in the Congo receives services from a supplier domiciled abroad that is not registered for Congolese VAT, the recipient of the supply must account for the VAT when the invoice is paid.

Exports

Goods exported from the Congo are zero-rated. Exports are considered as goods consigned beyond the Congolese customs territory. The zero rate applies whether the goods are delivered directly by the exporter, or via an agent. However, the application of the zero rate is subject to the export being the subject of a declaration approved by the Customs Department, and the exporter's appending the customs references of the goods that it has exported during the month prior to the declaration.

The provision of services by a Congolese company abroad to a foreign company is subject to VAT if the service is used by the foreign company for an activity conducted in the Congo, whereas a service provided in the Congo but used abroad is not subject to VAT.

In practice, VAT incurred by foreigners is not refunded.



Place, time and value of supply

Place of supply

VAT should apply to all business conducted in the Congo, i.e. with respect to sales, under the conditions for the delivery of goods in the Congo; and with respect to services, where the service rendered is used in the Congo.

As a result of these statutory provisions, the place of establishment of the parties to the contract, the place of invoicing or conclusion of the operation, and the place of performance of the service do not have any effect on the application of VAT – only the place of consumption of the operation should be taken into account.

Time of supply

The time of supply can be summarised as follows:

- Goods – when the right to dispose of the goods as owner is transferred: if the sale contract stipulates that the supplier retains ownership of goods, the VAT is due when the goods are handed to the buyer;
- Imports and oil products – when they are made available for consumption;



- Services – when the consideration is received, and for self-deliveries and self-provision of services, the time of supply is the first use or first commissioning; and
 - Other cases – collection of the consideration.
- State contracts financed by national budgets, contracts concerning public sector, industrial, commercial, scientific, technical and administrative corporations, semi-public companies, public sector authorities, and organisations with or without legal personality – contract price including all taxes, except for VAT itself;
 - Imports inside CEMAC – ex-works value, excluding transportation fees; and
 - Imports outside CEMAC – customs value of the goods plus customs or excise duties.

Value of supply

The taxable value of a supply is the total of all monies, funds, goods or services received in return for the operation, including subsidies and all expenses, taxes and deductions of any nature, excluding the VAT itself, which in practice means all payments in cash or in kind received by the supplier or service provider in return for the goods or the service concerned.

- The taxable value of supply must be determined according to the nature of the taxable operation performed, particularly taking account of the elements summarised below:
- Goods deliveries – all sums or benefits, goods or services received by the supplier and forming the consideration for the delivery, as well as all expenses, taxes of any nature, excluding VAT itself, and ASDI;
- Deliveries to oneself – cost price of mined, produced or manufactured goods;
- Provision of services – all monies and benefits received, and the value of any goods incorporated in the provision of the service;
- Barter – value of the products or services received as payment for the goods delivered or services supplied, plus any money received;
- Second-hand goods trade – the vendor's profit margin;
- Property works – contract, invoice, or bill price;
- Travel agency services (provided by transport companies, hoteliers, restaurateurs, entertainment companies, and other taxpayers who physically provide the services used by the customer) – difference between the total price, including all taxes, demanded from the customer, and the price actually billed to the organisations concerned by suppliers and service providers contributing to the physical provision of the service received by the customer;

However, in principle, all operations where the consideration is not taxable should be excluded from the tax base, such as, for example:

- Price discounts, rebates and reductions;
- Outward payments;
- Tips;
- Operations carried out by agents or brokers;
- Payments not made in return for a taxable operation; and
- Payments received as deposits for recoverable packaging.



VAT compliance

Returns and payment of VAT

The monthly VAT return is a VAT summary statement reflecting the taxpayer's VAT debit or credit position. The return for a given month must be completed on a special form from the 10th to the 20th of the following month, and must be accompanied by the payment instrument.

Administrations, as well as public bodies with an independent budget, must deduct the amount of VAT invoiced to them, and then transfer it as described below. They must also transmit to the fiscal administration, on a monthly basis, the detailed amounts that they have paid to their suppliers.

If no operations are carried out during a particular month, the return form still has to be filed, but will be marked 'nil'.

The VAT to be paid is equal to the difference between the gross VAT paid during the month (tax base x 18%), and the deductible VAT plus any VAT credit recorded for the previous month. This comparison, therefore, produces net VAT payable or a VAT credit. In the first case, the net VAT payable must be paid when the return is filed. In the second case, the VAT credit should be entered on a special line on the return for the following month. Alternatively, in certain cases it may be the subject of a refund application.

VAT taxpayers carrying structural VAT credit have the obligation to do inventories in the presence of Tax Administration representatives for companies in October, and failure to comply with this requirement will result in the VAT credit being cancelled.

VAT taxpayers are required to provide an excerpt of their VAT trial balance. Failure to comply with this will result in VAT deductions being cancelled.

Exporters subject to VAT that earn more than 80% of their sale transactions from abroad are obliged to withhold VAT paid on the purchase of goods and services (a list of exporters that are entitled to withhold VAT is published by the Tax Authorities).

VAT paid in cash in connection with invoices exceeding XAF500 000 will not be deductible.

Interest and penalties

Penalties which may be applied by the Tax Department, depending on the offences committed, are summarised below:

- Declaration of existence filed late or not filed – loss of the deduction right for the whole undeclared period and XAF200 000;
- Late payment of the tax due for a month – 5% per month overdue (or part thereof) with a maximum of 50% of the tax due if the taxpayer has acted in good faith, otherwise 100% of the tax due;
- Monthly return filed after the eight-day formal notice period – 15% of the evaded tax per month (or part thereof) up to a maximum of 50% or XAF200 000 if no tax is due;



- Omission or inadequacy observed in monthly returns – 50% of the evaded tax if the taxpayer has acted in good faith, or 100% if the taxpayer has not acted in good faith;
- Sales without issuing invoices – 200% of the tax due, and 400% of the tax due in case of a second offence;
- False invoices – 200% of the tax due; the offender is responsible for paying the tax due and the penalty of 200%;
- Failure to reply to requests for clarification or substantiation – automatic taxation – 25% with a minimum of 1% of the revenue earned during the period;
- Obstruction of a tax audit – automatic taxation;
- Taxpayer's inability to produce all books, exhibits, documents, and supporting items making it possible to determine the business' revenue accurately – automatic taxation;
- Failure to translate books or other documents into French – XAF2 million; and
- Failure to comply with obligations regarding declarations, invoicing or spontaneous payment of VAT is subject to the following penalties after formal notices to comply and pay: seizure, sale, publication of defaulters' names in a legal notices paper, temporary suspension of the business licence (plus a bar on conducting business during the period), temporary exclusion from public contracts, and closure of the company.

In the event of a repeated offence, the Tax Department can order the taxpayer's definitive exclusion from public contracts, attachment, and a prison term of five to 15 days.

Interest will not be due if the non-compliance does not result in a loss to the State or in a benefit for the taxpayer. However, the taxpayer may negotiate the taxes, fines, and mode of payment of the tax claimed by the Tax Authorities, thereby renouncing their right to tax litigation. Also, fines and tax discounts or moderation could be obtained when they have become definitive.

Refunds

Certain categories of profession and certain types of operation are entitled to refunds, such as oil businesses and exporters of goods.

Objections and appeals

Taxpayers' monthly returns are audited by the UGE, the UME or the Oil-Related Taxation Inspectorate. These audits are conducted by either reviewing documents or conducting an on-site inspection and may lead to an adjustment. Taxpayers may be represented by a third party in the form of a tax adviser of their choice at these audits, which can be initiated at any time without notice.

Taxpayers who receive an adjustment following an audit have a period of 30 days to make comments. The Department must give a definitive response on receiving these comments and must provide grounds for any elements that it rejects.

Time limits

The limitation period for rectifying errors and omissions is four years from the year for which the tax is due.

The deduction right must be exercised within 12 months following the fiscal year during which the VAT became payable. This 12-month period applies solely to exercising the deduction right, and not to VAT credits. Thus, a VAT credit generated during a given month may be set off against the VAT collected in subsequent months without any time limit.



VAT records

Tax invoices

All taxpayers must issue invoices for the goods that they deliver or the services that they provide to another taxpayer, and for advances received for the provision of services where tax is payable as a result. Generally speaking, the invoice must be in French and must indicate the following:

- The name, address and single identification number of the taxpayer issuing the invoice;
- The name, address and single tax identification number of the customer;
- A number identifying the invoice;

- The date of the invoice;
- A description and the quantity of the goods or the extent of the services; and
- The tax rate and the corresponding tax, the price excluding tax, and the total amount with taxes included.

The price must be indicated in CFA francs. Electronic invoicing is not yet allowed in Congo.

A service provider who has opted for payment on a debits basis must expressly state this option on the invoice. In addition, there are other obligations under economic regulations (including the trade register number and bank account number). Operations performed with non-taxpayers are invoiced for the amount including tax, unless they can claim a dispensatory tax system authorising invoicing excluding tax.

Any party entering VAT on an invoice or any equivalent document is liable for the VAT simply as a result of charging it. If the invoice or document does not correspond to the delivery of goods or the provision of a service or refers to a price not actually paid by the purchaser, the VAT is due by the invoicing party.

Credit notes and debit notes

A supplier must issue a credit note or a debit note in the following cases:

- If the amount payable for a supply has changed because the supply is cancelled, the nature of the goods or services has been fundamentally changed, or the accepted price has been changed;
- If part of, or all the goods are returned to the supplier; and

If a tax invoice has already been issued for the supply, which is now incorrect.

Record-keeping

Taxpayers must keep regular accounts, including a paginated and initialled journal, a general ledger, a purchases journal, and an inventory book.

The accounts must be available in the Congo, and presented in French, and made out in XAF. Accounting documents and supporting documents for operations performed by the taxpayer must be retained for ten years from being recorded.



Specific VAT rules

Land and buildings

Insofar as transfers of real estate assets are subject to registration duties, VAT is not applied to the sale of a house.

Rental of empty residential houses between individuals, between legal entities, and between individuals and legal entities is not subject to VAT. However, rental of all types of premises for use as commercial, business or residential premises by real estate professionals, and rental of fully fitted premises (e.g. furnished residential premises), regardless of who the landlord is, are subject to VAT. In practice, tenancies are subject to VAT if the landlord is already liable for VAT for their other activities.

VAT applies to rent, rent supplements, and advance rent. A deposit is not subject to VAT unless it is applied as rent paid in advance. Service charges for which the tenant is billed in addition to the rent are exempt from VAT if they correspond to simple reimbursement of expenses but are subject to VAT if a flat sum is charged.

Leasing

Leasing is a service subject to VAT. Thus, VAT applies to rent billed by the supplier of such services.

Promotional gifts

The transferring of goods without payment or for payment well below the normal price, apart from low-value goods, does not give an entitlement to deduction. This includes goods transferred as commission, salary, or a gratuity or gift, regardless of the capacity of the beneficiary or the form of the transfer. However, the deduction is allowed for goods of which the unit price without taxes does not exceed XAF5 000.

Second-hand goods

Sales of second-hand fixed assets (whether used by companies for the purposes of their business or not) are not subject to VAT, and must therefore be declared as non-taxable operations in the monthly return.

If such goods are sold within three years of their acquisition, the taxpayer must pay an adjustment. As an exception to this rule, all operations carried out by dealers in second-hand goods fall within the scope of VAT under ordinary conditions. The exemption for sales of second-hand goods is not applicable to sales made by professional second-hand traders.

Transfer of a business

The transfer of a business (transfer of goodwill) which is subject to registration fees is exempt from VAT.



Other indirect taxes

Import duty

Customs tax rates vary according to the category of the imported goods, and are as follows:

- Category 1: Goods of primary necessity – 5%;
- Category 2: Raw materials and construction equipment – 10%;
- Category 3: Intermediary products – 20%; and
- Category 4: Common consumer goods – 30%.

For products coming from other CEMAC member countries (Cameroon, Central African Republic, Equatorial Guinea, Gabon and Chad), the general preferential rate is 0%.

Excise duty

Some products, such as tobacco, perfume, camcorders, and jewellery, are subject to excise duties. Excise duties on locally made products are levied at the rate of 10%, while imported goods are subject to excise duty at the rate of 25%. The excise duties have the same base as VAT.

Transfer duty

A money transfer made from the Congo to foreign countries (outside the CEMAC zone) is subject to transfer duty at the rate of 1.5% of the total amount.

Stamp duty

The normal stamp duty in Congo is currently XAF1 300 per page of the document subject to registration. The stamp duty is applied in addition to the registration fees. There are various rates of registration that depend on the legal status of the assets transferred, for example goodwill – 10%; movables – 4%; real assets – 10%; registration of authorised capital – 3%; and transfer of shares – 5%.





Côte d'Ivoire



Contact details

Physical address: Abidjan – Plateau, Building ALPHA
2000, 20th floor

Postal address: 01 PO Box 3173, Abidjan 01

Telephone number: +225 20 31 5400

PwC contact persons

Dominique Taty
Jean-Claude Gnamien
Hermann Gnango

Contact details

dominique.taty@ci.pwc.com
jean-claude.gnamien@ci.pwc.com
hermann.gnango@ci.pwc.com



Introduction

The VAT legislation is contained in the General Tax Code. VAT was introduced in 1960 to replace the local tax on turnover. There is no special VAT authority in Côte d'Ivoire. Every tax office deals with all taxes due by the taxpayers under its jurisdiction.



Rates and scope

VAT is levied at a general rate of 18%, except when an exemption or zero-rating applies. The VAT rate is reduced to 9% on certain food products such as milk, pastas, and production equipment for solar energy and for oil products.

The application of reduced VAT rates and VAT exemption generates structural credits of VAT for the companies concerned, which are allowed to receive a VAT credit refund for the operations liable for VAT at the reduced rate.

VAT is charged on the supply of goods and services rendered or used in Côte d'Ivoire. All economic activities fall within the scope of VAT, including the activities of independent professionals (lawyers, chartered accountants etc.), with the exception of banking activities, which are subject to a special tax on banking operations (at a rate of 10%). The rate of the tax on banking operations is reduced to 5% when the banking operations involve small and medium-sized businesses linked to their activities, regardless of the credit purpose.

Money transfer activities performed by the banks or other companies (e.g. telecom companies) are now subject to 18% VAT.



VAT registration

Compulsory registration

There is no special registration just for VAT purposes. A compulsory tax registration applies to business entities located in Côte d'Ivoire and includes VAT.

Non-residents

The client of a non-resident service provider plays the role of local fiscal representative for VAT under the reverse-charge rule.

Application for registration

The general tax registration application lodged with the relevant tax authorities includes VAT.

Deregistration

The general tax deregistration principles apply.



Output tax

Calculation of output tax

VAT is calculated on the basis of the price of goods or services, including all additional charges borne by the customer such as transportation charges, package charges and insurance. Advertised prices are generally stated inclusive of VAT, but it is possible to advertise prices exclusive of VAT if it is clearly stated in the advertisement that the prices are exclusive of VAT.

Exempt supplies

The main exemptions apply to activities related to the following:

- Health;
- Insurance and reinsurance;
- Agriculture;
- Transport companies; and
- Education.

Zero-rated supplies

Exports of goods and similar transactions are zero-rated supplies.



Input tax

Input tax allowed

VAT incurred on the acquisition of goods and services wholly attributable to the making of taxable supplies may be claimed as input VAT.

Input VAT on some goods and services listed by the tax rules is not recoverable.

Partial exemption

Any VAT incurred on the acquisition of goods and services that cannot be wholly attributed to the making of taxable supplies may be deducted as input VAT in part only. The apportionment of input tax that can be claimed is determined by reference to the ratio of the turnover of taxable supplies of the company to the non-taxable turnover.

Adjustments

No subsequent adjustments need to be made in respect of a change of use of the goods or services.



International trade

Imports

VAT on imported goods is due during the customs clearance procedure, except for exempted goods.

VAT related to services rendered by non-resident companies is collected through the reverse-charge mechanism. The VAT due is declared and paid by the client located in Côte d'Ivoire.

Exports

Goods exported are zero-rated, but exporters are entitled to recover VAT on their inputs. Tax credits may be refundable, subject to certain conditions.

Services related to export operations are exempt from VAT. The export of services (services rendered to non-residents) is subject to VAT, where the services are used in Côte d'Ivoire.

VAT paid by foreigners on goods exported by them is not allowed as a refund. Refunds are also not allowed to foreigners in respect of services consumed in Côte d'Ivoire.



Place, time and value of supply

Place of supply

VAT is due on supplies in Côte d'Ivoire on both importation and local sales.

Time of supply

For VAT purposes, a supply of goods is deemed to take place at the time of the delivery of the goods. VAT is due at the time of the delivery of goods on the issued invoices.

In the case of services, the operation is deemed to take place at the time of the performance of the services. VAT is due at the time of the payment of the price of the services.

Value of supply

VAT is based on the purchase value, except for the importation of some goods for which a special customs value is used for VAT calculation.



VAT compliance

Accounting basis and tax periods

Entities performing activities in Côte d'Ivoire that are subject to VAT must comply with the local accounting requirements (SYSCOHADA accounting procedures). Tax periods are periods of one month each.

Returns and payment of VAT

VAT related to the transactions of the previous month must be declared and paid at the latest by the:

- 15th of the following month: for sales business enterprises managed by the Centre for Large Enterprises (direction des Grandes Entreprises) and Centre for Medium-Size Enterprises (Centre des Moyennes Entreprises) tax offices;
- 20th of the following month: for service providers managed by the Centre for Large Enterprises (direction des Grandes Entreprises) and Centre for Medium Size Enterprises (Centre des Moyennes Entreprises) tax offices;
- 10th of the following month: for mining and oil enterprises, managed by the Centre for Large Enterprises (direction des Grandes Entreprises) and Centre for Medium Size Enterprises (Centre des Moyennes Entreprises) tax offices; and
- 15th of the following month for other enterprises subject to a real tax regime.

Interest and penalties

Late payment of VAT will result in interest at a rate of 10%, which is increased by 1% for each additional month that the VAT is due.

Late-payment interest is charged for incomplete declarations, which implies a loss for the government. In these situations late-payment interest is due in addition to penalties (pénalités de majoration), which are 30%, 60% or 150 % of the amount of VAT due (droits eludes), according to the seriousness of the non-compliance.



However, if a VAT return is not submitted, or is submitted after the due date (in circumstances where no tax is due), the fine is an amount of XOF20 000 plus an additional amount of XOF10 000 for each month that the return is due.

Refunds

Tax credits are refundable, subject to certain conditions.

Objections and appeals

Claims for VAT, like claims for all other taxes, must be submitted to the head of the Tax Administration or their representative.

Time limits

There is no special time limit for VAT claims. The general time limit for tax claims is 31 December of the second year following the tax collection procedure.



VAT records

Tax invoices

The content of invoices is prescribed in the General Tax Code, and includes:

- The purchase price exclusive of VAT;
- The rate of VAT; and
- The amount of the VAT due.

For input VAT deduction purposes, standardised invoices with a special sticker must be issued. Electronic invoices are not allowed by the tax authorities. A paper copy invoice must be issued. A supplier must issue its invoices itself – they may not use an agent to issue their invoices. Invoices should be issued in French, which is the official language. Invoices may be issued in foreign currencies for non-resident customers. However, it is useful to issue invoices in the equivalent local currency (CFA francs).

Credit notes and debit notes

A credit note or debit note is usually issued when a change in the consideration for a taxable supply occurs due to the cancellation of a supply of goods and services, an alteration or variation in the nature of the supply, or a change in the previously accepted consideration for the supply. The issuing of a credit note or a debit note will form the basis for the requisite adjustment to the relevant VAT return.

Record-keeping

Records must remain at the tax authorities' disposal and must be kept for three years. No special requirements exist as to the form in which the records must be kept, but paper records must be provided to the tax authorities when required.



Specific VAT rules

Bad debts

VAT paid on bad debts is not directly deductible from input VAT. However, as provisions and losses are accounted for inclusive of VAT, the deduction of provisions and losses in the profit and loss accounts will result in a deduction of VAT paid on bad debts.

Land and buildings

The sale and rental of houses are generally not subject to VAT.

Leasing

Leasing operations are subject to VAT.

Promotional gifts

The VAT incurred on the acquisition or production of promotional gifts may be recovered as input VAT under specific conditions.

Second-hand goods

Second-hand goods are subject to VAT, except for sales made by individuals. Input tax on second-hand goods is recoverable. Exports of second-hand goods are not subject to VAT.

Tourism industry

VAT applies to the tourism industry, except for transportation activities, which are exempted.

Transfer of a business

VAT applies to the transfer of a business.

Warranty repairs

According to the scope of VAT, only goods sold or services rendered for a valuable consideration are subject to VAT. Where warranty repairs are not invoiced for, VAT is not due. Services rendered to foreign companies are subject to VAT.

Donations made for the benefit of charitable associations

An exemption applies to donations made to certain non-profit-making organisations, handicapped persons etc., and donations made as grants to pupils and students. The import or local acquisition of materials and goods intended as donations to the persons above is VAT-exempt.



Other indirect taxes

Import duty

Import duties vary from 0% to 35% according to the classification of the imported goods in the customs nomenclature which is common to the ECOWAS zone (an integrated economic zone that includes Benin, Burkina Faso, Cap Vert, Côte d'Ivoire, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo).

Excise duty

Excise duty is a consumption tax that is due on oil products sold in or imported into Côte d'Ivoire, except for products already taxed and oil products intended for industrial activities or purchased by foreign embassies in Côte d'Ivoire.

Transfer duty

Transfer duties are due in the case of registration of several transactions such as:

- Real estate renting – 2.5% or 1.5% during the leasing;
- Transfer of lease – 10%;
- Sale of shares – 1%;
- Sale of real estate – 4% (for direct acquisitions) or 2% (in case of sale by leasing); and
- Sale of business – 10%.

Stamp duty

Stamp duty is due on several documents and deeds, subject to registration formalities and also acknowledgment of payment in cash bills of exchange.

Tax on beverages

This tax is due on alcoholic and non-alcoholic beverages sold in Côte d'Ivoire. Local non-alcoholic beverages are exempted. The tax base is the product customs value. The rate depends on the type of beverage, namely:

- Wine – 25%;
- Champagne – 25%;
- Beer – 15%;
- Spirit alcoholic beverages with less than 35% alcohol – 35%; and
- Spirit alcoholic beverages with more than 35% alcohol – 45%.

Taxes on tobacco

There are two taxes that are payable on tobacco products, namely a general tax and a special tax. The rate of the general tax is 35%, according to the nature of the product. The rate of the special tax is 5%, according to the nature of the product. The special tax is designed to support sports development.

Special tax for equipment

This tax is payable on turnover at the rate of 0.1%, and is collected in the same manner as VAT. The tax is not invoiced to customers, but directly paid by the taxpayers on the basis of their turnover.





Equatorial Guinea



Contact details

Physical address: EGICO Tower, 3rd and 4th floors
Postal address: PO Box: 431 MALABO
Telephone number: +240 333 09 14 34
Fax: +240 333 09 09 10

PwC contact persons

Sébastien Lechene
 Raphaël Beilvert
 Javier Iñiguez

Contact details

sebastien.lechene@ga.pwc.com
 beilvert@ga.pwc.com
 javier.iniguez@ga.pwc.com



Introduction

VAT was introduced in Equatorial Guinea on 28 October 2004 by the Tax Code¹ in accordance with CEMAC regulations (Directive No. 1/99CEMAC-028-CM-03 dated 17 December 1999, which harmonises the legislation of the State related to VAT and excise duties).

It entered into force on 1 January 2005² and is locally referred to as 'Impuesto sobre el Valor Añadido' (or 'IVA', its Spanish acronym).

¹ i.e. Law N° 4/2004 dated 28 October 2004 regulating the taxation system of the Republic of Equatorial Guinea

² Date of entry into force of the Tax Code



Rates and scope

The standard VAT rate is 15%. A reduced rate of 6% is applicable to a list of basic consumables and books, and a 0% rate is applicable to certain medical products and equipment.

All operations performed in Equatorial Guinea are subject to VAT, unless they are included in the list of exemptions in the Tax Code.

In practice, tax authorities consider that VAT is not applicable in the oil and gas sector as defined by the Tax Code. There is no written confirmation of this practical position.

VAT is chargeable on:

- Goods sold or assigned for valuable consideration;
- Services provided;
- Self-consumed goods and services;
- Imports; and
- Other operations performed by individuals or legal entities in their sphere of business, whether professional or individual, including all kinds of extraction activities.



VAT registration

Compulsory registration

Individuals and legal entities (or their representatives) engaged in economic activities, regardless of their nature or outputs, that are classified as taxpayers under the Tax Code must register with the Tax Administration and obtain a tax identification number ('Número de Identificación Fiscal' in Spanish).

A branch of a company registered in terms of Equatorial Guinea legislation must also be registered with the Tax Administration.

Non-residents

Non-residents carrying out activities (sales operations or services) in Equatorial Guinea are liable for VAT. A non-resident taxpayer must appoint a solvent and accredited tax representative residing in Equatorial Guinea, who will be jointly liable for the payment of VAT. If no tax representative is appointed, the client must pay the VAT liability and any applicable penalties.



Output tax

Calculation of output tax

VAT is calculated on:

- Goods: all amounts or securities and all benefits, goods and services received or pending receipt in counterpart of the delivery; and
- Services: all amounts and benefits received and, if applicable, the value of goods that are consumed in the execution of said services.

Suppliers' invoices must clearly reflect the amount of VAT, separated from any other amounts, in order to allow the customer to deduct input VAT.

Exempt supplies

The Tax Code gives an exhaustive list of goods exempted from VAT, as follows:

- Raw agricultural goods;
- The following operations, provided they are subject to some specific taxes:
 - Sale of products resulting from soil and subsoil extraction activities
 - Operations transferring real estate between individuals that do not qualify as real estate developers and that are subject to asset transfer tax
 - Interest generated by foreign loans
 - Interest generated by deposits of non-professional clients in credit or financial establishments
 - Travellers with small imports when the value of the goods does not exceed (in CFA Franc BEAC) XAF500 000 (approximately USD1 000)
 - Banking, insurance and reinsurance operations which are subject to a specific tax
 - Operations transferring real estate, and real estate rights and mutations of goodwill that are subject to asset transfer tax or other equivalent taxes;
- Medical services;
- Staple commodities listed in the Tax Code;

- Services provided in the field of school or university teaching by public and private establishments or similar agencies;
- Importation and sale of school or university books;
- Sale of newspapers and periodicals;
- Rental of unfurnished houses;
- Social, educational, sports, cultural, philanthropic and religious services and operations;
- Amounts deposited by the Public Treasury into the Central Bank in its capacity as currency-issuing bank, as well as proceeds of the operations of the said currency-issuing bank; and
- Operations relating to the international traffic of:
 - Ships or vessels used in industrial or commercial activities on the high seas
 - Salvage or rescue ships
 - Aircraft and ships used for international transit operations and related services, in accordance with the provisions of the CEMAC Customs Code.

Zero-rated supplies

The zero rate applies to certain medical products, equipment and exports where the returns have been certified by Customs Services.



Input tax

Input tax allowed

In general, the right to deduct VAT is allowed when it is:

- Paid on invoices related to transactions that have a deduction right (the taxpayer has a tax number, etc.);
- Stated on purchase invoices issued to taxpayers by sellers who are legally authorised to include the tax on the said invoices;
- Paid at the time of the import; and
- Levied on invoices for equipment goods.

Input tax expressly denied

Restrictions apply to the recovery of input VAT incurred on the purchase of private vehicles and their spare parts and repair expenses. Input tax is also denied when:

- The invoice does not show the full name or any identification details of the client concerned;
- It is not claimed within the period allowed (i.e. two years after the year of enforceability of the VAT); or
- The VAT relates to exempt or zero-rated supplies.

Partial exemption

Taxpayers who are partially or fully exempted from VAT must apply a pro rata factor to the amount of the deductible VAT. The pro rata factor will be set on an annual basis, where the ratio is:

- The amount of income for transactions subject to VAT, as the numerator; and
- The total amount of income of any kind obtained by the taxpayer, as the denominator.

Adjustments

When a component of the fixed assets for which input tax has been deducted is no longer part of the fixed assets of the company or its removal from the assets is not supported, the company must pay VAT equal to the tax fraction previously deducted, before the end of the fourth year of acquisition. The fraction is equal to the difference between the total deduction made, and one-fifth per year or per fraction of a year since it was acquired.

In case of an assignment, if the goods constitute a component of the purchaser's fixed assets, the latter can deduct the VAT in the amount reverted by the seller as regularisation, as long as it is also a VAT payer. The seller must issue a statement to the purchaser reflecting the amount of the deductible VAT as a condition for making the deduction.



International trade

Imports

VAT payable on imports is calculated on the customs value, including all rights and duties paid upon entry except for VAT. According to the Tax Code, 'import' is understood as any entry of goods within the customs territory of Equatorial Guinea.

VAT liability on imports arises when goods and merchandise are introduced into the national territory as defined in the CEMAC Customs Code.

Exports

The zero rate related to exports is applied only if the return has been certified by Customs Services. No refunds are allowed to foreigners.



Place, time and value of supply

Place of supply

The Tax Code is based on the principle of territoriality, according to which all operations performed in Equatorial Guinea's territory are subject to VAT.

A sales operation is treated as having been performed in Equatorial Guinea when it has been carried out under the conditions for the delivery of goods, or – in the case of other operations – when the service provided, right assigned, or object leased is used or put into operation in Equatorial Guinea.

Time of supply

The enforceability of VAT is determined as follows:

- Sales and goods delivered, including self-consumed goods: at the time of delivery of the goods, merchandise, self-consumed goods or merchandise;
- Services: at the time of recovery of payment for the services;
- Imports: at the time when the declaration of consumption of the goods is registered; and
- Real estate operations: on the date of transfer.

Value of supply

The value-of-supply rules are as follows:

- Delivery of goods: all amounts or securities and all benefits, goods or services received or pending receipt in counterpart of the delivery;
- Imports: customs value, including all rights and duties paid upon entry except for VAT;
- Services: all amounts and benefits received and, if applicable, the value of goods that are consumable in the execution of the services;
- Exchanges: value of the products received in exchange for the goods provided plus the amount of compensation received;
- Real estate projects: amount of the operation, memoranda or invoices; and
- Self-consumed goods: purchase price without VAT of the goods purchased or used but not transformed and the cost of goods extracted, produced or transformed.



VAT compliance

Returns and payment of VAT

All taxpayers must file monthly returns (before the 15th of each month) of their transactions during the preceding month, and make immediate payment to the Equatorial Guinea Revenue Authorities. Any taxpayer who has not performed any transaction during the said period must file a zero return.

Interest and penalties

The interest and penalty range depends on whether the administrative correction procedure is contradictory or unilateral. Both contradictory and unilateral correction procedures can be followed by a tax agent when noting any shortfall, inaccuracy, omission or concealment in the elements used as the basis of the tax calculation:

- Contradictory procedure: in addition to the 10% interest for being in arrears, the fine will be 50% of the fees involved, which may be increased up to 100% if the taxpayer fails to show good faith; and

- Unilateral procedure: in addition to the 10% interest, the fine will be 100% of the fees involved.

Interest will be levied even if the non-compliance does not result in a loss for the State or a benefit for the taxpayer.

Refunds

No refund is allowed under the Tax Code. When the amount of VAT deductible for one month exceeds the amount of the VAT liability, the surplus constitutes a tax credit attributable to the VAT liability of the following period(s).

Objections

The taxpayer can appeal a decision with the same authority that took the decision or with a higher authority.

The case could also be submitted to tax panels ('Jurados Tributarios'). Tax panels are the governing bodies that must resolve controversies regarding factual matters that may be brought between the Tax Administration and taxpayers.



VAT records

Invoices

Every taxpayer is required to issue and deliver invoices for goods delivered or services provided to its clients, as well as for down-payments received for these operations. Each invoice must reflect the following:

- Serialised invoice number and chronological date;
- Name, address and tax number of the company;
- Prices, with the respective VAT charges listed separately; and
- Name, address and tax number of taxpayer.



Other indirect taxes

Credit notes and debit notes

Credit notes and debit notes are not regulated under the tax legislation, but result from accounting practice. They are tolerated by the Tax Administration, and must meet the same conditions that apply to invoices.

Record-keeping

Taxpayers are required to keep the following accounting books:

- A registry book of all invoices issued, which should be separated into those belonging to operations that are subject to VAT, exempt, not subject to VAT, and self-consumption;
- A registry book of invoices received;
- A registry book of investment goods; and
- A book with a current account of clients and suppliers.

Taxpayers must keep all accounting items showing income and expenses for five years following the respective operations. Accounting books must allow the precise determination of the following for each settlement period:

- Total amount of VAT that the taxpayer has passed on to its clients;
- Total amount of VAT that suppliers have passed on to the taxpayer during the same settlement period; and
- Total amount of VAT on imported goods.

Special duty tax

A standard special duty tax of 30% applies to an exhaustive list of products (mainly luxury goods) in the Tax Code. However, both the Tax Code and CEMAC provisions list special rates for products such as:

- Sparkling wine and champagne – 20% (special duties) and 15% (CEMAC duties);
- Cigars, cigarettes and tobacco – 50% (special duties) and 25% (CEMAC duties); and
- Photographic devices with automatic flashes – 25% (special duties).

Import duty

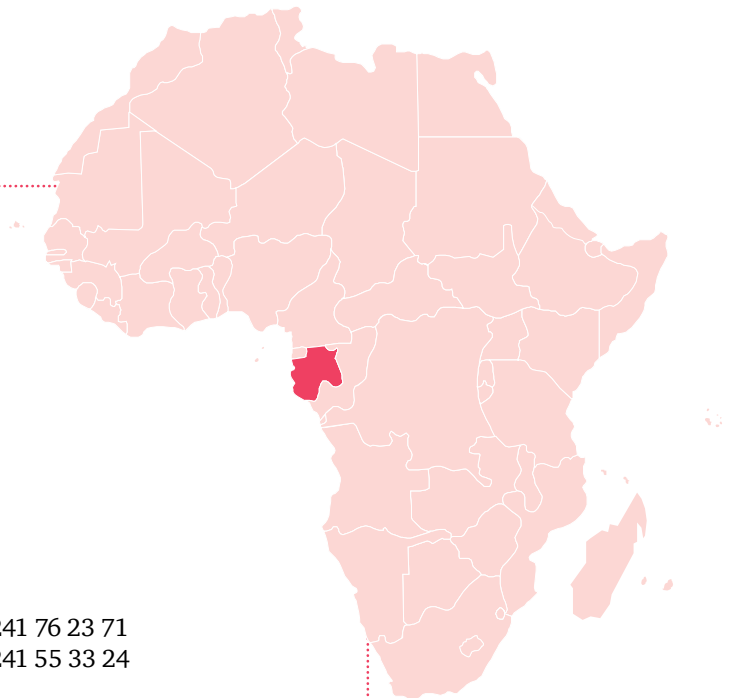
An import duty (at a rate of 5% to 30%) is applied to the price paid.



Gabon

Contact details

Website:	www.pwc.com/ga	
Physical address:	Libreville Office	Rue Alfred Marche
	Port-Gentil Office	Rue du Colonel Parant
Postal address:	Libreville Office	BP 2164
	Port-Gentil Office	BP 584
Telephone number:	Libreville Office	+241 76 23 71
	Port-Gentil Office	+241 55 33 24
Fax:	Libreville Office	+241 74 43 25
	Port-Gentil Office	+241 55 16 28
PwC contact persons		
Christophe Relongoue	christophe.relongoue@ga.pwc.com	
Laurent Pommera	laurent.pommera@ga.pwc.com	
Inès Vaz	ines.vaz@ga.pwc.com	



Introduction

VAT was introduced in Gabon by the Financial Law for the fiscal year 1995 (Law No. 1/95, dated 24 February 1995). The provisions of the Gabonese Tax Code relating to VAT have been amended since then by various Finance Acts that came into force in the course of the following fiscal years.

VAT in Gabon is administered by the Tax Authorities ('Direction Générale des Impôts').



Rates and scope

Three VAT rates apply in the Gabonese Republic, namely:

- Standard rate of 18%, applicable to all transactions unless otherwise provided for;
- Reduced rate of 10%, applicable to the production, manufacturing and selling of the following products:
 - Mineral water produced in gabon
 - Imported meat and chicken
 - Imported salad oil
 - Sugar
 - Imported peanuts
 - Washing powder
- Steel for reinforcing concrete
- Office computers and laptops
- Fishing equipment
- Outboard motors
- Replacement parts of cars
- Car axles
- Building tiles
- Nails
- Rain coats
- Tomato purée
- Canned fruits and vegetables, and
- Water and power consumed by way of social and standard meters;



Output tax

Calculation of output tax

The calculation of output tax depends on the VAT rate. Where the standard rate applies, the output tax is determined as follows:

- $18\% \times \text{price (all taxes included)} = \text{VAT}$

The taxable amount consists of all the sums, values or services received in compensation for the operation, including subsidies and all expenses, taxes and deductions of any nature other than the VAT itself. The prices are always given inclusive of all taxes.

Exempt supplies

Exempt operations include, but are not limited to:

- Agricultural, farming and fishing goods;
- Importation of new materials and tools intended exclusively for the development of vacant properties in urban zones and for the construction by public and private promoters of socioeconomic residences that have been duly authorised;
- Sale of quarry products;
- Operations performed by insurance companies in the context of their activity linked to insurance and reinsurance contracts, as well as services rendered by insurance middlemen;
- Transfer of intangible movable goods and immovable goods that are subject to registration duties;
- Renting of undeveloped land and unfurnished premises;
- Printing, import and sale of newspapers and reviews, except for advertisement profits;
- Operations to which fiscal stamps apply;
- Sums paid by the State to the Central Bank;
- Welfare, educational, competitive, cultural, religious or philanthropic supplies made by non-profit institutions to their members, unless they operate in a competitive sector;

- Reduced rate of 5%, applicable to sales and services related to cement; and
- Zero rate, applicable to exports, international transport and operations relating to refuelling as well as operations relating to maintenance and reparation carried out on aircrafts and vessels used for international traffic. The zero rate applies only to exports for which declarations have been issued by the Customs Authorities.

VAT is a broadly based tax on consumer expenditure. It is mostly removed from business costs, thereby confining it to consumer expenditure, by providing taxable persons with a credit mechanism – the deduction.

All transactions relating to an economic activity that constitutes an import, a delivery of goods or the provision of services carried out in the Gabonese territory by a person subject to tax (a chargeable person), except for the transactions expressly exempted from VAT under the Gabonese Tax Code, are taxable operations.



VAT registration

Compulsory registration

Registration is compulsory insofar as operations are carried out in Gabon. Provision is made for two categories of taxable persons who are VAT chargeable:

- Any person carrying on economic activities in Gabon with an annual revenue of at least (in Central African CFA Franc) XAF60 million (approximately USD122 000); and
- Forestry exploiters with a turnover of at least XAF500 million.

Voluntary registration

Registration is optional for the following persons:

- Taxpayers who were VAT chargeable under the former provisions of the Tax Code and whose turnover without taxes is less than XAF60 million, and new taxpayers capable of a turnover equal to XAF60 million for the first year of activity; and
- Taxpayers subject to the simplified taxation regime ('régime d'imposition simplifié') that have chosen to declare their real profit (determined by deducting their effective operating costs from their turnover).

Non-residents

Companies that are not incorporated in Gabon are not entitled to deduct VAT.

Foreign companies with no permanent establishment in Gabon who permanently or occasionally perform operations falling within the VAT scope are liable for VAT whatever the amount of the operations is. As a consequence, for foreign VAT-able persons, the VAT must be paid by the client on behalf of such persons without a permanent establishment in Gabon.

Application for registration

Until the VAT Administration has granted a VAT number (NIF) to a company, the company is not allowed to deduct VAT.

In order to be granted an NIF, the taxpayer must request it at the Tax Administration for its jurisdiction. This request is made at the beginning of the activity if the taxpayer considers that its activity will reach the liability threshold mentioned above, or within a month following the date on which the taxpayer satisfies the liability conditions or upon meeting these conditions once the activities have already been carried out.

Deregistration

The transfer or discontinuance of business in its entirety or partially must be declared to the Tax Authorities within 30 days:

- In case of the transfer or sale of a business, following the day on which the sale or transfer would have been published;
- In case of the sale or transfer of other enterprises, following the day when the transferor or buyer would have effectively started managing the operations; and
- In case of discontinuance of business, following the day on which it was finally closed down.



- First-necessity products such as bread, sugar, rice, eggs, academic books and milk;
- Imports of products that are exempt under the Customs Code;
- Second-hand products;
- Import of products by mining companies for the performance of mining operations;
- Agricultural and breeding devices and tourism equipment (except for the forestry and fish sectors);
- Building works, materials and the related provision of services, equipment and furnishings of tourism companies representing a new investment for a minimum amount of XAF300 million (excluding tax); and
- Loans on real properties to the amount of less than XAF50 million, granted to individuals for the acquisition and construction of a residence in Gabon.

Zero-rated supplies

Zero-rated supplies include:

- International exports and transport;
- Exports subject to a customs duty declaration; and
- Operations related to the refuelling of and maintenance and reparation carried out on aircrafts and vessels used for international traffic.



Input tax

Input tax allowed

Input VAT incurred to perform taxable operations is deductible from output VAT collected. The right to a deduction arises when the tax point occurs. To meet the formal deduction conditions, VAT has to be mentioned on one of the following documents:

- Invoices delivered by suppliers legally authorised to mention it;
- Documents of importation; or
- A declaration completed by the debtor in the event of self-supply.

Specific exclusions of input tax deduction

VAT incurred is denied as an input tax deduction in the following instances:

- Entertainment, accommodation and catering, except where a company's taxable activity consists of these operations;
- Importation of goods that are re-exported without any modification;
- Goods given for free or at a price less than the value of the goods;
- Petroleum products, except for those used by a fixed device as combustible or as a manufacturing element in industrial companies; and
- Vehicles used (mainly or partially) for the transport of passengers, that constitute fixed assets, except in the following cases:
 - Vehicles with more than ten seats exclusively used for the transport of personnel (except four-wheel-drive cars)
 - Vehicles used for the transport of passengers and products
 - Pick-up or utilitarian vehicles bought after 8 July 1997 that are exclusively used for the company's activities
 - Fixed assets of public transport companies
 - Fixed assets of car rental companies
 - Goods and services purchased by the taxpayer but used by third parties or by its managers or employees
 - Services related to goods excluded from the right to deduction, and
 - Services available in the national territory, executed by foreign suppliers.

Limited deduction right

Taxable persons who do not carry out only taxable operations (allowing them full right of deduction) may deduct the VAT incurred on the acquisition of goods and services by applying a deduction prorata. This fraction is the relationship between:

- As numerator – turnover related to operations subject to VAT; and
- As denominator – total turnover performed by the taxable person.

Adjustments

As far as an element of a fixed asset is concerned, the input VAT deducted has to be regularised when this element is no longer part of the fixed asset before the third year following the year when this element was purchased.



International trade

Imports

The taxable basis of importation is determined by adding the amount of the customs duties and the excise duties to the value of the goods as defined for customs purposes. However, the fact that imported goods are re-forwarded does not as such result in a right to deduction.

VAT on imports is paid to the Customs Authorities. It must be declared and paid before the removal of the goods.

Imports of new materials and tools for the construction of social residences by authorised property developers are VAT exempt.

Foreign suppliers of services in Gabon who have no permanent establishment there are liable to VAT. The Gabonese client will submit a VAT return and pay the VAT to the Treasury. The Gabonese company that benefits from the services may deduct such VAT from VAT collected the next month, except if the services provided by the foreign supplier are available in the Gabonese territory, in which case it will not be deductible.



VAT compliance

Exports

The zero rate is applicable to international exports and transport, including the supply of goods on board vessels and aircrafts used for international traffic. It applies only to exports that have been subjected to customs declarations. The exporters must attach the customs references for exports carried out during the month to their monthly declarations.

By way of exception, taxable exporters may request a refund of their tax credit, limited to the VAT fictitiously calculated by applying the general rate to the amount of exports carried out during the period.

Supplies of services are subject to Gabonese VAT when the recipient uses or enjoys the services in Gabon.

As far as refunds to foreigners are concerned, there are no specific provisions.



Place, time and value of supply

Place of supply

A supply of goods is subject to VAT if the delivery occurs in Gabon. A supply of services is subject to VAT if the rendered services are used or enjoyed in Gabon. Therefore, all transactions relating to an economic activity that constitutes an import, a delivery of goods or the provision of services carried out within the Gabonese territory are subject to VAT.

Time of supply

As far as goods are concerned, the tax point of the VAT occurs upon the delivery of the goods. In the case of services, the tax point occurs either upon the paying of the price or, if the supplier has opted for this, at the moment of invoicing. This choice is irrevocable and must be shown on invoices.

Value of supply

The taxable basis consists of all amounts and, if necessary, the value of the goods incorporated in the execution of the service in the case of the supply of services.

Returns and payment of VAT

By the 20th of each month, any taxable person has to calculate whether they have a tax debit or a tax credit and declare their monthly taxable operations on a CA01 return (previously CA3) to be submitted to the Tax Administration. Should no operation take place during a month, a nil VAT return must nonetheless be submitted.

Interest and penalties

The late submission of the monthly declaration is subject to late-payment interest of 5% before the receipt of a formal notice and 10% if the declaration is submitted within the seven days following the receipt of a formal notice. If the late declaration does not indicate any VAT due, the penalty is XAF100 000 before the receipt of a formal notice and XAF200 000 per month of delay if the declaration is submitted after the receipt of a formal notice, with a ceiling of XAF2 million. The late payment of the VAT mentioned in the monthly declaration is penalised by late-payment interest of 10% for the first month of delay, and 3% for the following months.

Any omission noted in the monthly declaration is subject to a penalty of 1.5% per month of delay, up to a maximum of 50% of the evaded rights or reassessments carried out, subject to the good faith of the taxable person. This penalty can be changed to 150% and up to 200% if bad faith is established.

Failure to submit a VAT declaration will result in automatic taxation and the loss of the right to deduct the VAT as well as the loss of any existing tax credit relating to previous periods.

The fact that non-compliance does not result in a loss to the State or in a benefit to the taxpayer will not result in a waiver of interest charged.

Refunds

VAT refunds are only allowed in specific cases provided for by the VAT legislation.

Objections and appeals

Any taxpayer who is dissatisfied with the VAT imposed on them may present a written query in the form of an introductory request addressed to the Tax Administration. The procedure is the same as for other taxes, as laid down in the Gabonese Tax Code.

Time limits

Omissions and errors in respect of VAT payable by the taxpayer can be corrected by the Tax Administration until the expiry of the fourth year following the year during which the tax became due.

Omitted former deductions can be claimed until the twelfth month following the month in which the deduction right occurred.



VAT records

Tax invoices

Any invoice issued in Gabon or sent to Gabonese clients must be written in French, issued in XAF currency, and indicate the following:

- The name and address of the supplier;
- The name and address of the beneficiary;
- The date;
- A description of the services or goods and their quantity;
- The unit price, excluding VAT and discounts;
- The VAT numbers (NIF) of the beneficiary and the supplier (if any); and
- The applicable VAT rate.

Any person liable for VAT must indicate on the invoice their NIF number, statistic number and trade registration number as well as the applicable rate and the amount of VAT. Invoices delivered to non-taxable persons can mention a single tax-inclusive amount.



Additional export documentation

Exporters must attach to their monthly declaration the customs references of the exports carried out during the month.

Record-keeping

An entity's accounting books as well as its supporting documents, its purchase invoices in particular, must be kept for a period of ten years after the year during which the operations were noted in the entries.



Specific VAT rules

Petroleum activities

While petroleum activities (prospecting and production) were initially considered to fall outside the scope of VAT, they are now governed by regimes which derive from the provisions of PSCs or concession agreements.

As for contracts signed after the entry into force of the Law regulating the hydrocarbons sector in Gabon, the VAT regime provided for under that Law will apply.

In accordance with the Law, all goods acquired by E&P companies from foreign suppliers which are intended for hydrocarbon activities are exempt from VAT on importation.

Acquisitions by E&P companies of goods or services provided locally are subject to the payment of VAT. However, acquisitions and services provided by oil suppliers or subcontractors who are mentioned in the list established by the Gabonese Administration are subject to VAT at 0%.

VAT paid by E&P companies may be refunded.

Bad debts

In order to recover output VAT for unpaid transactions where the amount is irrecoverable, a correction of the invoice is necessary. A duplicate of the initial invoice containing the following statement should be issued:

'Invoice remains unpaid for the sum of X price excluding VAT and for the sum of corresponding VAT, which cannot be the subject of a deduction.'

Land and buildings

The transfer of real goods and intangible movable property subject to registration rights is not subject to VAT. Imports of new materials and tools for the construction of social residences performed by authorised property developers are VAT exempt.

Please note that the Finance Act for fiscal year 2016 provides new provisions relating to VAT on property.

VAT on property is charged in relation to operations involving the production or delivery of buildings performed by taxpayers as part of their business activities (i.e. the sale of building plots, deliveries of new buildings, and deliveries to oneself of certain buildings).

The applicable rate of VAT on property is the standard rate of 18%.

The tax is due by the constructors of the building from the delivery date of the said buildings.

The deeds relating to the sale of the buildings must be registered, giving rise to the payment of registration duties.

Leasing

Leasing is subject to VAT at the standard rate.

Promotional gifts

As there are no specific provisions for promotional gifts, the deduction of input VAT should be possible.

Second-hand goods

VAT does not apply to sales of second-hand goods made by persons who have used the goods for the purpose of exploiting them. Therefore, such sales are exempt from the payment of VAT. However, this exemption does not apply to traders of second-hand goods.

Tourism industry

There is a VAT exemption for equipment and personalised furniture specifically destined for the tourism industry.

Transfer of a business

As far as an element of fixed assets is concerned, the input VAT deducted has to be regularised when this element is no longer part of the fixed asset before the third year following the year when this element was purchased.



Other indirect taxes

Import duty

Gabon is a member of the CEMAC (formerly UDEAC) region, which means that consideration must be given to the CEMAC (formerly UDEAC) regulations. There is a common customs regime, as well as specific customs regimes.

A common CEMAC (formerly UDEAC) customs regulation stipulates that the customs value of imported merchandise is their transactional value, i.e. the price actually paid or to be paid for this merchandise, subject to some adjustment and/or reintegration.

Specific customs regimes:

- The temporary admission regime (normal or special) may be granted for specific equipment materials, products, machines and tools required for the performance of some operations;
- A specific regime is granted for imports by the contractor, third parties on its behalf or subcontractors, provided that the goods are re-exported after they have been used;
- The exemption regime may be granted for all materials, products, equipment, machines and tools exclusively intended and actually used up for certain operations such as drilling equipment and oxygen; and
- The reduced-rate regime of 5% may be granted for materials, products, equipment, machines and tools which do not fall into the above-mentioned categories and are necessary for petroleum production.

Excise duty

The excise duties are indirect tax levies that are applicable to certain categories of goods such as tobacco and liquor at the time of their marketing or their consumption. The rates are as follows:

- Beer – 30%
- Wine – 30%
- Champagne – 32%
- Other drinks with a volumetric degree of alcohol exceeding 12% – 32%
- Perfumery and cosmetics – 25%
- Caviar, foie gras and salmon – 25%
- Cigarettes, cigars and tobacco – 32%.

Registration duties

These are proportional rights which range from 1% up to 8%, depending on the nature of the acts:

- The transfer of shares is normally subject to the payment of a registration right of 3% of the price, as a burden to the assignee;
- The sale of a building is subject to a registration right of 6% (plus 2% for buildings located in Libreville or Port-Gentil); and
- The transfer of a leasing right is subject to a registration right of 4%.

Stamp duty

A stamp contribution is levied on all paperwork relating to civil and judicial actions, and to documents that could be produced in court as evidence.



Ghana



Contact details

Website:	www.pwc.com/gh
Physical address:	No. 12 Airport City, Una Home, 3rd Floor, Accra, Ghana
Postal address:	PMB CT 42, Cantonments, Accra, Ghana
Telephone number:	+233 302 761500
Fax number:	+233 302 761544

PwC contact persons

George Kwatia	george.kwatia@gh.pwc.com
Ayesha Bedwei	ayasha.a.bedwei@gh.pwc.com
Abeku Gyan-Quansah	abeku.gyan-quansah@gh.pwc.com
Laura Torgbenoo	laura.torgbenoo@gh.pwc.com

Contact details



Introduction

In 2013, the parliament of Ghana passed a new VAT Act (Act 870). VAT Act 870 became effective on 8 January 2014. Regulation 1998 (L.I 1646) is still in force, together with the new VAT Act. Effective 3 August 2016, a new regulation, VAT regulations 2016 (L.I 2243), came into force.

The National Health Insurance Levy (NHIL) was also introduced on 4 November 2004 as an

additional consumption tax similar to VAT to specifically secure the provision of basic healthcare services to persons resident in the country through mutual and private health insurance schemes. The current NHIL Act (Act 852) was gazetted and became effective in November 2012. NHIL is administered alongside VAT by the Domestic Tax Revenue Division of the Ghana Revenue Authority (DTRD of GRA).



Rates and scope

The VAT Act provides for a standard rate of 15% for VAT, and the rate of 2.5% for NHIL applies to all supplies of goods and services that do not qualify for an exemption or zero-rating. The VAT Flat Rate Scheme for retailers has been abolished under the new VAT Act. In practice, however, some vendors still charge this VAT. The VAT (Amendment) Act 2015 (Act 890) effective 16 April 2015 introduced a flat rate scheme of 5% for estate developers who make a taxable supply of immovable property.

VAT and NHIL ('VAT') are charged on the supply of all goods and services by a taxable person, except when the goods and services are specifically exempt. There are no territorial jurisdictions in Ghana that are excluded from the VAT territory.



VAT registration

Compulsory registration

A person has to register for VAT if that person makes a taxable supply of goods or services, and has a business turnover that exceeds:

- GHS200 000 over a 12-month period; or
- GHS50 000 over a three-month period,

and there are reasonable grounds to believe the aggregate supplies for those three months and the consecutive nine months will exceed GHS200 000.

The threshold was amended by the VAT (Amendment No. 2) Act, 2015 (Act 904), effective 31 December 2015.

Voluntary registration

Any business may apply voluntarily to be registered for VAT by the Commissioner-General.

Group and branch registration

Two or more corporate bodies may be registered as members of a group if each member is a registered corporate body in Ghana and has an established place of business there, where one of them controls the others in the group, or one company controls all the members of the group.

A taxable person applying for separate branch registration must state the branches and divisions, including self-accounting branches, where the business has more than two branches or divisions.

Non-residents

A non-resident business needs a physical representative to register for VAT. If requested, and where permissible by internal independence requirements, PwC will act as representative in the processing of VAT returns and advise on issues relating to VAT compliance and the submission of cheques for agreed VAT liability to the DTRD of GRA.

Where unregistered non-resident persons providing telecommunication or electronic commerce services for use or enjoyment in Ghana other than through a VAT-registered agent make taxable supplies exceeding the registration thresholds, they are required to register for VAT in Ghana.

Application for registration

Anyone who qualifies to register has to apply to the Commissioner-General of the GRA for registration as a taxable person. The registration form requires the following information:

- Name of business or proprietor and trading name (if different);
- Postal and physical addresses;
- Telephone number;
- Date of commencement of trading;
- Tax identification number;
- Type of business and description of business activity;
- Value of total sales or turnover for the last 12 months, value of taxable sales, and turnover (including zero-rated) during last 12 months; and
- A declaration by the person completing the registration form certifying that the information provided is true and accurate to the best of their knowledge.

Failure to register attracts a penalty of not more than twice the amount of tax on taxable supplies, payable from the time the person was required to apply for registration until they file an application with the Commissioner-General (C-G).

The VAT identification number format is C 999 999 9999.

Deregistration

Businesses which no longer qualify for VAT registration can be deregistered, but have to reregister when the qualifying threshold is met once more.



Output tax

Calculation of output tax

Output VAT is calculated by applying the rate of the tax to the VAT-exclusive amount. Advertised prices include VAT and NHIL taxes. Therefore, when prices are charged exclusive of such taxes, VAT and NHIL at 17.5% (in total) must be added.

Exempt supplies

Exempt supplies for which no credit is allowed include (but are not limited to):

- Certain medical and locally produced pharmaceutical products;
- Basic food items produced in the country, usually in their raw states;
- Books and domestic newspapers;
- Crude oil and hydrocarbon products;
- Building and construction (excluding when meant for sale by an estate developer), including the right to occupy land or buildings (construction should be civil engineering works of a public nature);
- Financial services, excluding financial services rendered for a fee, commission or similar charge;
- Supply of postage stamps;
- Goods for the disabled, i.e. articles designed exclusively for use by the disabled;
- Machinery, apparatus, appliances, parts used in agriculture, industry, mining (as specified in the mining list), railways and tramways, upstream petroleum operations as specified in the petroleum list, and dredging;
- Domestic transport by bus and similar vehicles, train, boat, and air, but excluding haulage and vehicle rental;
- Education registered or licensed by the Minister of Education;
- Electricity up to lifeline units;
- Water, excluding bottled and distilled water;



Input tax

Input tax allowed

A taxable person may claim input tax on goods and services purchased in Ghana, or goods imported by them and used wholly, exclusively, and necessarily for business purposes, provided (inter alia) the supply is a taxable supply. An estate developer charging VAT at the flat rate of 5% is not entitled to claim input tax on the supply of immovable property.

Reverse VAT on imported services is not claimable.

Non-deductible input tax

Input tax deductions are not allowed on the following:

- Imported services which are not used to make taxable supplies;
- Purchases or imports in respect of exempt supplies;
- On the expiration of six months from the date the tax accrued;
- Importation of motor vehicles or vehicle parts, unless the taxable person is in the business of dealing in or hiring vehicles or selling vehicle parts;
- Entertainment, including restaurants, meals, and hotel expenses, unless the taxable person conducts a business of that nature; and
- Fees or subscriptions in respect of membership of a club, association or society of a sporting, social or recreational nature.

Partial exemption

Input tax is restricted to the part of taxable supplies or imported goods that is used for business purposes. If a taxable person makes both taxable and exempt supplies, a portion of VAT incurred may be recovered on the taxable purchases and imports of goods that can be directly attributed only to the taxable supplies made.

Pre-registration and post-deregistration VAT

A taxable person may recover the VAT on stock and capital goods purchased or imported prior to registration, provided the goods are still in the ownership and possession of the taxable person, and the purchase or importation occurred not more than four months or six months prior to registration in the case of stock and capital goods respectively.



International trade

Imports

The importation of taxable goods other than exempt goods and services is subject to VAT, and the importer of the goods is required to account for the tax.

The importation of taxable services which are not used in making taxable supplies is subject to VAT. The receiver of the service must account for VAT by means of a reverse-charge mechanism. The reverse charge applies to services that are supplied by a non-resident business, and received by a resident taxable person for consumption in Ghana. This reverse VAT is not claimable.

Exports

Exports of taxable goods are zero-rated supplies that attract VAT and NHIL at the rate of 0%.

The export of services is zero-rated (a VAT rate of 0%) if all requirements are met.

Refunds of VAT charged on goods purchased in Ghana by a person not resident in Ghana for consumption outside Ghana may be authorised by the Commissioner-General of the GRA, subject to such conditions as he may direct in writing.

- Fishing equipment;
- Locally produced textbooks and exercise books;
- Locally manufactured agricultural machinery, and other agricultural implements or tools; and
- Agricultural inputs.

Special relief

Special relief applies to:

- Supplies to the President of the Republic of Ghana;
- Supplies for the official use of any Commonwealth or foreign embassy, mission or consulate (relief applies only to VAT on imported goods) – reciprocal application;
- Supplies for use by a permanent member of the diplomatic service of any commonwealth or foreign country, exempted by Parliament from the payment of customs duties (relief applies only to VAT on imported goods) – reciprocal application; and
- Supplies for use by an international agency or technical assistance scheme where the terms of the agreement made with the government include exemption from domestic indirect taxes.

Zero-rated supplies

Zero-rated supplies include (but are not limited to) the following:

- Exports of taxable goods;
- Supplies to a free-zone enterprise;
- Goods shipped as stores on vessels and aircraft leaving the territory of Ghana; and
- Services consumed outside Ghana.



Place, time and value of supply

Place of supply

The place of supply of goods is typically the place from which the goods are delivered or made available by the supplier or, if delivery involves transportation, the place where the goods are when transportation commences. The place of supply of a service is the supplier's place of business or the place from which the service is supplied or rendered.

Time of supply

The time-of-supply rules are as follows:

- Goods or services applied for own use – the date on which the goods or services are first applied for own use; and
- Goods or services supplied by way of a gift – date on which ownership in the goods passes or the performance of the services is completed.

In any other case – the earliest of the date on which:

- The goods are removed from the taxable person's premises, or from other premises where the goods are under the taxable person's control;
- The goods are made available to the person to whom they are supplied;
- The services are supplied or rendered;
- Payment is received; or
- The tax invoice or sales receipt is issued.

Value of supply

The value-of-supply rules are as follows:

- Supply for monetary consideration – the amount of the consideration plus all duties and taxes but excluding VAT; and
- Supply that is not for monetary consideration or partly for monetary consideration – the open-market value of a similar supply, excluding VAT.



VAT compliance

Tax period

Tax period means one calendar month.

Returns and payment of VAT

VAT returns must be submitted monthly and must be filed no later than the last working day of the month immediately following the month to which the return relates. Payments must be made by the due date for filing. A taxable person who has received imported services must complete and submit specially designed forms for the services by means of a reverse charge within 21 days after the month in which the services were imported. Payment of the imported services VAT must be made with the submission of the declaration.

The amount of VAT paid by the registered person can be claimed as an input tax deduction. However, reverse VAT and other items cannot be claimed as deductible input tax.

Electronic filing is not currently widely available.

Interest and penalties

The following pecuniary penalties/interest are charged:

- Late submission of a return – penalty of GHS500;
- For each day the return is not submitted – penalty of GHS10;
- Late payment – penalty of Bank of Ghana discount rate plus a quarter of that rate on the tax due;
- Failure to register – double the tax payable had the taxpayer registered when required; and
- Failure to issue tax invoice – up to GHS1 200 plus GH¢500 or thrice the amount of tax, whichever is higher.

The VAT Act does not provide an option for the waiver of interest for non-compliance.

Refunds

Credit is given to offset the following month's liability. A request for a refund may be made where the excess credit has been outstanding for a continuous period of three months or more under certain conditions.

Objections and appeals

Disagreement with a decision of the GRA must be lodged with the Commissioner-General of the GRA within 30 days after notice of the decision has been served on the taxpayer or upon the taxpayer's becoming aware of the decision.

A person dissatisfied with the decision of the Commissioner-General may lodge an appeal with any court with jurisdiction to hear and determine tax disputes within 30 days after being notified of the decision of the Commissioner-General.

Time limits

The time limit for payment of tax due is the last working day of the month immediately following the month to which the return relates. The maximum period for claiming input tax is six months from the date on which the deduction accrued. The claim is forfeited on the expiration of a period of six months.



VAT records

Tax invoices

Invoices must be pre-printed as authorised by the Commissioner-General of the GRA. Invoices that are not pre-printed must be approved by the Commissioner-General of the GRA before they are used. An invoice for VAT purposes should contain the following information:

- Invoice number;
- The supplying taxable person's name, VAT registration number and address;
- The customer's name or business name and address, and VAT registration number, if a taxable person;
- Description of goods or services supplied, including the quantity of the goods or the extent of the services;
- Date of supply, invoice or payment;
- Invoice amount (excluding VAT), VAT amount and VAT rate;
- The rate of any discount;



Specific VAT rules

Bad debts

A taxable person may recover input VAT on bad debts where the purchaser becomes insolvent and fails to pay all or part of the taxable amount of the sale plus the VAT imposed, and the debt becomes a bad debt and is certified as such by the Commissioner-General of the GRA. However, a debt previously written off as a bad debt for which credit has been given that is later recovered is subject to VAT on the amount recovered.

Land and buildings

Sale of land and buildings, excluding sale thereof by an estate developer, is typically exempt from VAT.

Leasing

The taxable value of a taxable supply of goods under a finance lease is the open-market value of the goods at the time of the supply. This excludes any interest or finance charges.

Promotional gifts

Promotional goods attract VAT. Input tax may be deducted when promotional goods are acquired.

Second-hand goods

Taxable persons who deal in locally procured second-hand goods may apply to the Commissioner-General of the GRA for approval to charge VAT on the difference between the buying price and the selling price of the goods, subject to certain conditions.

Transfer of a business

The transfer of a business as a going concern from one taxable person to another is zero-rated if certain conditions are met.

Warranty repairs

No special rules apply in this regard. However, if the warranty is deemed to be part of a taxable service, VAT will be charged.



Other indirect taxes

Import duty

Import duty ranges from 0% to 35% as specified under the ECOWAS Common External Tariff and Other Schedules.

Excise duty

Excise duty is limited in scope and is charged on some locally manufactured products, especially on tobacco and on alcoholic and non-alcoholic beverages. The import of tobacco and beverages attracts import excise duty. Excise duty typically ranges from 7.5% to 175% for tobacco products.

Plastic and plastic products as listed in Chapters 39 and 63 of the ECOWAS Common External Tariff and Other Harmonised System and Customs Tariff Schedules attract excise duty of up to 10% of the ex-factory price.

Stamp duty

Stamp duty rates vary, as they depend on the kind of transaction.

Proposals in the 2016 Budget Statement

As part of efforts to reduce tax loopholes in the system, the use of electronic point of sale (EPOS) devices verifiable by the tax authorities is expected to be rolled out in 2016. This aims to reduce VAT leakages.

There is a proposal to abolish the VAT relief purchase order (VRPO) which is typically used by relieved persons/taxpayers in certain industries and under specific agreements with the Government of Ghana.

- Total of VAT values and total inclusive of VAT; and
- Terms of payment.

Electronic invoices are accepted in the case of retail clients with a high turnover, but must be approved by the Commissioner-General of the GRA. Except with the approval of the Bank of Ghana, invoicing in foreign currency is not allowed under regulatory requirements.

Credit notes and debit notes

A credit note is issued to a recipient of a supply where the amount on a tax invoice exceeds the amount that should have been charged, while a debit note is issued to a recipient of a supply where the amount on a tax invoice is less than the amount that should have been charged due to the fact that:

- The supply has been cancelled;
- The nature of the supply has been fundamentally varied or altered;
- The previously agreed consideration for the supply has been altered by agreement with the recipient of the supply, whether due to an offer of a discount or for any other reason; or
- The goods or services or part thereof have been returned to the supplier.

Additional export documentation

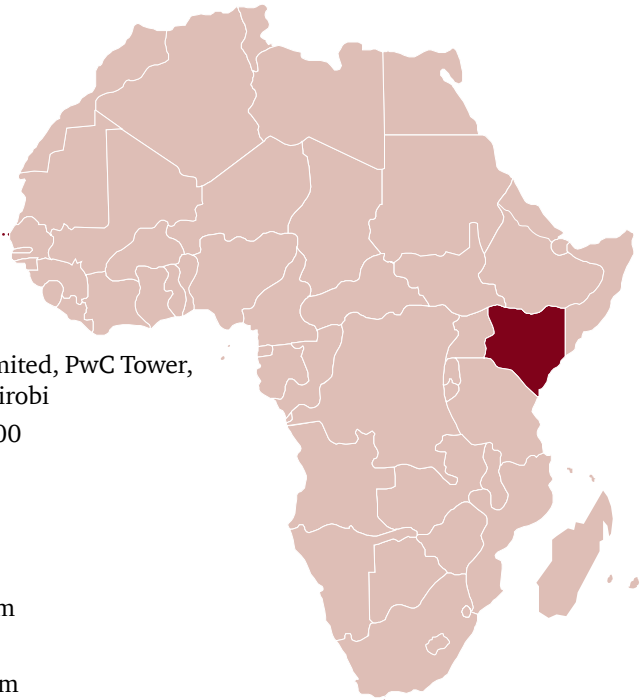
Detailed documentation is required in substantiating to the Commissioner-General that the taxpayer should apply 0%.

Record-keeping

Records must be kept for up to six years, unless the Commissioner-General's approval is obtained to keep the records for a shorter period. The records may be kept outside the country if the business can produce them within a reasonable time for inspection by revenue officers. Records may be kept solely in electronic form.



Kenya



Contact details

Website: www.pwc.com/ke
Physical address: PricewaterhouseCoopers Limited, PwC Tower, Waiyaki Way, Westlands, Nairobi
Postal address: PO Box 43963, Nairobi, 00100
Telephone number: +254 20 285 5000

PwC contact persons	Contact details
Job Kabochi	job.kabochi@ke.pwc.com
Beatrice Wafula	beatrice.wafula@ke.pwc.com
Joash Ratemo	joash.ratemo@ke.pwc.com
Cynthia Mayaka	cynthia.mayaka@ke.pwc.com
Gideon Rotich	gideon.rotich@ke.pwc.com



Introduction

VAT was introduced in Kenya with effect from 1 January 1990 to replace Sales Tax, which had been in operation since 1973. The basic law was contained in the VAT Act, Cap. 476 of the Laws of Kenya read together with the Regulations from which it stems. The VAT Act, Cap. 476 was repealed and a new VAT Act, 2013 came into effect in September 2013.

The Kenya Revenue Authority (KRA), which was established under an Act of Parliament in 1995, is mandated to administer and enforce the VAT Act.



Rates and scope

The current standard rate of VAT in Kenya is 16%. The rate applies to all taxable supplies of goods and services not qualifying for zero rated or a VAT exemption.

VAT is charged on the supply of taxable goods or services made or provided by a registered person in Kenya; on the importation of taxable goods; and on the supply of imported taxable services.

In relation to taxable supplies in Kenya, a person who makes taxable supplies to the value of KES5 million or more in any period of 12 months is required to register for VAT. This excludes the value of a taxable supply of a capital asset or a supply made solely as a consequence of selling the whole or part of the business or permanently ceasing to carry on the business.

A person means an individual, company, partnership, association of persons, trust, estate, the Government, a foreign government, or a political division of the Government or foreign government.

A registered person is any person liable to apply for VAT registration under the VAT Act, but does not include an export processing zone (EPZ) enterprise.

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

- Supply of taxable goods in a bonded warehouse in Kenya;
- Employment services rendered by an employee to the employer in consideration for a wage or salary;
- Taxable supply of a capital asset of the person;
- Taxable supply made solely as a consequence of the person selling the whole or part of a business or ceasing to carry on the business;
- Disbursements to a third party of incidental costs incurred in the course of making a supply; and
- Supplies made by a person who is not required to register for VAT, for example someone whose turnover is below the VAT registration threshold.



VAT registration

The following persons are liable to register for VAT:

- One who has made taxable supplies or expects to make taxable supplies, whose value is KES5 million or more in any period of 12 months; or
- One who is about to commence making taxable supplies the value of which is reasonably expected to exceed KES5 million in any period of 12 months.

Failure to register for VAT will lead to retrospective compulsory registration by the Commissioner of Domestic Taxes from the date the person became liable for registration. Furthermore, the person will be liable on conviction to a fine not exceeding KES200 000 or imprisonment for a term not exceeding two years or both.

Voluntary registration

The VAT Act provides for voluntary VAT registration when one expects to make taxable supplies by making an application to the Commissioner.

Group or branch registration

According to the VAT Act, 2013 the Commissioner may, in regulations, provide for the registration of a group of companies as one registered person. However, such regulations have not been issued to date.

Non-residents

Non-resident persons means a person who is not a resident for the purpose of a tax law and includes a partnership or trust settled or formed outside Kenya.

In addition, where services are provided by a non-resident person to a resident recipient who is not registered for VAT, the non-resident supplier is required to appoint a tax representative to meet his VAT obligations. The tax representative will be registered in the name of the non-resident person.

Person

The definition of a person is an individual, company, partnership, association of persons, trust, estate, the Government, a foreign government, or a political division of the Government or foreign government.

Company

A Company means a company as defined in the Companies Act or a corporate body formed under any other written law, including a foreign law, and includes any association, whether incorporated or not, formed outside Kenya which the Cabinet Secretary may, by order, declare to be a company for the purposes of this Act. From the definition therefore non-resident businesses are required to register for VAT for the purposes of this Act.

Application for VAT registration

Upon application online via the iTax platform, a person shall be issued with a tax registration certificate (TRC) that specifies a taxpayer's personal identification number (PIN) and the tax obligations for which a taxpayer qualifies to be registered. A PIN certificate is issued within a few hours of making the application online.

A taxpayer within the threshold for VAT registration must, therefore, charge VAT, as it will be issued with a TRC within a few hours of making the application online. The following are the documents required for online registration of a company incorporated in Kenya:

- Certificate of incorporation (certificate of compliance in the case of a branch); and
- PIN details of at least two directors of the company (the directors are required to be registered as KRA online users). In the case of non-resident directors, the PIN details of the company secretary would suffice.

The VAT legislation requires VAT-registered persons to display their registration certificates in a clearly visible place at the principal place where business is carried on and a copy of the certificate at every other place at which the person carries on business. Failure to comply with the requirement constitutes an offence that is punishable on conviction by a fine not exceeding KES200 000 or imprisonment for a term not exceeding two years or both.

Deregistration

If a registered person ceases to make taxable supplies, he must notify the Commissioner of the date of cessation, and furnish him with a return showing details of all goods in stock and taxable assets within 30 days from the date the registered person ceased to make taxable supplies.

If the value of the registered person's taxable supplies in any 12 months does not exceed KES5 million and he does not expect any increase in such supplies in the next 12 months, he may also notify the Commissioner for deregistration.

Other reasons for deregistration include death, insolvency, goods becoming non-taxable, change of trading names, and legal incapacitation. Where such changes occur, the registered person, the one charged with liquidation, the executor or any other person must notify the Commissioner without delay.

Output tax

Output tax means tax that is due on taxable supplies. Output tax is computed by applying the VAT rate attributable to the taxable value of the supply. The VAT rate attributable to the supply will depend on whether the supply is taxable at the standard rate or at the zero rate.

Exempt supplies

Businesses that deal exclusively in exempt supplies are not required to register for VAT and cannot claim relief from input tax on the goods and services that they consume. The exempt supplies include, but are not limited to:

- Financial services;
- Supply or importation of goods listed under Part 1 of the first schedule, which mainly includes food stuffs and medical supplies;
- Live animals, and all types of birds and mammals;
- Plant and machinery as in chapters 84 and 85;
- Unprocessed milk;
- Milk specifically prepared for infants;



Zero-rated supplies

Zero-rated supplies include, but are not limited to:

- Exports (all goods but only taxable services);
- Supplies of goods or taxable services to export processing zones;
- Transportation of passengers by air carriers on international flight;
- Ship stores supplied to international sea or air carriers on international voyage or flight;
- Tea and coffee supplied for export to coffee and tea auction centres;
- Supply of natural water (excluding bottled water) by local authority;
- Goods purchased from duty free shops;
- Taxable services in respect of goods in transit;
- Taxable supplies to pharmaceutical manufacturers for the manufacturing medicaments;
- Transfer of business as a going concern between registered persons;
- Medicaments of tariff heading 30;
- Supply of taxable services to international sea or air carriers on international voyage or flight; and
- Zero-rated supplies to public bodies, privileged persons and institutions. This is subject to fulfilling conditions required by the Commissioner.

Supplies to official aid-funded projects, privileged bodies or persons and aid agencies may be supplied free of VAT, but only if an exemption certificate is provided. This must be obtained from the Ministry of Finance before importation or local purchase. The registered supplier is required to retain a copy of the exemption certificate as proof of authority to supply the goods or services at the zero rate. Where these goods for which exemption has been granted are subsequently sold, VAT becomes due and payable.

- Bread, maize flour and semi-milled rice or milled rice;
- Medicaments;
- Goods for the direct and exclusive use in the construction of a power generating plant to supply electricity to the National grid;
- Goods for the direct and exclusive use in geothermal, oil or mining prospecting or exploration by a company granted prospecting or exploration licence;
- Tractors;
- Aircraft parts and engines;
- Solar equipment and accessories;
- Helicopters and aeroplanes;
- Biogas and equipment used to produce it;
- Parts for assembly of school laptop tablets;
- Materials for agricultural machinery and implements;
- Supply of goods and services to special economic zones;
- Goods and services for direct and exclusive use in official aid funded projects;
- Goods and services for use by local film producers and agents;
- Goods and services for direct and exclusive use in construction and infrastructural works in industrial and recreational parks;
- Insurance and reinsurance services, excluding:
 - Management and related insurance consultancy services,
 - Actuarial services, and
 - Services of insurance assessors and loss adjusters;
- Education services, excluding business or user training and other consultancy services designed to improve efficiency and work practices in an organisation;
- Medical, veterinary, dental and nursing services;
- Agricultural, animal husbandry and horticultural services;
- Social welfare services provided by charitable organisations;
- Burial and cremation services;
- Transportation of passengers by any means of conveyance, except international air transport or where the means of conveyance is hired or chartered;
- Sale, renting, leasing, hiring or letting of land and residential premises (excluding hotel and holiday accommodation), excluding car park and conference or exhibition services except where provided for educational institutions as part of learning, community, social and welfare services provided by the National Government, County Government or any political sub-division thereof;
- Insurance agency, insurance brokerage, stock exchange brokerage, and tea and coffee brokerage;
- The supply of services rendered by educational, political, religious, welfare and other philanthropic associations to their members;
- Hiring, leasing and chartering of aircrafts;
- Betting, gaming and lottery services;
- Certain entertainment services (plays, performances and sports events by approved charitable, educational or other institutions of a non-profit nature);
- Restaurant and accommodation services provided within approved educational and medical canteens operated by employer institutions; and
- Conference services conducted for approved educational institutions as part of learning.
- Sewerage services;
- Exempt goods in transition for a period of three years with effect from September 2013:
- Natural gas in gaseous state and other gas oils;
- Illuminating kerosene; and
- Kerosene-type jet fuel.



Input tax

Input tax allowed

Generally, input tax incurred by a VAT-registered person in respect of most expenses incurred and services received for business purposes is deductible. Conversely, input tax is not deductible where:

- Input tax is directly attributable to exempt supplies where the direct attribution method for recovering input tax is applied in calculating the recoverable element of input tax;
- A valid original VAT invoice or a certified copy has not been obtained, or valid customs entry and receipt have not been obtained;
- The input tax is non-Kenyan VAT;
- The time period for claiming input tax has expired (input tax must be reclaimed within six months of the tax point); or

Input tax is specifically blocked from recovery.

Time limits

Input tax may be deducted at the end of either the tax period in which the supply or importation occurred or the following tax period, provided that not more than six months have elapsed since that input tax became due and payable.

Input tax expressly denied

The deduction of input tax incurred on the following supplies is specifically denied:

- Entertainment, restaurant and accommodation services if not for business; and
- Passenger cars and minibuses, bodies, parts, oils and services for their repair, unless they are acquired for the purpose of making a taxable supply of that automobile in the ordinary course of business.

Partial exemption

Partial exemption arises where a registered business partly makes taxable supplies and partly makes supplies for another use under the VAT Act.

The following criterion is used to determine the deductible input tax:

- Input tax relating to taxable supplies is deductible in full;
- Input tax relating to other use is not deductible;
- Input tax relating to the making of partly taxable supplies and partly other uses is:
 - deductible in full, if taxable supplies are more than 90% of the total supplies, and
 - not deductible, if taxable supplies are less than 10% of the total supplies.
- The amount of input tax to be deducted is determined by the formula below:

$$\frac{\text{Value of all taxable supplies} \times \text{input tax}}{\text{Value of total supplies made}}$$

Pre-registration or post-deregistration VAT

Where:

- On the date exempt supplies made by a registered person become taxable, and the person had incurred input tax on such supplies; or
- On the date he is registered, a person has incurred tax on taxable supplies that are intended for use in making taxable supplies, the person may, within three months from that date, claim relief from any tax shown to have been incurred on such supplies: provided that this subsection will apply where such supplies are purchased, within the period of 24 months immediately preceding registration or the exempt supplies becoming taxable.

A registered person who ceases to make taxable supplies must apply in writing to the Commissioner for the cancellation of the person's registration, within 30 days of the date on which the person ceases to make taxable supplies. A person whose registration is cancelled will be deemed to have made a taxable supply of any trading stock on hand at the time the registration is cancelled if the person was allowed an input tax credit for the acquisition or import of the stock, or in respect of the acquisition or import of goods that have been subsumed into that stock.

Withholding VAT Agency

Government ministries, departments and agencies, as well as any other person appointed by the Commissioner should withhold 6% of the taxable value of the time of paying for supplies, and remit it directly to the Commissioner. This does not apply for official aid funded projects. The Commissioner can revoke the appointment of a withholding VAT agent.

However, these provisions of the Value Added Tax Act regarding withholding VAT have been deleted by the Tax Procedure Act 2015 ("TPA") with effect from 19 January 2016. Despite this, the KRA continues to appoint withholding VAT agents. In view of this recent change to the VAT legislation, it is unclear what the legal basis is for the proposed appointments.



International trade

Imports

Goods

The term importation means to bring or cause to be brought into Kenya, goods from a foreign country or from an EPZ.

Importer in relation to goods means the person who owns the goods, or any other person who is, for the time being, in possession of or beneficially interested in the goods at the time of importation.

The Commissioner of Customs:

- Will collect tax payable under this Act on imported goods at the time of importation and will, at that time, obtain such information as may be prescribed in respect of the importation; and
- May make arrangements for such functions to be performed on his behalf in respect of imported goods through the postal service.

No input tax may be deducted in relation to imported goods unless a registered person is in possession of:

- An original valid tax invoice or certified copy;
- A customs entry duly certified by the proper officer and a receipt for the payment of tax; or
- A customs receipt and a certificate signed by the Commissioner of Customs Services stating the amount of tax paid in the case of goods purchased from a customs auction;
- A credit note; and
- A debit note.

The time of supply of imported goods will be:

- In the case of goods cleared for home use directly at the port of importation, or goods entered for removal to an inland station and there cleared for home use, at the time of customs clearance;
- In the case of goods removed to a licensed warehouse subsequent to importation, at the time of final clearance from the warehouse for home use;

- In the case of goods removed from an export processing zone, at the time of removal for home use; and
- In any other case, at the time the goods are brought into Kenya.

Services

If a supply of imported taxable services is made to a registered person, the registered person will be deemed to have made a taxable supply to himself.

The tax point for imported services is the earlier of the date:

- The service is received;
- A certificate is issued by an architect, surveyor or any other person acting in a supervisory capacity;
- The invoice for the service is received; or
- Full or partial payment is made for the service.

Where the recipient of services is a registered person, he will be deemed to have made a taxable supply to himself. Any output tax in respect of the deemed taxable supply will be payable by the registered person at the time of supply.

Where the recipient of services is not a registered person, then the supply of services will be deemed to be made by the non-resident person in Kenya. If the value of the supplies is KES5 million or more in any period of 12 months, then the non-resident entity will be required to appoint a tax representative to meet its VAT obligations in Kenya.

Exports

Goods

Any goods exported by a registered person or supplied by that person to an EPZ are zero-rated, where the registered person holds evidence of exportation consisting of the following:

- A copy of the invoice showing the sale of the goods to the purchaser;
- The export entry duly certified by the proper officer of customs at the port of export;

- Transit documents, such as copies of the bill of lading, road manifest or airway bill; and
- In the case of sugar and all excisable goods, a certificate signed by the Commissioner of Customs Services that the goods have been examined and loaded into sealable vehicles or containers under a tamper-proof seal and the seal number duly endorsed on the export entry.

Services

Services exported out of Kenya are services provided for use or consumption outside Kenya.

An exporter of services is required to maintain tax invoices showing that the services were provided to a foreign country recipient or an EPZ.

Please note that according to the place-of-supply rules, a supply is made in Kenya if the place of business of the supplier from which the services are supplied is in Kenya.

Where services are supplied for use or consumption outside Kenya, this is regarded as an export of services.

However, while the Commissioner of Domestic Taxes may require proof of payment from the exporter's financial records, including bank statements, the law is not clear on what constitutes "use or consumption outside Kenya" and has led to disputes between the revenue authority and taxpayers which have been arbitrated at the VAT Tribunal, resulting in different verdicts based on whether the service is physically used or consumed in Kenya.



Place, time and value of supplies

Place of supply

The place of delivery is generally accepted as the place of supply in relation to goods. However, where the goods are made or provided in Kenya or imported into Kenya, the place of supply will be in Kenya.



Place of supply in relation to services is not clearly defined. The VAT Act makes reference to the terms ‘use’ or ‘consumption’ of the service in the definitions of both exported and imported services. However, the terms ‘use’ and ‘consumption’ are not defined in the VAT Act, which leads to subjectivity in their interpretation.

A supply of services is made in Kenya if the place of business of the supplier from which the services are supplied is in Kenya. However, an exception is available where the services are exported to a customer who uses or consumes the services outside of Kenya.

A supply of goods occurs in Kenya if:

- The goods are delivered or made available in Kenya by the supplier;
- The supply of the goods involves their installation or assembly at a place in Kenya; and
- The goods are delivered outside Kenya, but were in Kenya when their transportation commenced.

However, an exception applies where the goods are exported outside of Kenya. Accordingly, if goods are supplied in Kenya they will, in principle, be subject to Kenyan VAT.

Time of supply

Output tax is due and payable to the Commissioner of Domestic Taxes once a tax point has been triggered on the earliest of the following dates:

- Date of issue of an invoice for the supply;
- Date of full or partial payment for the supply;
- Date when the goods or services are supplied to the purchaser; or
- Date of issue of a certificate by an architect, surveyor or any person acting in a consultant or supervisory capacity in respect of the service.

However, the VAT Act provides that “if goods or services are made by metered supplies, or under an agreement or law that provides for periodic payments, the goods or services shall be treated as successively supplied for successive parts of the period of the lease or agreement, or as determined by law, and the time of each successive supply shall be the earlier of the date on which payment for the successive supply is due or received”.

Value of supply

The taxable value of a supply, including of imported services in the case of a supply by the registered person to an independent person dealing at arm’s length, is the consideration at which the supply is provided, or where the supplier and recipient are related, the price at which the supply would have been provided in the ordinary course of business (open market value of the supply) by a registered person to an independent person dealing at arm’s length. In the case of taxable goods imported into Kenya, this is the sum of the following amounts:

- The value of such taxable goods ascertained for the purpose of customs duty, whether or not any customs duty is payable on those goods;
- If not included as part of value of goods above: cost of insurance and freight incurred in bringing the goods into Kenya and cost of services treated as part of the imported goods; and
- The amount of customs duty, if any, payable on those goods.

Unless the context requires otherwise, a supply of services that is ancillary or incidental to the importation of goods will be treated as part of the importation.

The consideration for a supply includes the amount charged for:

- Any wrapper, package, box, bottle, or other container in which goods are supplied;
- Any other goods contained in or attached to the wrapper, package, box, bottle or other container referred to in paragraph (a); or

- Any liability that the purchaser has to pay to the vendor by reason or in respect of the supply in addition to the amount charged as price.



VAT compliance

Returns and payment of VAT

VAT returns (Form VAT3) are filed on a monthly basis. The return must be submitted and payment of VAT made within 20 days of the end of every tax period (the tax period is equal to one calendar month) except where the 20th day falls on a Saturday, Sunday, or public holiday, in which case the return is due on the preceding working day. KRA encourages taxpayers to file VAT3 returns online, and has fixed deadlines within which taxpayers must comply with the online payment of tax and returns filing.

Payment can be made in cash or by way of a cheque or a bank transfer. However, taxpayers will have to convert to online payment of tax.

Interest and penalties

- In the case of the late filing or non-filing of a VAT return, a flat rate penalty of KES10 000 per month or 5% of tax due, whichever is higher, plus interest payable on the outstanding balance at a rate of 1% per month simple interest is payable.
- Late payment of VAT will result in interest on the outstanding tax balance at a rate of 1% simple interest per month. Only penalties may be waived by KRA, and not interest.

Refunds

VAT credits are usually carried forward to offset future VAT liabilities. However, a tax refund can be obtained upon application on a prescribed form (on the online iTax platform), in the following cases:

- Where a taxpayer is in a credit position and the credit is attributed to the making of zero-rated supplies;
- Where tax has been paid in error; or
- Where tax has been paid on uncollected debts.



The refund claim must be accompanied by an auditor's certificate where the amount of the refund claimed is in excess of KES1 million. The claim for a tax refund, other than a claim for a refund based on the Commissioner's discretion for supplies relating to public interest, must be made within 12 months from the time the tax becomes due and payable.

VAT-registered businesses can utilise an approved VAT refund for set-off against any other current or future tax liability. However, refunds cannot be used to set off taxes arising upon importation of either goods or services.

Objections and appeals

A taxpayer who disputes a tax decision may lodge a notice of objection to the decision, in writing, with the Commissioner within 30 days of being notified of the decision.

A Tax decision is: an assessment; a determination of the amount of tax payable or that will become payable by a taxpayer; a determination of liability to pay tax; a decision on an application by a self-assessment taxpayer; a refund decision; or a demand for a penalty.

The notice of objection should state precisely the grounds of objection, the amendments required to be made to correct the decision, and the reasons for the amendments.

The taxpayer may get an extension of time to file the of objection notice if the taxpayer was prevented from lodging the notice within the prescribed period because of an absence from Kenya, sickness or other reasonable cause, provided the taxpayer did not unreasonably delay lodging the notice of objection.

The Commissioner should make an objection decision within 60 days and it should include a statement of findings on the material facts and the reasons for the decision. Where the Commissioner has not made an objection decision within 60 days from the date that the taxpayer lodged a notice of the objection, the objection shall be allowed.

Where a person disputes the decision of the Commissioner on any matter subsequent to an objection, he may give notice in writing to the Tribunal within 30 days of being notified of the decision, of the intention to appeal to the Tax Appeals Tribunal. The person will then have 14 days to file an appeal at the Tribunal provided that:

- The person pays filing fees of KES20 000;
- The person pays assessed tax not in dispute or such part thereof as the Commissioner may require; and
- In case of any other dispute, the person, before filing the appeal, must submit all tax returns where applicable, as required, and pay the tax amount shown thereon as being due and payable.

A party to an appeal who is dissatisfied with the decision of the Tribunal on the appeal may appeal to the High Court within 30 days of being notified of the decision. Further, a party to an appeal who is dissatisfied with the decision of the High Court on the appeal may appeal to the Court of Appeal within 30 days of being notified of the decision.



VAT records

Tax invoices

A tax invoice must be issued by any registered person who makes a taxable supply immediately when the supply is made. The tax invoice to be issued is required to be serially numbered, and either generated through an electronic tax register (ETR), or have an attached receipt generated from an ETR containing details of all the transactions.

A tax invoice can be issued in a currency other than KES, but must be converted to KES for purposes of recording and accounting in the VAT returns and records. Electronic invoicing is not yet permitted in Kenya for VAT purposes.

A proper tax invoice must include the following:

- Name, address, and personal identification number (PIN) of the person making the supply;

- Serial number of the tax invoice;
- Date of the tax invoice;
- Date of the supply;
- Name, address, and PIN (if known) of the recipient;
- Description, quantity, and price of the supply;
- Taxable value of the supply (if different from the price charged);
- Rate and amount of tax in respect of each of the goods or services supplied;
- Details of cash or credit sale;
- Details of any discount offered;
- Total value of the supply and the total VAT charged; and
- The logo and identification number of the ETR.

Simplified tax invoices are permitted where cash sales are made from retail premises or where cash sales to the same person in any one day do not exceed KES500. A simplified tax invoice must have the following information:

- Name, address and PIN of the user of the register;
- Logo and identification number of the ETR;
- Serial number of the receipt;
- Date of the invoice;
- Brief description of the goods/services supplied; and
- Total charge to recipient (VAT-inclusive) and a statement that the price includes VAT.

The ETR requirement is aimed at ensuring that sales are recorded properly. Registered taxpayers must implement, install, and use the ETR to issue invoices at each sales point. For taxpayers with computerised accounting systems for sales, an electronic signature device is required to be installed in their systems.

Credit notes and debit notes

Where a registered person amends the value of goods or services sold for a valid reason, e.g. a reduction in the price charged as a result of a price negotiation, or increasing the price charged to correct an undercharge, credit or debit notes must be issued.



A credit note should:

- Be serially numbered;
- Contain the name, address, and PIN of the customer;
- Contain details of the original tax invoice on which the supply was made and the VAT that was originally charged; and
- Not be issued more than six months after the relevant tax invoice was issued.

When a VAT-registered person issues a credit note that effectively reduces the amount of VAT charged in his original invoice, he may claim a credit (via his VAT account or return) in respect of the VAT amount relating to the reduction in the value of the supply in the period in which he raises the credit note.

The debit note has the effect of increasing the taxable value indicated on the original invoice, and therefore acts as an additional tax invoice for VAT purposes. It must contain the same details as required for a standard VAT invoice and details of the tax invoice issued at the time of the original supply.

Record-keeping

A registered person is required to keep records of all supplies, including zero-rated, standard-rated, and exempt supplies. These details should be recorded in the VAT return.

Records must, for VAT purposes, be kept for five years. The records may be kept solely in electronic form, but businesses must assist VAT inspectors in accessing such records. Businesses may keep records outside the country, but the records must be made available for inspection in Kenya as and when required by the KRA.

A taxpayer must maintain a separate memorandum VAT account, which will be included in the audit of the accounts. The entries required to be included in the VAT account for each period are:

- Total of VAT charged on sales in the period;
- Total VAT incurred on purchases in each period; and
- Net total of VAT payable or recoverable at the end of the period.

Partly exempt businesses making both exempt and taxable supplies must calculate their input tax in accordance with the partial exemption method. The calculations for determining input tax recoverable should be retained to provide a clear audit trail between VAT incurred on costs and VAT recovered per the VAT return.



Specific VAT rules

Bad debts

A VAT-registered person who has made a supply and paid tax on that supply can apply for a refund or remission of the VAT paid under the following circumstances:

- Where three years have elapsed since the date of that supply, and the debt has not been recovered;
- Before three years have elapsed where the debtor has been declared legally insolvent;
- Where the debt is not more than five years old; and
- Where the taxpayer can prove that reasonable attempts have been made without success to collect the debt.

Land and buildings

The sale, renting, leasing, hiring, or letting of land and residential buildings is exempt from VAT. The exemption does not apply where such services are supplied in respect of car park services or conference or exhibition services, except where provided for educational institutions as part of learning. However, the sale, renting, leasing, hiring or letting of buildings used for non-residential purposes is subject to VAT.

Second-hand goods

Input tax on second-hand goods is deductible. Output tax is to be accounted for on taxable second-hand goods. An exception is where input tax included in the purchase price of such goods was not allowable for deduction.

Tourism industry

Transportation of tourists is taxable.

Tour operation and travel agency services, including travel, hotel, holiday, and other supplies made to travellers, are now taxable.

Transfer of a business

The transfer of a business as a going concern from one registered person to another registered person is zero-rated for VAT purposes.

Warranty repairs

Usually, the grant of a warranty under repair would be included in the price of goods or services to be provided under that warranty, and on that basis VAT would have been accounted for when accounting for the VAT on the taxable goods or services. If warranty repairs are made without a further charge, the consideration for repair under warranty would be nil.

VAT remission

A VAT incentive scheme provides for VAT remission on certain capital goods, effectively resulting in no payment of VAT on the purchase or importation of certain capital goods.

Under the VAT Act, 2013:

- VAT remission has been abolished; and
- Remissions already granted under the repealed Act continue to remain in force for a period of five years.

In the case of an official aid-funded project, it is deemed to include express provision in the agreement in respect of that project for the remission of tax on any taxable goods or services supplied for the implementation of the project, where the agreement was concluded before the commencement of the Act.



Other indirect taxes

Import duty

Import duty is imposed on goods imported into Kenya. The rate will depend on a common external tariff (CET) in respect of the goods. The import duty rates range from 0% to 25%. The import duty rates and their application are governed by the East African Community Customs Management Act.

Excise duties

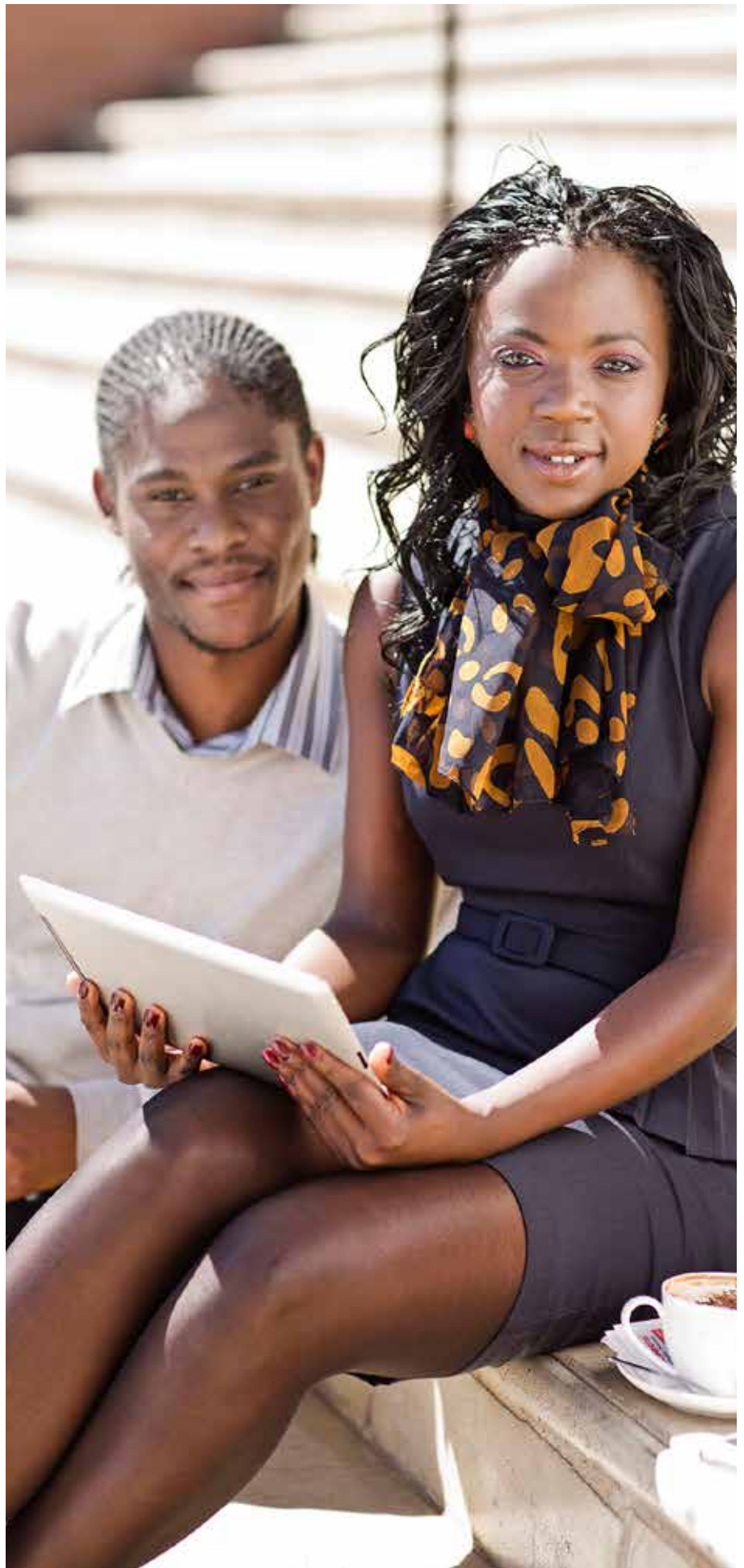
Excise duty is a tax imposed on excisable services or excisable goods manufactured in or imported into Kenya. Excise duty is governed by the Kenyan Customs and Excise Act.

Excise duty must be accounted for on certain manufactured goods, including alcoholic and non-alcoholic beverages, luxury goods, soft drinks, water, juices, tobacco products, petroleum products, cosmetics, and vehicles. Excise duty is also applicable to services such as the use of a mobile cellular phone service, fees charged for money transfer services by cellular phone service providers, banks, money transfer agencies, other financial service providers and other fees charged by financial institutions licensed under the Banking Act, the Insurance Act, the Central Bank of Kenya Act or the Micro Finance Act, 2006.

Stamp duty

Stamp duty rates vary from 0.15% to 4%. Stamp duty is applicable to:

- Transfer of immovable property;
- Transfer of unquoted stock or marketable securities;
- Creation or increase of share capital;
- Leases; and
- Grant of security over assets.



Lesotho

Contact details

Physical address:	61 Second Avenue Westdene, Bloemfontein, 9301
Postal address:	PO Box 818, Bloemfontein, 9300
Telephone number:	+27 51 503 4100
Fax:	+27 51 503 4399
PwC contact persons Hennie Smit	Contact details hennie.smit@pwc.com



Introduction

VAT was introduced in Lesotho with effect from 1 July 2003, by way of the Value-Added Tax Act No. 9 of 2001. VAT replaced the general sales tax system that had been used for many years.

The VAT system is administered by the Commissioner for VAT in the Lesotho Revenue Authority (LRA).



Rates and scope

The VAT rates are as follows:

- 0% on goods and services exported from Lesotho;
- 5% on supplies of electricity and telephone calls; and
- 14% on all other taxable supplies and services (the standard rate).

All goods and services that are subject to VAT, including zero-rated supplies, are referred to as 'taxable supplies'. The total value of these supplies is referred to as 'taxable turnover' for VAT registration purposes.

VAT is a tax on the disposal, either by sale or transfer, of goods or services, either supplied in Lesotho or imported into Lesotho, including supplies to Government.

A 'supply' of goods means any arrangement under which the owner of goods parts with, or will part with, possession of those goods. 'Goods' means not only tangible movable property but also buildings and developments. The supply of goods also includes the application of the goods for the supplier's personal or non-business use.

The supply of services includes making available any facility, tolerating any situation or omitting to act, thereby causing a person to receive payment; or the application of services for own use.

VAT is charged on a supply by auction, the sale of goods by instalments, lay-by sales and the supply of taxable fringe benefits. A supply of goods or services by an agent for a principal is regarded as a supply by the principal.

A supply is taxable if it is made by a vendor for a consideration, as part of a trade or profession. A 'vendor' is someone who is, or should be, registered for VAT.



VAT registration

Compulsory registration

Lesotho's currency is the Lesotho Loti (LSL) or, in the plural, Maloti (M). The VAT registration threshold is LSL850 000 (\pm USD70 000) taxable turnover in the past or next 12 months. The LRA may register a person who should be registered for VAT but has failed to apply for registration. The vendor will be liable to pay VAT on all the taxable supplies made after the registration date, regardless of whether tax was actually charged. Furthermore, additional tax of up to 200% of unpaid VAT may be imposed.

Voluntary registration

A person whose taxable turnover is below the threshold may apply for voluntary registration. A person who has set up a business and intends to make taxable supplies in future can apply to be registered for VAT even before making the taxable supplies.

Registration of non-residents

A person living in Lesotho may be required to register for VAT notwithstanding the fact that only part of their business is carried on in Lesotho while the other part is carried out abroad. A person will also be required to register for VAT if they have a place of business in Lesotho but live or only supply goods or services abroad.

A local fiscal representative is required, but a bank account in Lesotho is not a necessity.

Application for registration

An application for VAT registration must be lodged with the Commissioner. If the application is approved, the Commissioner will issue a certificate of registration, which must be displayed in a prominent position.

The format of the VAT registration number is TN0000000-0. It is called a tax identification number (TIN).

Deregistration

The LRA should be notified in writing if the following should happen and deregistration has to take place:

- Where there is a change in the legal status of an entity (e.g. a partnership is dissolved);
- If the business is sold;
- If the business permanently ceases to trade; or
- If a person was registered as an intended trader and the intention to make supplies has ceased.



Output tax

Output tax is the total VAT payable in respect of taxable supplies made by the vendor during the tax period. Prices are all VAT-inclusive.

Exempt supplies

Exempt supplies, in relation to which no input tax deductions can be made, include the following:

- Education;
- Financial services;
- Passenger transport;
- Insurance;
- Public postal services;
- Unimproved land;
- Leasing or letting of immovable property where the tenant is a manufacturer and uses the property principally to carry on a manufacturing enterprise;
- Water; and
- Services of doctors and dentists (but not, for example, osteopaths).

Zero-rated supplies

Zero-rated supplies include the following:

- Maize meal;
- Maize, but excluding popcorn or green mealies for human consumption;
- Beans – dried, whole, split, crushed or in powder form, but not further prepared or processed, or packaged as seed;

- Agricultural input, e.g. fertilisers, seeds and pesticides;
- Paraffin intended for cooking, illuminating and heating, not mixed or blended with any other substance for any purpose other than cooking, illuminating or heating;
- Milk intended for domestic consumption;
- Bread intended for domestic consumption;
- Peas – dried, whole, split, crushed or in powder form, but not further prepared or processed, canned, frozen, or packaged as seed;
- Certain animal feeds and substances;
- Lentils – dried or shelled but not skinned or split;
- Sorghum meal;
- Unmalted sorghum grain;
- Wheat grain; and
- Wheat flour.



Input tax

Input tax deductions allowed

VAT incurred on goods purchased for resale, raw materials purchased by manufacturers and certain services used for the installation of capital goods may be deducted as input tax. However, input tax does not include the VAT paid on goods or services for someone else's business, or the VAT on private purchases. VAT incurred on goods and services acquired to make exempt supplies is not recoverable.

The vendor must be in possession of a proper VAT invoice for purchases made in Lesotho, or Customs documentation in respect of goods imported into the country. Where a vendor has lost a tax invoice, they should request the supplier for a duplicate of the invoice, otherwise a photocopy of the invoice is not allowed when seeking input tax credit. The replacement invoice must be clearly marked by the supplier as a duplicate.



International trade

Input tax expressly denied

There are specific items on which VAT cannot be reclaimed:

- Telephone and electricity bills not exceeding LSL5 000 (\pm USD710) annually per telephone line or electricity meter (input tax can only be claimed on expenses exceeding LSL5 000);
- Motor cars, except in the case of car dealers, leasing businesses or financial institutions engaged in leasing – maintenance and repairs to motor vehicles, used solely for business purposes, can be claimed; and
- Business entertainment, namely hospitality of any kind provided in connection with a business, including the supply of meals, drinks and entertainment at clubs and the provision of recreational facilities.

Partial exemption

If a vendor makes taxable supplies as well as exempt supplies, they may claim part of the input tax paid on their purchases. Similarly, where goods or services are used both for business and for private purposes, a vendor is only allowed a credit for input tax incurred for business use.

Pre-registration and post-deregistration VAT

A vendor is allowed to claim input tax credit for VAT paid not more than two months prior to the date of VAT registration in respect of:

- Goods held for re-supply on the date of registration; and
- A supply to or an import by the vendor prior to the date of registration of goods or services to be used in manufacturing goods for supply after the date of registration.

The claim for pre-registration VAT credit must be submitted within four years of registration and the vendor must provide details of the stock on hand, copy invoices etc. to support the claim.

Imports

Goods

VAT is payable on the importation of goods by any person into Lesotho. The VAT paid by the vendor on the importation of goods for their business can be claimed as an input tax deduction.

Goods imported from a country from the Southern African Customs Union (SACU) (i.e. Botswana, Namibia, South Africa and Swaziland) are deemed to have been imported into Lesotho at the time the goods physically enter Lesotho. Goods are deemed to have been imported into Lesotho from outside SACU on the date on which the goods enter the borders for use within Lesotho.

The taxable value for imported goods includes the value of any services relating to the import, such as commission, packaging, transportation, short-term insurance and warranty expenses. Where goods are imported from outside SACU, their taxable value is the sum of the customs value of the imported goods and the customs duty payable on it. Where goods are imported from a SACU country, the value of the goods for VAT is the price charged for the goods plus freight and insurance.

If an importer is not registered for VAT or is registered but without a VAT account, VAT officers will collect the VAT payable on the import at the time the goods physically enter Lesotho. If goods are imported by post, VAT officers at the post office will collect the VAT when goods are collected from the post office.

Where the importer is a registered vendor or (in certain circumstances) a foreigner who has arranged a VAT import account, VAT is payable on the import by the 20th day of the month following the month during which the goods were imported.

Goods that would have been exempt or zero-rated if supplied in Lesotho are subject to the same VAT when imported into Lesotho.

Services

An imported service is a supply of services by a person in the course or furtherance of an enterprise carried on outside Lesotho that are meant for use or consumption in Lesotho. VAT is payable on the imported service by the person importing the service into Lesotho, except where a registered person imports a service to make taxable supplies.

Exports

The exportation of goods is zero-rated if sold directly to a business abroad, the goods are exported by or on behalf of the supplier, and the required proof of exportation is maintained. The exportation of services is zero-rated.

Refunds to foreigners are made through the South African Revenue Service.



Place, time and value of supply

Place of supply

A supply of goods is deemed to be made at:

- The location of the goods upon allocation to a customer's order. If the goods are in Lesotho when allocated, the supply is in Lesotho, while if the goods are not in Lesotho when allocated, the supply is normally outside the scope of VAT; or
- The place where the assembly or building of goods for the first time on site takes place.

A supply of services is deemed to be made at the place:

- Where the supplier belongs, namely the supplier's business or other fixed establishment, including a branch or agency;
- If no such establishment exists, where a natural person usually lives or a company is legally constituted;
- In the case of establishments in more than one country, at the location of the establishment most directly concerned with the supply;



- If services are supplied wholly or partly in Lesotho, but not near the border between Lesotho and another country, the Commissioner may determine that the services are supplied in Lesotho if the supplier is registered or operates in Lesotho; or
- In the case of the supply of radio, television, telephone or other communication services, if the signal or service originates outside Lesotho, where the recipient receives the signal or service, provided a consideration is payable for receiving the service or signal.

Time of supply

The time of supply of the goods or services determines when the liability for VAT arises. In terms of the general rule, the time of the supply is the earliest of when:

- Goods are delivered or made available;
- Performance of services is completed;
- An invoice for the supply is issued; or
- payment for the supply is received.

A vendor is considered to have received cash on the date that they receive the money and a cheque on the date that they receive the cheque. In the case of credit cards, payment is received on the date that a vendor makes out the sales voucher. Where a vendor takes a deposit for a supply, they must account for VAT when the deposit is received.

The specific rules for the time of supply can be summarised as follows:

- Auctions – the time of the auction;
- Goods taken for own use – the date on which the goods or services are applied for own use;
- Gifts – the date on which ownership passes or the services are completed;
- Hire purchase agreement or financial lease – the date of commencement of the agreement or lease;
- Other periodic payments and rent – the successive supplies occur when each payment is due; and
- Services – supplier of services may apply in writing to the Commissioner to defer payment of VAT until payment for the services is received.

A vendor is deemed to have made a payment on the date that they receive a VAT invoice. In relation to cheques, a vendor is deemed to have made a payment on the date that they send the cheque or the date on the cheque, whichever is later. In the case of credit cards, the credit card payment date is the date when the supplier makes out the sales voucher. Where a vendor makes a deposit payment that serves as an advance payment, they can claim a credit for the input tax for the payment made.

Value of supply

The general rule is that the taxable value of a taxable supply is the consideration received for the supply. 'Consideration' normally means money, but it can also mean any payment made directly or indirectly to a person. This includes credits or payments in kind, or any other indirect form.

Where monetary consideration for a supply is not sufficient or where there is no monetary consideration, a fair market value is adopted, such as in the following circumstances:

- Hire purchase agreements and finance leases;
- Application of goods for own use; and
- Supply for a reduced consideration.



VAT compliance

Accounting basis and tax periods

Where a vendor has adopted the cash VAT accounting system, they account for VAT in the VAT return for the month in which payment for a supply is received, and input tax credit is claimed after payment has been made.

Where an invoice VAT accounting system is adopted, input tax credit may be claimed on the basis of a tax invoice showing a time of supply date that falls before the end of the return period during which the claim is lodged.

Registered businesses may apply to use the cash method if 90% or more of the taxable value relates to services, such as accountants, lawyers and hotels, and certain other requirements are met.

Returns and payment of VAT

A VAT return form must be completed for every tax period (a period of one calendar month) and sent to the Department of VAT accompanied by the tax remittance, within 20 days after the end of the month.

Interest and penalties

Where a return is filed late, the vendor is liable for additional tax calculated at 22% per annum of the outstanding VAT per month or part thereof. The interest is compounded.

Refunds

Where a vendor has overpaid VAT for any tax period, they have the option to either:

- Set off the excess against any outstanding liability relating to an earlier period; or
- Carry forward the excess, and apply for a refund in respect of each calendar quarter, ending on 31 March, 30 June, 30 September and 31 December.

Any repayment due must first be set off against any tax arrears. Where a vendor can satisfy the LRA that excess credits are a feature of their business activities, the quarterly rule may be waived and the vendor may be allowed to make monthly refund claims, or whenever a credit arises.

Objections and appeal

A person who is dissatisfied with an assessment may file an objection with the Commissioner within 30 days after the notice of assessment. After considering the objection, the Commissioner may allow the objection in whole or part, or disallow the objection. The Commissioner must serve the person objecting with notice of the objection decision. If the Commissioner has not made an objection decision within 60 days, the Commissioner is deemed to have made a decision to disallow the objection.

A person dissatisfied with an objection decision may, within 30 days, appeal to the Tribunal. A party to a proceeding before the Tribunal who is dissatisfied with the decision of the Tribunal may, within 30 days, appeal to the High Court. A party to a proceeding before



the High Court may, with special leave of the Court of Appeal, appeal the decision of the High Court to the Court of Appeal.



VAT records

VAT invoices

A registered vendor must issue a VAT invoice in respect of a taxable supply to a taxable vendor in the same month that the goods or services are supplied. A VAT invoice must contain the following details:

- The words 'Value-added tax invoice' or 'VAT invoice';
- The vendor's commercial name, address, place of business and VAT registration number;
- Individual invoice number;
- The commercial name, postal address, place of business and VAT registration number of a vendor recipient;
- Date of issuing the VAT invoice;
- Brief description (including quantity or volume) of the goods or services supplied; and
- The selling price, excluding VAT and any discount, the total amount of VAT charged, and the selling price including VAT; or
- The total charge on the invoice inclusive of VAT, any discount and the rate of VAT.

Credit notes and debit notes

Credit notes may be issued where the VAT disclosed on an issued VAT invoice exceeds the correct amount chargeable. The credit note must contain the following information:

- The words 'Credit note' in a prominent place;
- The vendor's commercial name, place of business, and VAT and TIN registration numbers;
- The commercial name, place of business, and VAT and TIN registration numbers of the recipient;
- The date the credit note is issued;
- A brief explanation of the circumstances that gave rise to the issuing of the credit note;

- Sufficient information to identify the taxable supply to which the credit note relates; and
- The taxable value of the supply shown on the VAT invoice, the correct taxable value, the difference between the two amounts and the VAT relating to the difference (that is, the VAT overcharged).

Other than the fact that the words 'Debit note' must appear in a prominent place, the information to be disclosed in a debit note is similar to the information required in a credit note. The additional VAT amount in a debit note is due for payment in the period in which the additional liability arises.

Additional export documentation

The required proof of exportation includes:

- Commercial invoices;
- Certified copies of the documents presented to Lesotho Customs at exportation;
- Certified copies of customs import documents of the country of destination; and
- Proof of payment (settlement), if applicable.

Record-keeping

A vendor must keep record of all supplies made and received, including zero-rated supplies, and a summary of VAT for each month. The VAT summary is referred to as the vendor's VAT account. A separate record must be maintained for any exempt supplies made by a vendor.

If a vendor sells directly to the public, they do not need to issue a VAT invoice unless the customer asks for one, but they must make a summary of their sales, showing separate totals for:

- VAT on the sales;
- Value of the sales before VAT;
- Total of all exempt sales;
- VAT on certain postal imports and imported services; and
- Credits allowed to customers.

A vendor must keep a summary of supplier invoices received, showing separate totals for:

- VAT paid on purchases in Lesotho;
- Value of the purchases before VAT;
- VAT paid on imported supplies; and
- Credits received from suppliers.

A record must also be kept (for a period of six years) of:

- Goods given away or taken from stock for employees' or private use;
- Business purchases on which input tax is denied;
- Customs documents showing the import entry and the VAT receipt; and
- Business records.



Specific VAT rules

Bad debts

VAT paid to the LRA by a taxpayer in respect of a taxable supply, but not received from an insolvent customer is allowed as a credit where the whole consideration for the supply is subsequently treated as a bad debt. The credit arises on the later of:

- The date on which the bad debt was written off in the accounts of the vendor; or
- 12 months after the end of the tax period in which the VAT was paid on the supply.

A supplier who wants to claim relief for bad debt must:

- Make a claim to the administrator, receiver or liquidator against their debtor for the VAT-inclusive amount that they are owed by the insolvent debtor; and
- Obtain a written statement from the administrator, receiver or liquidator that the debtor is insolvent and cannot pay the debt.

Where any amount on which a credit has been allowed is subsequently wholly or partly recovered by the vendor, the vendor must account for output tax on that amount.

Second-hand goods

Where second-hand domestic items are bought for resale from a person who is not a vendor, the taxable value of the re-supply of these items is the difference between the price paid on acquiring the goods and the amount received for their resale. VAT is thus only levied on the profit made and not the total consideration received.





Madagascar



Contact details

Website:	www.pwc.com/mg
Physical address:	PricewaterhouseCoopers Tax & Legal, Rue Rajakoba Augustin, AnkadiVATo, Antananarivo 101, Madagascar
Telephone number:	+261 20 22 217 63
PwC contact persons	Contact details
Andriamisa Ravelomanana (Ami)	andriamisa.ravelomanana@mg.pwc.com



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 2013.



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 MGA200 million (approximately USD60 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 building and civil works.



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. Such 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 which makes supplies of goods or services and realises an annual gross revenue of MGA200 million or more is in general subject to VAT.

Voluntary registration

Businesses realising a turnover below the annual statutory threshold are not subject to VAT. It used to be possible to register for VAT voluntarily even if the value of a business' taxable supplies did not exceed the statutory threshold, after getting authorisation from the Ministry of Finances, but this option is no longer applicable with effect from 2016.

Since 2016, taxpayers who are registered for VAT and do not realise a gross revenue of MGA200 million can be deregistered by the tax authority. However, the taxpayer may ask to maintain their status of being VAT registered.

Group and branch registration

Each independent legal entity has to get its own tax identification number and 'Carte Fiscal' 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 Fiscal' for the purpose of tax compliance obligations, including VAT obligations. A foreign company must register or open a branch if it wants to establish an operation in Madagascar.

Non-residents

Any services performed in Madagascar are subject to VAT. Services are considered to be performed in Madagascar if such services are used or enjoyed in Madagascar. A foreign services supplier that is not registered in Madagascar has to appoint a tax representative to collect and pay VAT on its behalf. In the absence of such tax representative, the recipient is liable to account for VAT on behalf of the foreign supplier.

The taxpayer or the tax representative must have a bank account in Madagascar for VAT payment purposes.

Application for registration

There is no separate VAT registration procedure, 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.

Deregistration

Taxpayers cannot deregister for VAT. Tax deregistration only occurs with the winding up or liquidation of a business.



Output tax

Calculation of output tax

In the absence of information to the contrary, prices are deemed to be inclusive of VAT. 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'.



Input tax

Input tax allowed

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.

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; and
- Fixtures and fittings.

Partial exemption

Input VAT can only be recovered to the extent that it is attributable to the registered business' 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. Effective 2016, domestic supplies of energy and petroleum products are deductible.

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.



International trade

Imports

Import VAT is due on the importation of goods into Madagascar. VAT is payable to the Customs department. The rate of import VAT is the same as the 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.

There is no definition of imported services. Services are regarded as being performed in Madagascar (and thus subject to VAT) when they are executed in Madagascar or used by a recipient, or the recipient is a taxpayer established in Madagascar. Even if the supplier of the services is not registered for VAT in Madagascar, the reverse-charge procedure applies. In that case, the recipient will be liable to account for VAT on the supply.

Exports

Goods that are exported from Madagascar are zero-rated. In order to qualify for input tax credit, the taxpayer must issue valid commercial invoices and retain evidence of export.

The VAT law does not provide for when services are regarded as being exported. The fact that the recipient is established abroad does not necessarily result in zero-rating of the service. Currently, the Tax Administration accepts that exported services include those services eligible under the free zone company regime, which are mainly quality control, data-processing, call centre

and cinematographic services. All other services performed by local suppliers are subject to VAT.

There is no mechanism to allow foreigners who are not tax registered in Madagascar to obtain a refund of VAT paid.



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.

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.

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.



VAT compliance

Accounting basis and tax periods

VAT returns and VAT payments related to operations performed during a month must be filed and made 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 to offset VAT input, then the difference constitutes a VAT credit. A VAT credit can be carried forward for an undetermined period.

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.

Interest and penalties

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 a sale without regular invoice;
- 150% of the amount of the invoice in the case of a 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 MGA100 000.

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

If no VAT is payable, only a penalty of MGA100 000 is applicable in the case of late filing.

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 MGA20 million due to significant 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.

Objections and appeals

A tax inspector has three years from the date of filing to challenge, by way of notice, 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.

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 an 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, 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 ten years.

Electronic files and scanned copies cannot be submitted to the Tax Administration.



Specific VAT rules

Bad debts

There is no special VAT provision in the tax law regarding bad debts. Therefore, the general rule is applicable, which means that in the case of transactions involving goods, VAT is due at the time of delivery of the goods independently of the debt situation, while in the case of transactions involving services, VAT is due at the time of payment for the services. If no payment is made, no liability for VAT arises.

Land and buildings

There is no special provision regarding land and buildings. Land and building transactions (rent or sale) are subject to VAT as long as they are performed by VAT taxpayers (a legal company or professional individual). Land and building transactions by non-professional individuals are not subject to VAT.

Promotional gifts

No special provisions apply. VAT output tax cannot be less than VAT applicable on the goods' net book value.

Tourism industry

No special rules apply. The general rule is applicable with the exception that the Tax Administration accepts the calculation of VAT output tax on the company margin per operation.

Transfer of a business

Transfer of a business by cession of assets is subject to VAT. Transfer of a business by cession of shares is not subject to VAT. Transfer of a business by merging or assimilated operation is not subject to VAT.

Warranty repairs

No special rules apply. Goods imported and services rendered to foreign companies are subject to VAT. The importation of goods for the purpose of identical exchange is not subject to VAT. The importation of goods after exportation for repair is not subject to VAT.



Other indirect taxes

Import duty

Import duty is applicable on the importation of goods. The rates vary from 0% to 20%.

Excise duty

Excise duty is applicable on the collection, extraction, fabrication, preparation or importation of goods and services as provided each year by the tax law, on, for example, wine, beer, other fermented drinks, alcohol, whiskies and rum, tobacco, cigarettes and cigars, and phone communication. The rates vary from 7% to 250%.

Tax on transfer

A withholding tax (income tax for non-residents), at a rate of 10%, applies to any transfer of revenue from Madagascar to other countries in remuneration of services performed by foreign entities.

Stamp duty

Since August 2008, no stamp duty is applicable.

Royalties

Manufactured cigarettes, matches, farinas, mobile communication, paid television emission, traditional alcohol drinks and sugar are subject to royalties.

Special tax and duty

Alcoholic drinks, cigarettes and gambling games are subject to a special tax and duty.

Malawi

Contact details

Website:	www.pwc.com/mw
Physical address:	Corner Independence Drive and Hannover Street, Blantyre
Postal address:	PO Box 1147, Blantyre
Telephone number:	+265 1 820 322
PwC contact persons	Contact details
Ranwell Mbene	ranwell.mbene@mw.pwc.com
Vyamala Moyo	vyamala.moyo@mw.pwc.com



Introduction

VAT was introduced in Malawi on 1 October 2002 to replace surtax.

The VAT authority is the Malawi Revenue Authority. The head of VAT administration is the Commissioner-General.



Rates and scope

VAT is levied at the standard rate of 16.5%. Zero-rated items are charged at 0%. Exempt items are not subject to VAT.

VAT is charged on the supply of taxable goods and services. Certain listed exempt supplies and relief supplies fall outside the scope of the VAT system.



VAT registration

Compulsory registration

A person must be registered as a taxable person if they make taxable supplies of goods or services and have a business turnover that equals or exceeds, in Malawian Kwacha (MWK), MWK10 million (approximately USD15 000) per annum, or have reason to believe that the turnover threshold will be met.

Voluntary registration

Any business with a turnover below the registration threshold amount may apply for voluntary registration, and the Commissioner-General may notify the proprietor in writing and register any class or category of business specified in the notice.

Group registration

A group of taxable persons may, with the approval of the Commissioner-General, be treated as one designated taxable person for VAT purposes.

Non-residents

Non-residents do not qualify for VAT registration.

Application for registration

Any person who qualifies as a taxable person or has grounds to believe that they will qualify as a taxable person must apply to the Commissioner-General for registration as a taxable person.

Deregistration

A taxable person must apply in writing for deregistration within 30 days of ceasing to carry on business in relation to which a registration has been made. Any deregistration will take effect from the end of the tax period in which the registration is cancelled.

The registration of a taxable person will be cancelled where the Commissioner-General is satisfied that the registered person no longer exists. A registered person may also apply for deregistration when it no longer meets the requirements for registration.

Output tax

Prices are normally quoted inclusive of VAT. The output tax is calculated at 16.5% of the value of the taxable supply of the goods, services or import.

Exempt supplies

Exempt supplies include specific items such as:

- Live animals;
- Certain animal products;
- Vegetable products in a raw state;
- Water, non-mineral water or aerated water without additives;
- Printed matter – books and newspapers;
- Petroleum products;
- Vehicles, other than railways, trainway rolling stock;
- Coin;

- Appliances (whether or not hand operated) for projecting, dispersing or spraying liquids or powders;
- Medical equipment;
- Education services;
- Banking and life insurance services;
- Postal services;
- Funeral services;
- Medical services;
- Transport of exports;
- Rentals and sale of property used for residential purposes;
- Ordinary bread;
- Betting and gaming;
- Rail locomotives and spare parts; and
- Medical, surgical and laboratory sterilizers.

Some exempt items are defined by reference to specific customs tariff headings. Reference should be made to the actual customs tariff headings to determine the extent of the exemption of a particular item.

Zero-rated supplies

Zero-rated supplies include, but are not limited to:

- Exports of goods and services;
- Goods shipped as stores on aircraft and vessels leaving the territory of Malawi;
- Fertilisers;
- Sheath contraceptives;
- Exercise books;
- Laundry soap;
- Salt;
- Certain agricultural, horticultural, forestry and harvesting machinery;
- Motor vehicles for transport of goods;
- Pharmaceutical products;
- Buses with a seating capacity of 45 or more persons, including the driver;
- Military equipment;
- Building materials for factories and adjoining warehouses;

- Goods for use in tourism;
- Miscellaneous chemical products;
- Cycle ambulances;
- Motorcycle ambulances;
- Syringes with or without needles; and
- Mosquito and sand fly nets.

Zero-rated items, other than exports of goods and services and goods shipped as stores on aircraft and vessels leaving the territory of Malawi, are defined by reference to specific customs tariff headings and customs procedure codes. Reference should be made to the actual customs tariff headings and customs procedure codes to determine whether an item is zero-rated.

Input tax

Deductible input tax

A taxable person may deduct from the output tax due for a taxable period VAT on goods and services purchased in Malawi or goods and services imported and used wholly, exclusively and necessarily in the course of business. The maximum period for claiming input tax is 12 months from the date on which the deduction accrued.

Input tax expressly denied

Input tax is not claimable:

- Where it relates to exempt supplies by the taxable person;
- After the expiration of 12 months from the date on which the right to the deduction accrued;
- In respect of motor vehicles or motor vehicle spare parts, unless the taxable person is in the business of dealing in or hiring of motor vehicles or selling motor vehicle spare parts. However, motor vehicles and motor vehicle spare parts used wholly, exclusively and necessarily for the business qualify for input tax deduction;
- In respect of entertainment, including restaurant meals and hotel expenses, unless the taxable person is in the business of providing entertainment; and



- In respect of the personal element, where the purchase is partly for business and partly for personal or other use.

The Minister may prescribe other classes, types or description of goods and services on which input tax is not deductible.

During Malawi Revenue Authority tax audits, input tax claimed is sometimes disallowed and penalties charged on transactions such as residential property expenses incurred by employers and security costs at residential properties. The VAT Act does not exclude the claiming of such input tax and no order has been gazetted. If a taxpayer receives a claim for the recovery of input tax incorrectly claimed, and the expense does not fall within the categories above, the taxpayer is advised to request a copy of the relevant Gazette. If no Gazette is produced, the taxpayer may consider following the appeal procedures.

Partial exemption

Where a taxable person makes both taxable and exempt supplies, but cannot directly attribute the input tax to the taxable or exempt supplies, the taxpayer may deduct as input tax an amount that bears the same ratio to the total VAT incurred as the taxable supplies bear to the total supplies, applying an apportionment formula where:

- The numerator is the total amount of input tax for the period multiplied by the total amount of taxable supplies made by the taxable person during the period; and
- The denominator is the total amount of all supplies made by the taxable person during the period.

If taxable supplies amount to less than 5% of total supplies, the taxpayer may not claim any input tax for the period. If taxable supplies amount to more than 95% of total supplies, the taxpayer may claim all input tax for the period.

Pre-registration VAT

A taxable person who is registered from a specified effective date and who has in stock on the effective date goods on which VAT has been paid may claim a credit or refund of VAT, provided that:

- The supply or input occurred not more than four months prior to the date of registration; and
- In the case of capital goods, the goods have been held for a period not exceeding six months from the date of registration.

Post-deregistration VAT

A taxable person whose registration has been cancelled is regarded as having made a taxable supply of all goods on hand (including capital goods) and will be liable for output tax, at the time of deregistration, on all goods in respect of which they received input tax credit. The output tax payable is based on the open market value of the goods at the time of deregistration.

International trade

Imports

VAT is payable, by the importer, on the importation of goods. VAT is also payable, by the importer, on the importation of services.

Exports

The export of goods and services is zero-rated for VAT. If exports exceed 70% of the taxpayer's total supplies, the Commissioner-General may refund the excess input tax within the accounting period, although refunds are, in practice, difficult to obtain. There is no specific provision regarding refunds to foreigners.



Place, time and value of supply

Place of supply

The place of supply of goods is the place from which the goods are supplied. The place of supply of a service is the place of business of the supplier or the place from which the service is supplied or rendered.

Time of supply

A supply of goods or services occurs:

- Where goods are appropriated for own use, the date on which the goods or services are first applied for own use; or
- Where the goods or services are supplied by way of gift, the date on which ownership in the goods passes or the performance of the services is completed.

In any other case the time is the earliest of the date on which:

- Goods are removed from the taxable person;
- Goods are made available to the person to whom they are supplied;
- The services are supplied or rendered;
- Payment is received; or
- The tax invoice is issued.

Value of supply

The value of a supply is:

- Where the supply is for monetary consideration, the amount of the consideration with the addition of all duties and taxes, but excluding VAT; or
- Where the supply is not for monetary consideration or is only partly for monetary consideration, the open market value of a similar supply excluding VAT.



VAT compliance

Returns and payment of VAT

A taxable person must account for VAT on a prescribed form not later than the 25th day of the month immediately following the month to which the return relates. The VAT return is in a prescribed form and states the amount of VAT payable for the tax period, the amount of input tax credit or refund claimed, and such other matters as may be prescribed.

Interest and penalties

A person who fails to submit to the Commissioner-General a return on the due date is liable to a penalty of MWK20 000 and a further penalty of MWK1 000 for each day that the return is not submitted.

Late payment of VAT incurs penalties of 15% of the amount not paid and a further sum of 5% per month or part thereof for the period during which the amount remains unpaid.

The interest can be waived at the discretion of the Commissioner-General in the event of voluntary disclosure.

There is no interest on delayed refunds by the revenue authority.

Refunds

A refund claim may be made if the return for three consecutive months shows that a refund is due. Such refunds must be made within 30 days of receipt of the application for refund. In practice it is very difficult to obtain a refund of VAT, and claims remain outstanding for some time, generally up to six months. In practice, the VAT refund can be used to settle other tax liabilities.

If exports exceed 70% of the taxpayer's total supplies, the Commissioner-General may refund the excess input tax within the accounting period. However, exporters suffer the same problems in obtaining the actual refund as other business entities.

Objections and appeals

A person dissatisfied with the decision of an officer other than the Commissioner-General may appeal to the Commissioner-General within 30 days of the notice of the decision being served on the taxpayer or the taxpayer becoming aware of the decision. The appeal must be in writing, detailing the grounds of the appeal and supported by relevant supporting documents. The Commissioner-General must decide on the appeal within 30 days of receipt of the appeal.

A person dissatisfied with the decision of the Commissioner-General may appeal to any court of a Resident Magistrate. The appeal must be lodged within 30 days of notification of the

Commissioner-General's decision. Unless given leave by the Court, no appeal will be heard before all returns due have been submitted and all VAT assessed or due has been paid.

The VAT Act does not specify any appeal procedures where the taxpayer is dissatisfied with the Resident Magistrate's decision. In such an event, taxpayers are advised to obtain immediate legal advice.



VAT records

Tax invoices

A proper tax invoice should include:

- Name and address of supplier;
- Name and address of customer;
- Tax registration number;
- Description of supply; and
- The rate of VAT.

The VAT Act provides that a registered VAT taxpayer must issue tax invoices generated by an electronic fiscal register (however, the measure is yet to be implemented). While there are no specific rules regarding the language on tax invoices, English is normal for business transactions. Prices are often quoted in foreign exchange, with the amount being payable in Malawian Kwacha (MWK).

A tax invoice may be issued by the supplier (principal) or the agent, but the supplier retains responsibility.

Credit notes and debit notes

The original tax invoice may be incorrect where:

- The supply is cancelled;
- The nature of the supply was fundamentally varied or altered;
- The previously agreed consideration for the supply has been altered by agreement with the recipient of the supply; or
- Goods or services or part thereof have been returned.

Where a tax invoice has been issued and the amount shown as VAT charged on the tax invoice exceeds the VAT properly chargeable, the taxable person making the supply must issue a credit note to the recipient of the supply.

Where a tax invoice has been issued and the VAT properly chargeable exceeds the amount shown as VAT charged on the tax invoice, the taxable person making the supply must issue a debit note to the recipient of the supply.

Record-keeping

Every taxable person is required to keep such records and books of accounts as the Minister may prescribe. These records and books of account must be produced at such place and time as the Commissioner-General may require. They may be kept in electronic or scanned format, but original documents may be required at the request of the authorities.

The records must demonstrate adequately the completeness of supplies and accuracy of related VAT, the entitlement to claim VAT and the accuracy of any VAT claimed. The records and books may not be destroyed within a period of less than six years. They may be kept outside Malawi, as long as they can be produced in Malawi when necessary.



Specific VAT rules

Bad debts

VAT relief on bad debts may be claimed if the supplier has obtained a court judgment for the debt or can show that all legal means of pursuing the debt have been exhausted.

Land and buildings

VAT is not chargeable on the sale or rental of residential property. VAT is chargeable on the sale or rental of non-residential property.

Leasing

Leasing or letting of goods on hire is subject to VAT.



Other indirect taxes

Second-hand goods

The supply of second-hand goods is subject to VAT if supplied by a taxable person. Exports of second-hand goods are zero-rated. Input tax may be claimed on the acquisition of second-hand goods.

Tourism industry

Designated shops or outlets are accorded tax-exempt status, e.g. duty-free shops at airports. There are no other exemptions for tourism.

Transfer of a business

The authorities have to be notified within 30 days of the cessation, sale, change of location or material change in a business or material change in its ownership.

Warranty repairs

VAT is charged on the importation of goods. Services rendered to a foreign company are taxable unless the supply is a zero-rated export.

Import duty

Import duty is applicable at various rates, depending on the nature and the source of the item.

Excise duty

Excise duty applies to qualifying goods produced and manufactured in Malawi and qualifying goods imported into Malawi.

Conveyancing

Conveyancing applies to land and buildings situated in Malawi.

Stamp duty

Stamp duty is charged at 3% on absolute conveyance or vesting of real property or agreement for sale. Other rates apply depending on the nature of the matter. The transfer of shares is not subject to stamp duty.



Morocco



Contact details

Website:	pwcmaroc.pwc.fr
Physical address:	35, rue Aziz Bellal, Maarif, Casablanca
Telephone number:	+212 5 22 99 98 00
PwC contact persons	Contact details
Mahat Chraibi	mahat.chraibi@ma.landwellglobal.com



Introduction

VAT is levied under the Moroccan Tax Code and is due on all industrial, commercial and handicraft transactions taking place in Morocco.

The sale of goods is considered to take place in Morocco and thus to be subject to VAT if the goods sold are delivered in Morocco. The sale of services is considered to take place in Morocco and thus to be subject to VAT if the services sold are consumed or used in Morocco.

VAT was introduced in April 1986 to replace the tax on turnover that had been in force from 1982.



Rates and scope

Rates

The standard rate of VAT is 20%.

Lower rates of 7%, 10% and 14% apply to specifically designated operations.

Some operations are expressly exempt from VAT, either with a deduction right or without a deduction right.

Scope

Unless expressly exempted, transactions that take place in Morocco relating to commercial operations, industrial and handicraft operations, and independent professional services are subject to VAT. This is regardless of the targets, the results and the legal status of the persons conducting the relevant operations and regardless of their liability for other taxes.

With regard to services, transactions are considered to take place in Morocco when the service or the right provided is used or consumed in Morocco.



VAT registration

Compulsory registration

Individuals and companies carrying out transactions that are subject to VAT are liable for compulsory registration.

Persons liable for VAT can be either totally or partially subject to VAT.

Voluntary registration

Voluntary registration is allowed where persons:

- Export goods and services; or
- Undertake specific operations mentioned in the law.

Group or branch registration

The branch or the subsidiary must register for VAT with the Tax Department, regardless of its liability for VAT, in order to obtain a tax identification number that shows the status of the registrant in regard to VAT.

The registration must be done within 30 days from starting the activity or incorporating the entity.



Non-residents

Non-resident companies that are performing taxable activities in Morocco should appoint a tax representative there in order to handle their VAT obligation (VAT return filing and payments).

As from 1 January 2014, Moroccan taxpayer can report their foreign suppliers' VAT on their own VAT returns (reverse-charge mechanism).

Application for registration

An existence tax return must be filed with the relevant local tax authorities.

Deregistration

Deregistration is not possible where there is compulsory liability for VAT.

For non-resident entities that cease to perform taxable operations in Morocco, the tax representative should file a request for deregistration with the relevant tax authorities.

Output tax

Output VAT is calculated on the basis of the amount of the invoice, excluding VAT.

The VAT rate to be applied depends on the nature of the goods or services provided.

Calculation of output tax

The taxable amount consists of all the sums, values or services received in compensation for the operation.

Exemptions and zero-rating

Exempt supplies (without deduction right)

Exempt supplies include supplies of the following goods or services:

- Milk, sugar, bread, cereals;
- Fiscal stamps;
- Newspapers, books, movies, documentaries; and
- Interest on government loans.

Zero-rated supplies (exemption with deduction right)

Zero-rated supplies include supplies of the following goods or services:

- Goods and services exportation;
- Certain agricultural equipment supplied under prescribed circumstances;
- Investment goods recorded as fixed assets in the company's books and acquired during the first 24 months of company activity;
- Off-shore banks for certain operations such as received interest and commission;
- Goods and services rendered to companies established in export-free zones; and
- Activities related to hydrocarbon operations, etc.

Input tax

Input tax allowed

Individuals and companies that are subject to VAT may deduct the input VAT incurred on the purchase of goods and services that are needed to carry out activities subject to VAT.

Input tax expressly denied

VAT is not deductible on the purchase of the following goods and services:

- Purchases of goods and services not used for business needs;
- Tour cars and related expenses (repair, leasing expenses, etc.);
- Reception charges;
- Purchases that relate to promotions, such as gifts to clients, etc.; and
- VAT levied on purchases, services and benefits paid in cash if the amount exceeds MAD10 000 per day and per supplier, limited to MAD100 000 per month and per supplier.

Partial exemption

Where goods or services are acquired for making both taxable and exempt supplies without credit or out of the scope of VAT, the VAT incurred must be apportioned.

The standard method for calculating the apportionment is the turnover-based method.

Adjustments for variation of the deduction proportion on equipment

When the new proportion exceeds 5% of the current proportion, a complementary deduction may apply.

The complementary deduction equals 20% of the difference between the two deductions, calculated on the current and the new proportions basis.

When the new proportion is inferior by more than 5% of the current proportion, 20% of the difference between the two deductions calculated on the current and the new proportions basis should be transferred.

Non-conservation of assets

In case depreciable assets are not retained for a five-year period, the beneficiary of VAT deductions must repay the VAT to the Moroccan Tax Administration at the rate of one fifth per year remaining until the end of the five-year period.

Where depreciable assets are acquired more than five years before the transfer, no VAT is due by the seller to the Moroccan Tax Administration. Assets acquired with effect from January 2013 do not fall within this exemption and will trigger output VAT.

Pre-registration or post-deregistration VAT

Not applicable.



Imports

Goods

VAT is payable on the importation of goods and services, except where a specific exemption applies.



Exports

Goods and services

The exportation of goods and services is not subject to VAT. VAT exemption applies when goods are sold to consumers outside of Morocco, and to services that will be used or exploited abroad.

Refunds to foreigners

VAT charged on goods bought by non-resident individuals (tourists) may be refunded.



Place, time and value of supplies

Place of supply

The sale of goods is deemed to have taken place in Morocco if the delivery takes place in Morocco.

The sale of a service is deemed to have taken place in Morocco if such service is used in Morocco.

Time of supply

In general, deductible VAT can be declared once the related payable amount has been paid to the debtor. However, the collected VAT can be declared according to the two following regimes:

Receivable collection regime

The VAT invoiced on sales is declared after payment of the receivable account, i.e. at the moment of money collection from the client.

Invoicing regime

Collected VAT is declared when the invoice is issued, or on the delivery date if that occurs first, regardless of when payment is received by the client.

Value of supply

The VAT is levied on the invoiced amounts.



VAT compliance

Accounting basis and tax period

VAT is normally accounted for on a disbursement basis, i.e. when the VAT is paid or received. However, companies may opt to account for VAT on an accrual basis.

Tax periods consist of one month or three months:

- Monthly for taxpayers whose annual taxable turnover equals or exceeds MAD1 million, as well as for persons not established in Morocco and performing taxable operations; or
- Quarterly for taxpayers with an annual taxable turnover under MAD1 million, or who perform seasonal or occasional activities. New taxpayers are also subject to this provision for their first years of activity.

Returns and payment of VAT

VAT declarations are prepared for each calendar quarter. The VAT return of each quarter must be filed within the month following the relevant quarter:

- VAT return of the first quarter must be filed no later than 19 April;
- VAT return of the second quarter must be filed no later than 19 July;
- VAT return of the third quarter must be filed no later than 19 October; and
- VAT return of the fourth quarter must be filed no later than 19 January.

However, if the taxable turnover of the previous calendar year equals or exceeds MAD1 million, VAT returns must be prepared on a monthly basis, and the VAT return for each month must be filed with the tax authorities no later than the 19th of the following month. The same rule applies to non-resident taxpayers.

According to the Moroccan tax code, companies filing their VAT returns electronically must do so no later than the end of the following month (instead of the 19th).

The filing of the return and the payment of the tax that is due should be done simultaneously. However, in case of a nil return or VAT credit, no payment is due.

Interest and penalties

In case of a late tax return the following penalties apply:

- 5% penalty where the tax return is submitted within 30 days following the legal deadline, or in case of a corrective return;
- 15% penalty where the tax return is submitted after the above-mentioned 30 days; and
- 20% penalty in case of automatic taxation due to non-submission of a tax return.

In case of late tax payment the following penalties apply:

- 20% penalty in case of non-payment or late payment;
- 5% interest for the first month of late tax payment; and
- 0.5% interest for the following months.

Refunds

Input VAT may be carried forward to offset output VAT for an unlimited period of time.

However, a VAT refund is limited to some operations provided by law only, such as exports.

To obtain a reimbursement for input VAT in qualifying cases, a request must be submitted before the expiration of the one-year debarment deadline.

Time limits

The limitation period for rectifying errors and omissions in the tax base is four years from the year for which the tax is due.



VAT records

Tax invoices

A regular invoice should mainly include the following elements:

- Invoice number;
- Vendor identity;
- Tax IDs;
- ICE (unified tax ID);
- Date of the operation;
- Name and address of the client;
- Price, quantity and nature of the purchased goods and services;
- Value-added tax (if applicable);
- References and means of payment; and
- Social security ID.

Credit notes and debit notes

The issuing of a credit note or a debit note will form the basis for the requisite adjustment to the relevant VAT return.

Record-keeping

Taxpayers must keep VAT records for a period of ten years.



Specific VAT rules

Bad debts

Input VAT on bad debts cannot be recovered unless a court decides so.

Land and buildings

Sale of land is out of the scope of VAT.

Leasing

Leasing operations are subject to VAT at the standard rate of 20%.

Promotional gifts

Input VAT on promotional gifts cannot be recovered.

Second-hand goods

Second-hand movable and fixed assets purchased as from 1 January 2013 are subject to VAT.

Tourism industry

Hotel accommodation is subject to a reduced rate of 10%.

Currency conversion

Commissions on currency conversions are subject to VAT at the reduced rate of 10%.

Transfer of a business

The transfer of the intangible elements of a business as a going concern is out of the scope of VAT. However, any merchandise transferred in such a transaction is subject to VAT.

Warranty repairs

If provided by the initial sale contract, the VAT on warranty repairs is deductible.



Other indirect taxes

Import duties

The importation of goods into Morocco gives rise to the payment of importation duties, import VAT and a special tax on importation called TPI.

Customs duties are calculated on the basis of the ad valorem value of the goods at the time of their entrance into Morocco.

Customs duties can be reduced if the imported products fall under free-trade agreements signed by Morocco or other specific regulatory provisions.

Under Moroccan tax law, importation operations are subject to VAT at the rate of 20%. Lower rates of 7%, 10% and 14% apply to specifically designated importations.

The Moroccan tax law also offers some customs regimes that provide VAT exemptions with credit (equivalent to the zero rate).

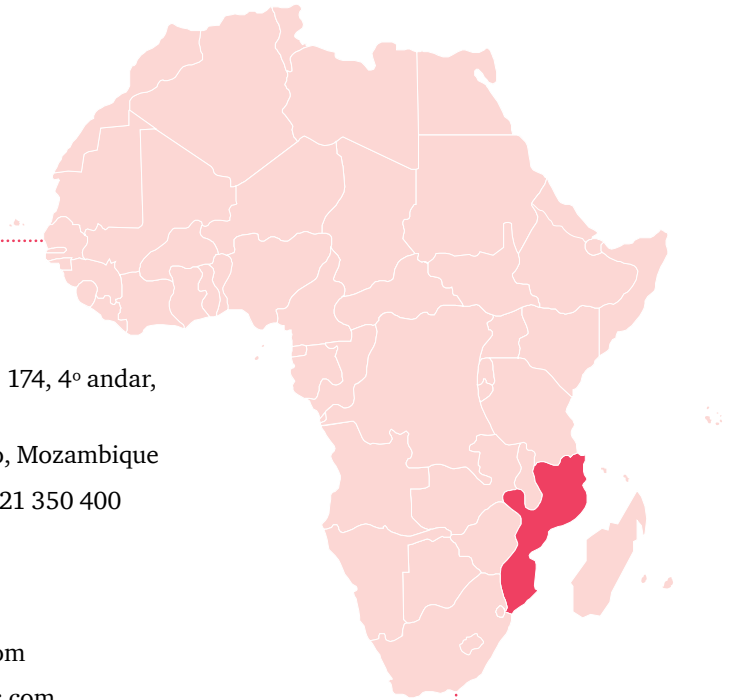
In addition to importation duties and VAT on importation, a specific tax on importation called *Taxe Parafiscale à l'Importation* (TPI) applies. A TPI rate of 0.25% is levied on the value of the imported goods.

Excise duties

Excise taxes apply to specific products imported into or produced in Morocco, such as tobacco and alcohol.



Mozambique



Contact details

Website:	www.pwc.com/mz
Physical address:	Avenida Vladimir Lenine, 174, 4º andar, Edifício Millennium Park
Postal address:	Caixa Postal 796, Maputo, Mozambique
Telephone number:	+258 21 307 620, +258 21 350 400
Fax number:	+258 21 307 621

PwC contact persons

João Martins	joao.martins@mz.pwc.com
Malaika Xavier Ribeiro	malaika.ribeiro@mz.pwc.com
Carolina Balate	carolina.balate@mz.pwc.com
Adriano João	adriano.joao@mz.pwc.com

Contact details



Introduction

VAT (*Imposto sobre o Valor Acrescentado – IVA*) was introduced in Mozambique in 1998 through Law no. 3/98 of 8 January 1998 and Decree no. 51/98 of 29 September 1998, 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 31 December 2007, which replaced Decree no. 51/98 of 29 September 1998, further amended by Law no. 3/2012, of 23 January 2012, together with its regulations approved by Decree no. 7/2008 of 16 April 2008 (RCVAT) and further amended by Decree 4/2012, of 24 February 2012.



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 to lower effective rates, namely:

- Public works for the construction or rehabilitation of roads and 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 of which the price is determined based on aeronautic excises – 85%.



VAT registration

VAT is levied on the following:

- 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;
- Supply of services – as a residual concept it includes all the operations carried out that are not a supply of goods, including the supply of free services provided by the company in view of the personal needs of the company 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.).

Compulsory registration

All corporate or individual entities carrying out taxable economic activities are obliged to register with the competent tax department before starting with their activities.

Voluntary registration

No provision is made for voluntary registration.

Group or branch registration

Companies in the same group (holding company and subsidiaries) cannot apply for one registration for the whole group, as each company must be registered separately.

Companies or branches of foreign entities only register for tax once – if they open additional offices within the country it is under the same registration. Each foreign entity registering as a branch is specifically registered for VAT.

Non-residents

Non-resident entities without a 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 done 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 done through the completion and submission of a form designated as 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.

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 nine or ten numerals and is called NUIT – unique number of tax identification (Número Único de Identificação Tributária). It is also the tax number for all taxes (direct and indirect).

Deregistration

Deregistration is done by completing and submitting the application form, Model 04 – 'Declaration of ceasing of activity', to the tax authorities.



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;
- Human organs, blood and milk;
- 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;
- Goods and services related to social assistance, provided by public entities or non-profit organisations;
- 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;
- Services supplied by public entities or non-profit organisations engaged in the pursuit of sports, culture and physical training activities;
- Services supplied by guides on visits to museums, parks or other places belonging to the State or other non-profit entities (and the supply of strictly connected goods);
- Services and related goods supplied by public entities or non-profit entities in respect of congresses, conferences, seminars or similar activities of a scientific, cultural, educational or technical nature;
- Educational services and related goods, supplied by an approved establishment;
- Lessons given by an individual on school and/or university subjects;
- Professional training services and related goods, including accommodation, food and tutorial material, supplied by public entities;
- Intellectual property rights and the authorisation to use intellectual property by the respective authors or heirs;
- Newspapers, magazines and books considered to be of a cultural, educational or technical nature;
- Supply of staff by religious or philosophical entities for the execution of exempt activities under the terms of the VAT Code or for purposes of spiritual assistance;
- Services supplied by non-profit entities in the collective interest of its members, provided that the consideration given by the members is only a fixed fee in terms of the entities' articles of association;
- Goods and services supplied by exempt entities, related to occasional events for fund raising to a maximum of eight events per year;
- Stamps at their face value;
- Public service of waste removal;
- Funeral services and accessory goods;
- Banking and financial operations;
- 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);
- The playing and practice of certain games of luck and forms of social entertainment;
- Goods allocated exclusively to an exempt sector of activity or that do not entitle one to a right of deduction;
- Goods and services pertaining to agricultural, forestry, cattle and fishing activities;
- Certain equipment, seeds, fertilisers and fungicides, as well as fishing nets, hooks and other tools for fishing; and
- Acquisition of services related to drilling, exploration and construction of infrastructures within the mining and oil industries during the exploration and development phases.

The following exemptions were valid until 31 December 2015 and a proposal was submitted to extend the exemption until 2017, which has not yet been approved by the Parliament:

- Alimentary oil and soaps;
- Sugar; and
- Acquisition of raw material, intermediary products, spares, equipment and components made by the national sugar industry.

Complete exemptions (zero-rated supplies)

The following transactions are fully exempt from VAT:

- Exports (international transport);
- Supplies of maize, maize flour, rice, bread, iodised salt, powdered milk for infants up to one year, wheat, wheat flour, fresh or refrigerated tomatoes, onion, frozen horse mackerel (carapau), lighting petrol, jet fuel, mosquito nets, common bicycles, condoms and insecticide;
- Some products resulting from the industrial activity of producing feed for animals meant for human consumption;
- Transmission of goods to be used as raw material in the alimentary oil and soap industry, resulting from the industrial activity of the production of alimentary oil and soap, carried out by the relevant factory; and
- Transmission of goods and supply of services related to the agricultural activity of the production of sugar cane and destined for the industry.



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. 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.



International trade

Input tax expressly denied

Input tax recovery is expressly denied on VAT on the following expenses:

- 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 and post-deregistration VAT

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

Imports

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 international trade, and goods for provisioning and fuelling thereof;
- Importation of art objects by the respective artists, authors, heirs or legatees;
- Certain other exemptions and reductions recognised by the Minister of Finance; and
- Goods classified as class K according to the customs tariff schedule.

Services

The general rule is that any performance of services is taxable if the service provider's headquarters, permanent establishment, or domicile from which the services are rendered, are 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;
- Services of an artistic, scientific, sports, entertainment, educational or similar nature that take place in Mozambique; and

- Transport for the distance travelled in Mozambique.

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

- Cession of, or authorisation for use of, copyright, licences, trademarks and similar rights;
- Advertisement services;
- Telecommunication services;
- 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;
- Banking, financial, insurance and reinsurance operations;
- 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-rating):

- 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;
- Supply of goods to recognised entities that export the goods abroad in the scope of their humanitarian, charitable or educational activities;
- Supply of goods by the Mozambican public railway entity to foreign railway companies; and
- Supply to the Bank of Mozambique of gold ingots or other forms of gold.

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;
- Services supplied by the Mozambican public railway entity to foreign railway companies;
- Transport of persons proceeding from or going 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 of, or authorisation for use of, copyright, licences, trademarks and similar rights;
- Advertising services;
- Telecommunication services;
- 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;
- Banking, financial, insurance and reinsurance operations;
- 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;

- 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 and 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;
- Services of artistic, scientific, sports, recreational, educational and similar nature, executed 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, 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 when 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 commissionaire – when the goods are delivered to the customer;
- Consignment stock – when delivered to the 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.



VAT compliance

Returns and payment of VAT

The following returns must be submitted:

- 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 with the activity (Modelo 01/C);
- Monthly returns with payment – to be submitted up to the last working day of the following month (Modelo A);
- 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 (Modelo B)); 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 competent Tax Department by the last working day of the following month;
- VAT assessed must be paid within 30 days after termination; and
- VAT deductions must 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 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 USD50 000 at the current exchange rate). Interest may also be applicable, should there be an amount of VAT due. The applicable interest rate is the Maputo Inter-Bank Offered Rate (MAIBOR) (12 months plus 2%) 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 still exists 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 and no interest is ever paid by the tax authorities.

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 tax and administrative court.

Time limits

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 or entity who 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, although the tax authorities do accept it if English is used alongside with the Portuguese wording; and the amounts must be indicated in the local currency (MZN).

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

VAT invoices have to contain the following information:

- 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, the name of the printer and their authorisation number and tax registration number; and
- If the invoice is issued using software previously authorised by the Ministry of Finance, the expression 'Processed by Computer'.

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:

- 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 ten 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.



Specific VAT rules

Bad debts

A taxpayer may deduct VAT previously invoiced to a debtor only if the debt has been formally recognised by the Court as a bad debt within an insolvency, bankruptcy or liquidation process. If the taxpayer subsequently recovers part of the outstanding debt, they must account for output tax.

Land and buildings

Land in Mozambique is State-owned. Therefore, it is not possible to sell, transfer or give as mortgage or pledge any land. Entities are only granted the right of use of land for a predetermined period of time.

Operations subject to property transfer tax (SISA) are exempt from VAT. As the transfer of buildings is subject to SISA, such operations are VAT exempt.

On the other hand, the lease of immovable property is 'single-exempted' when intended for residential purposes or for commercial, industrial or services use, provided that the immovable property is located in a rural area. Otherwise, the lease of immovable property is subject to VAT.



Leasing

As financial operations are exempt from VAT, leasing is exempt from VAT.

Promotional gifts

Promotional gifts and samples are not considered to be supplies of goods and are therefore not subject to VAT. The Ministry of Economy and Finance will determine the maximum value of promotional gifts and samples that are not subject to VAT. However, no limits have been approved yet.

Second-hand goods

Second-hand goods are subject to VAT. The tax is applicable to the difference between the selling price and the purchase price (margin scheme). Invoices issued by taxpayers engaged in selling second-hand goods must contain the wording 'VAT – second-hand goods'. Special accounting is required to evidence the calculation of VAT. Exports of second-hand goods are, in most cases, zero-rated.

Retailer and service provider scheme

Retailers and service providers may issue invoices with prices that do not disclose the amount of VAT charged.

Travel agencies and organisers of tourism circuits

Where tour operators act in their own name, VAT is chargeable on the gross margin only. The taxable amount is calculated as $[(\text{sales with VAT less purchases with VAT}) \times 100] \div 117$.

Invoices issued for these operations should not disclose the VAT amount and should include the wording 'VAT included'. Even if the VAT is shown separately on the invoice it cannot be deducted. These operations must be accounted for in a separate record (of a special model) showing the calculation of VAT.

Transfer of a business

Transfer of a whole business or independent part thereof is excluded from VAT, provided the recipient is or will become a taxable person.

All goods not found in the place where the taxable person runs their business, as part of their inventories, and things consumed in excessive quantities will be deemed to have been transferred or sold, unless the taxpayer proves the contrary (e.g. with documentation that proves that the goods have been destroyed due to their state of deterioration, and the tax authority has been notified in time of this fact).



Other indirect taxes

Import duty

Import duties are levied on imports of goods. The taxes vary according to the customs tariff schedule.

Specific consumption tax

This tax is levied on purchases of certain merchandise manufactured in Mozambique or imported. The tax rates are listed in a table and range from 5% to 75%. It should be noted that this code will be amended in the near future.

Property transfer tax

Property transfer tax (SISA) is charged on the transmission of property rights or other minor rights over immovable property for consideration (e.g. sale and purchase, accord and satisfaction, constitution of servitudes, etc.) for property that is considered as urban tenements located in the Mozambican territory. An 'urban tenement' is any building on land, with the grounds that serve it, where the source of income depends mainly on the existing structures and not on the land itself.

The obligation to pay the property transfer tax is generated at the moment that the onerous transmission of a property right or a minor right is considered to have been transmitted (including the signature of promise of sale agreements).

The current rate of property transfer tax is 2% of the transmission value. However, when the buyer is tax resident in a country with a more favourable tax regime, the applicable rate will be 10%.

Stamp duty

Stamp duty is assessed on all documents, contracts, books, papers and deeds designated in the schedule attached to the Code. Transactions that are subject to VAT and not exempt are not subject to stamp duty.

Some of the amounts and rates indicated in the stamp duties schedule are as follows:

- Shares, bonds and any instrument representative of share capital – 0.4%;
- Sale and purchase, exchange and transfer of immovable property – 0.2%;
- Lease and sublease of immovable property – 2%;
- Mortgage and pledge – 0.3%;
- Notarial deeds – MZM250;
- Powers of attorney with any other power – MZM100;
- Loans (credit for a term of five years or longer) – 0.5%;
- Legal, judicial, fiscal and customs proceedings (per page) – MZM1 000; and
- Warranty insurance – 3%.

The entities which are responsible for assessing and paying over stamp duty include (inter alia) notaries, civil, commercial and real estate registrars and other public entities, entities that grant credit, resident credit institutions, finance companies, borrowers or beneficiaries under guarantees or debtors of interest, insurance companies, issuers of bills and other credit instruments, lessors and sub-lessors, and other entities that participate in deeds and contracts or issue or use documents, books, instruments or papers.

Compensation for tax debts

Compensation can be made for any tax debt, except where there are already special rules for compensation (as is the case with VAT). This mechanism of debt write-off can be initiated by the tax authorities or the taxpayer.

In general, the tax authorities will initiate compensation when the taxpayer pays more than the amount effectively due. The tax authorities will notify the taxpayer and, with the taxpayer's consent, use this overpayment to offset any future tax debt. Credits resulting from refunds, administrative reviews, complaints or favourable decisions following administrative and judicial appeals under any administrative act are mandatorily applied in compensation. An exception applies in case of an appeal or opposition to debt execution or when this is being paid in instalments.

Compensation initiated by the taxpayer is made under the same terms and conditions as compensation initiated by tax authorities, within the deadline legally established for the payment up to the start of the tax execution process.



Namibia



Contact details

Website:	www.pwc.com/na
Postal address:	PO Box 1571, Windhoek, Namibia
Telephone number:	+264 61 284 1000
Fax number:	+264 61 284 1001

PwC contact persons

Chantell Husselmann	chantell.husselmann@pwc.com
Nelson Lucas	nelson.lucas@pwc.com
Denis Hyman	denis.hyman@pwc.com
Nellie du Toit	nellie.du.toit@pwc.com
Samantha Maasdorp	samantha.maasdorp@pwc.com
Dolly Mouton	dolly.mouton@pwc.com

Contact details



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 Inland Revenue, a department 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 on a continuous or regular basis; 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;
- Recreational pursuit or hobbies;
- Exempt supplies;
- Branch activities outside Namibia;
- Registration and issuing of a licence by a registering authority;
- Levying of tax or levies by the State or local/regional authorities under any Act of Parliament;
- 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.



VAT registration

Compulsory registration

Any person making taxable supplies of NAD500 000 (approximately USD32 000) or more in a 12-month period is obliged to register for VAT.

Voluntary registration

A person may register voluntarily for VAT where that person makes or will be making taxable supplies of NAD200 000 or more in a 12-month period.

Group registration

No group registration is allowed. Each entity within the group should consider its liability to register for VAT.

Non-residents

A non-resident person must register for VAT if it is performing taxable activities in Namibia or partly in Namibia and the turnover exceeds or is likely to exceed N\$500 000 in a 12-month period.

In order to register for VAT purposes, such a person should have a Namibian bank account and a place of business in Namibia.

A VAT registration of a non-resident business does not necessarily create a permanent establishment for direct tax purposes.

Application procedures

A VAT registration form should be completed and can be obtained from 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).

Deregistration

A registered person may deregister for VAT where the consideration of taxable supplies made falls below the VAT threshold of NAD500 000 (compulsory registration), or in case of voluntary registration, below NAD200 000.



Output tax

Calculation of output tax

VAT is levied on the consideration charged for goods and/or services. VAT is therefore calculated at either 15% or 0% on the consideration/price charged by a registered person.

Where the consideration/price charged by a registered person is silent on VAT, the price is deemed inclusive of VAT.

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.

Exempt supplies

Exempt supplies include (but are not limited to):

- Financial services;
- Educational services;
- Renting of residential accommodation;
- Supplies by a body corporate;
- Services by trade unions for the benefit of members;
- Medical services and rooms by registered hospitals and clinics;
- Public transport of persons;
- Certain medical and paramedical services;
- Fringe benefits; and
- Supplies to foreign heads of state, vice presidents and prime ministers.

Zero-rated supplies

Zero-rated supplies include (but are not limited to):

- Exportation of goods;
- Fuel;
- Maize meal, mahango and mahango meal;
- Fresh and dried beans (excluding canned or frozen), sunflower cooking oil, fried out or processed animal fat used for the preparation of food, bread and cake flour (sifted and unsifted), and bread. However these are excluded when cooked, served as a meal, or as prepared food;
- Dry white, or wet or dry brown granular sugar;
- Fresh milk;
- Funeral undertaking services;
- International transport; and
- Erection, extension and sale of land and buildings for residential purposes.



Input tax

Input tax allowed

VAT incurred on the supply of goods and services to a registered person and on the importation of goods by a registered person may be claimed as input tax by such person when used or consumed in the course or furtherance of a taxable activity carried on by such person.

VAT incurred may not be claimed where the goods and/or services are used or consumed in making exempt supplies.

Input tax claims may be made within a period limited to three years after the end of the tax period during which a registered person became entitled to it for the first time.



Input tax expressly denied

VAT incurred relating to the following goods and services is specifically denied as an input tax claim:

- Entertainment;
- Acquisition or renting of passenger vehicles; and
- Subscriptions of a sports, social or recreational nature.

A tour operator, a person providing entertainment or a person providing taxable transportation services may, however, deduct input tax on taxable supplies made to them 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, however the subsequent sale of the vehicle will be subject to VAT.

Partial exemption

The VAT Act makes provision for an apportionment method to be used by persons rendering a mixture of taxable and exempt supplies (mixed supplies). The method mostly endorsed 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 goods and/or services.

Adjustments

Special rules apply to input tax adjustments in the first year of operation. Input tax on mixed supplies is claimed in the following year based on the turnover ratio of the prior year.

Pre-registration and post-deregistration VAT

VAT incurred on trading stock (excluding capital goods) and/or consumables on hand at the date of registration is claimable if bought within four months of the date of registration.

Upon deregistration, a taxable supply is deemed to have been made on any assets on hand at date of deregistration on which input tax was claimed. Output tax should be declared and paid on the open market value of the assets.



International trade

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.

Where an importer has a registered import VAT account, the payment of import VAT on goods imported is deferred to the 20th of the next month following the month of import.

Where an importer does not have a registered import VAT account, payment of import VAT can be made in cash, or by Namibian bank-guaranteed cheques (up to NAD100 000) or by electronic payment (pre-payment) supported by a customs receipt.

Certain imports are exempt, but it is advisable to ensure which customs procedures are applied to obtain the exemption. For example 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, such as construction equipment and machinery, including private vehicles by a person taking up residence in Namibia.

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 registered persons (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, where non-registered persons are not making taxable supplies.

Exports

Goods

Exports consigned and delivered outside Namibia are zero-rated, provided the exports are supported by documentary proof acceptable to Inland Revenue. Non-residents qualify for a refund of VAT paid on purchases of goods in Namibia and exported by them, supported by sufficient proof of export.

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.

Refunds to foreigners

VAT refunds by tourists and non-residents are processed by a private VAT refund administrator ('VRA') appointed by Inland Revenue. A specified commission is withheld by the VRA for services rendered on behalf of Inland Revenue.

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.



Place, time and value of supplies

Place of supply

There are no place-of-supply rules in Namibia.

Time of supply

A supply is deemed to take place at the earlier of issuing a tax invoice or the receipt of payment. Special rules apply to supplies between connected persons and certain other supplies.

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.



VAT compliance

Returns and payment of VAT

A VAT return must be made bi-monthly 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 NAD100 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 limited to 100% of the outstanding VAT.

Electronic filing of VAT returns is not allowed. VAT 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 must be paid monthly.

The preferred method of payment is by EFT, however VAT can also be paid in cash before 00:00 (12:00am) or by bank-guaranteed cheque up to an amount of NAD100 000. The bank-guaranteed cheque should carry a stamp from the respective financial institution in support of the guarantee.

Interest

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.

Refunds

A refund can be claimed on the VAT return, or (in case of overpayment of VAT) per written application to the Commissioner for Inland Revenue. Refunds may be subject to a desk or field audit by Inland Revenue, following a decision by an internal VAT department committee. 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.

Objections and appeals

The VAT Act makes provision for an objection and an appeal process. However, the Act specifically defines appealable decisions, thus rendering certain decisions by the Commissioner of Inland Revenue not subject to appeal. For example, the decision to deregister a person who, according to the Commissioner, is not carrying on any taxable activity for VAT purposes.

Time limits

Input tax not yet claimed may be deducted if such input tax arose from a transaction that occurred during the current or preceding tax 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.

All tax invoices must reflect Namibian currency and issued in English. The foreign currency equivalent may be reflected on the same invoice. The VAT registration number of the customer needs to be stated on the tax invoice.

Electronic invoices are not accepted.

Credit notes and debit notes

A tax credit note or a 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 registered person must keep the following documents:

- A tax invoice;
- A stamped SAD 500 as proof of export; and
- Proof of consignment or delivery of goods in an export country (where requested).

The SAD 500 to correspond with the tax invoice.

Record-keeping

Accounting records must be kept for a period of five years. Records cannot be kept solely in electronic form – paper copies are still necessary. The original purchase invoices and copies of all sales invoices must be kept in Namibia. Accounting records (trial balances, general ledgers, cashbooks, etc.) may be kept in another country, provided that these are kept on an electronic system linked to Namibia and that printouts can be provided within 24 hours after receiving a request for documents from Inland Revenue.



Specific VAT rules

Amounts written off as bad debts qualify for a deduction as input tax.

Land and buildings

Services to non-residents directly in connection with land or buildings in Namibia are subject to VAT. Supplies of goods and services comprising the sale of immovable property, or the erection of or extension to a building used for residential purposes are zero-rated for VAT purposes.

VAT at 15% is applicable to the sale and the leasing of commercial property. In the case of a sale of commercial property, VAT is levied in addition to transfer duty.

Leasing

Rentals of buildings used solely for commercial purposes are subject to VAT at the standard rate. Rentals of buildings used solely for residential purposes are exempt from VAT. Financial lease payments to a bank, financier or dealer are not subject to VAT.

Promotional gifts

The supply of promotional gifts is not regarded as a taxable activity as the definition of ‘taxable activity’ requires that a supply must be made for ‘consideration’. Since gifts per definition are made free of consideration, VAT need not be accounted for on gifts.

Used goods

A deemed input tax credit is available to a registered person when acquiring used goods (excluding immovable property) from a person who was not entitled to claim input tax on such goods. This provision requires that the person from whom the used goods have been acquired must have paid input tax on the original acquisition of such goods and was not entitled to claim an input tax credit on such goods.

In essence, where the goods were originally acquired before the introduction of VAT in Namibia (i.e. prior to November 2000) and are sold by a non-registered person as second hand goods to a VAT registered person, the VAT registered person is not entitled to claim input tax on such goods as no VAT was incurred by the seller on the initial purchase.

Input tax on used goods may be claimed by a registered person where the goods are acquired from a person who initially acquired the goods subsequent to the introduction of VAT in Namibia and used the goods to make exempt supplies.

‘Used goods’ refer to any inanimate goods (including vehicles, but excluding animals) that were previously owned.

Tourism industry

The VAT paid on passenger vehicles and entertainment services acquired by tour operators qualify for deduction of input tax. Services by a tour operator to non-residents are subject to VAT.

Transfer of a business

The sale of a business as a going concern is a zero-rated supply for VAT purposes. However, in order to obtain the zero-rating, notification to Inland Revenue is required within 21 days of the date of the sale. It is thus not possible to obtain a zero-rating for a backdated sales transaction.

Warranty repairs

A supply of goods or services in pursuance of any guarantee given in respect of new goods is zero-rated.

Agents and auctioneers

Where a VAT-registered agent makes a supply of goods or services on behalf of a VAT-registered principal, the supply is deemed to be made by the principal and not the agent, provided that where the agent is a registered person, the agent may issue a tax invoice, tax credit or tax debit note as if the agent had made a taxable supply.

In such cases, the principal is not allowed to issue a tax invoice, tax credit or tax debit note for the same taxable supply.

Where an agent imports any goods into Namibia on behalf of a principal, the importation is deemed to be made by the principal and not the agent, provided that the customs declaration may be held by the agent.

Despite the above provision, where a VAT-registered agent imports goods on behalf of a foreign principal not registered for VAT in Namibia and the goods are sold by the foreign principal to a local customer, the importation is deemed to have been made by the agent and not the principal, provided that the agent obtains and retains acceptable documentary proof that they paid the import VAT and that the agent and principal agreed in writing that the import VAT paid by the agent will not be reimbursed by the principal.

In such case, the agent is deemed to have made a supply of goods to the local customer at the time the import VAT was paid at a consideration equal to the import value of the goods plus the import VAT paid.

An auctioneer and principal may agree that auction sales will be deemed to have been made by the auctioneer in the course of the auctioneer's taxable activity and will be subject to VAT.



Other indirect taxes

Customs and excise duties

Customs duties are due on goods imported from outside the Southern African Customs Union (SACU). Excise duties are due on certain manufactured goods such as liquor and tobacco. No customs duties are levied on intra-SACU trade.

As a co-signatory of the SADC Trade Protocol, Namibian importers and exporters benefit from lower or duty-free tariffs with regard to imports to or exports from other signatories to the Protocol. These include Zambia, Kenya, Mozambique and Mauritius. A free-trade agreement with Zimbabwe provides for customs-duty-free imports of goods of Zimbabwean origin, and vice versa. However, import VAT is payable on such imports.

Preferential trade arrangements between SACU and MERCOSUR were finalised and entered into force on 1 April 2016. Namibia's importers and exporters therefore already benefit from lower or duty-free rates being applied in terms of that agreement.

The new Economic Partnership Agreement with the European Community has not been signed yet.

Fuel levy

A portion of the levy on fuel is transferred to the Road Funds Administration for road maintenance. Fuel levies are payable per a customs and excise credit account arrangement by fuel wholesalers registered with the Ministry of Mines and Energy to Customs and Excise, based on the importation of petrol, diesel and paraffin into Namibia.

Transfer duty

Non-agricultural

- Value of property less than NAD600 000 – nil;
- More than NAD600 000 but less than NAD1 million – 1%;
- More than NAD1 million but less than NAD2 million – NAD10 000 plus 5% of value exceeding NAD1 million; and
- More than NAD2 million – NAD54 000 plus 8% of value exceeding NAD2 million.

Agricultural

Natural persons benefiting under the Affirmative Action Loan Scheme for Purchases of Farm Land pay transfer duty as follows:

- Value of agricultural land less than NAD1.5 million – nil;
- Value of agricultural land more than NAD1.5 million but less than NAD2.5 million – 1%; and
- Value of agricultural land exceeding NAD2.5 million – NAD10 000 plus 3% of the value exceeding NAD2.5 million.

The current transfer duty rate for companies, close corporations and trusts remains at 12%.

Other levies introduced

- Legislation on the introduction of environmental duties on vehicle tyres, incandescent bulbs and carbon emission of vehicles has been introduced during 2016.
- Exporters of the Namibian raw material products will be liable to pay export levies. Once a customs entry is assessed by Customs Namibia on export of the listed products, the exporter is liable to pay the levy to the customs authority of Namibia. The levies will range from 0.5% to 2% on the export value, depending on the commodity exported and state of beneficiation.

The Export Levy was promulgated in June 2016 and makes provision for certain administrative arrangements and the charging of export levies on products listed in the Schedules to the Act such as:

- The Commissioner for Customs and Excise is responsible for collection and administration of the export levy;
- An exporter may lodge an objection within 90 days of any assessment of the levy by Customs Namibia;
- The exporter must keep records of all customs declarations and related documents for five years; and
- A penalty of double the export levy is prescribed if the exporter provided false or misleading statements to the customs authority.

It is expected that the Act will only be effective following the analysing of inputs from the mining, fishing and forestry sectors, which must still be considered by the Minister of Finance and Cabinet. Effective date of implementation has been delayed until further notice by Ministry of Finance.



Nigeria



Contact details

Website:	www.pwc.com/ng
Physical address:	Landmark Towers, 5B Water Corporation Road, Victoria Island, Lagos, Nigeria
Postal address:	PO Box 2419, Lagos, Nigeria
Telephone number:	+234 1 271 1700 or +234 1 270 3101
Fax number:	+234 1 270 3109

PwC contact persons	Contact details
Taiwo Oyedele	taiwo.oyedele@ng.pwc.com
Russell Eastaugh	russell.eastaugh@ng.pwc.com
Abolade Kehinde	abolade.kehinde@ng.pwc.com
Emuesiri Agbeyi	emuesiri.agbeyi@ng.pwc.com
Kenneth Erikume	kenneth.y.erikume@ng.pwc.com



Introduction

VAT was introduced in Nigeria in 1993 and became effective on 1 January 1994, replacing the Sales Tax. VAT is governed by the VAT Act, Chapter V1, Laws of the Federation of Nigeria (LFN) 2004 as amended. The tax is administered by the Federal Inland Revenue Service (FIRS).



Rates and scope

The standard VAT rate on goods and services is 5%. The value of imported goods for VAT purposes includes customs duties, taxes, commission, transport, insurance and other charges. Other than the standard-rated goods and services, some goods and services are classified as VAT exempt while others are zero-rated.

The scope of VAT in Nigeria is broad and applies to almost all transactions. VAT, which is based on general consumption, is applicable to the supply of all goods and services consumed in Nigeria except where the supply is specifically exempted or zero-rated.

VAT is applicable in all Nigerian states including the Federal Capital Territory, the territorial waters and the continental shelf of Nigeria. For VAT purposes, an export processing zone (EPZ) or a free-trade zones (FTZ) are not treated as part of Nigeria. Therefore, VAT is not payable on the importation of any goods or services into EPZs or FTZs.

In addition, plant and machinery imported for use in EPZs or FTZs are exempt provided that 100% of the production of such a company is for export; otherwise, the tax accrues proportionally on the item.



VAT registration

Compulsory registration

All resident and non-resident companies doing business in Nigeria are required to register with the FIRS within six months of commencement of business. There is currently no registration threshold. The tax authorities will allocate a tax identification number (TIN) to every registered person, which must be stated on all tax invoices issued by the registered person.

A non-resident company doing business in Nigeria is required to register for VAT using the address of the person with whom it has a subsisting contract as its address for purposes of correspondence relating to VAT.

Where a registered person changes its name, trading name or any business address, it must immediately notify the FIRS in writing, and all existing registration documents should be returned to the tax authorities for amendment or re-issue.

Group or branch registration

Branches of a company are not required to register separately. The FIRS permits taxpayers to register centrally where their administrative or head offices are located. Registration as a group of companies is not allowed in Nigeria.

Application for registration

Businesses must register with the tax authorities using VAT Form 001 immediately on commencement of business. Upon registration, the business will be issued a certificate of registration and a TIN which serves as authorisation to charge and collect VAT on behalf of the FIRS.

Deregistration

The tax authorities must be notified in writing of the winding up or cessation of a business. There are no specific provisions for VAT deregistration in Nigeria.



Output tax

Calculation of output tax

Output VAT is calculated at the standard rate of 5% on the total sales value of goods or services supplied. Advertised prices for taxable goods and services are deemed to be inclusive of VAT in some cases, such as airtime. Where prices are not inclusive of VAT, this should be clearly stated.

Output tax is due when a taxable supply is made or in certain other circumstances such as:

- Forced sales of goods in satisfaction of a debt;
- Certain activities in relation to the cessation of a business; and
- Withdrawal of goods for private or own use.

Exempt supplies

Exempt goods have no VAT levied on the final goods sold to the consumer. A registered supplier of exempt goods and services cannot claim input tax credits for VAT paid on the goods or services acquired to make exempt supplies.

These include:

- Exported services;
- Medical and pharmaceutical products;
- Basic food items;
- Books and educational material;
- Baby products;
- Plant, machinery and goods imported for use in EPZs or FTZs;
- Plant, machinery and equipment purchased for utilisation of gas in downstream petroleum operations;
- Fertilisers, tractors, ploughs, and agricultural equipment and implements purchased for agricultural purposes;
- Medical services;
- Services rendered by mortgage institutions; and
- Plays and performances conducted by educational institutions as part of learning.

Exemptions granted by the Minister of Finance through the Fiscal Policy Measures in line with the VAT Act include:

- Locally manufactured biscuits;
- Plant, machinery and equipment (including steel structures) for the manufacture of cement and allied products;
- Vegetable oil; and
- Motorcycles (CKD) or bicycles (SKDs) and their spare parts.

The VAT (Exemption of Commissions on Stock Exchange Transactions) Order, 2014 exempts commissions:

- Earned on traded values of shares;
- Payable to the Securities And Exchange Commission;
- Payable to the Nigeria Stock Exchange (NSE); and
- Payable to the Central Securities Clearing System.

The exemption is, however, for five years from 25 July 2014.

Zero-rated supplies

Zero-rated goods attract VAT at 0% and any VAT paid on the input is claimable by the supplier. The following goods and services have been listed as zero-rated:

- Non-oil exports;
- Goods and services purchased by diplomats; and
- Goods and services purchased for use in humanitarian donor-funded projects.



Input tax

Input tax allowed

Allowable input VAT is limited to the VAT suffered on goods purchased or imported directly for resale and goods that form the stock-in-trade used for the direct production of any new product on which the output tax is charged.

Input tax expressly denied

The following are not allowed for deduction as input VAT:

- VAT incurred on overheads, services and general administrative costs of any business – such VAT is expensed to the profit and loss (P&L) account together with the costs to which they relate; and
- VAT on any capital item or asset – such VAT is capitalised along with the cost of the capital item or asset to which they relate.

Partial exemption

Any VAT incurred on the acquisition of goods that cannot be wholly attributed to the making of taxable supplies will be reclaimable as input VAT in part only. The apportionment of input tax that can be claimed is determined by reference to the level of taxable use or consumption of the goods and subject to the normal rules for deducting input tax.



International trade

Imports

VAT is payable on the importation of all goods, whether or not the importation is subject to customs duty or excise duty. VAT on imports is payable to the Nigerian Customs Service before the import can be cleared for home consumption. Goods entered into a bonded warehouse or an excise warehouse will not be recognised as imported goods until they are removed from the warehouse and entered for home consumption. Goods entered for trans-shipment, export or re-export in accordance with the Export Processing Zone Act are not liable to VAT.

VAT on importation is calculated by applying VAT at the rate of 5% to the sum of the customs value of the goods plus any customs duty or levies and

other costs (such as transport and insurance) up to the port or place of importation. The VAT Act defines 'imported services' as services rendered in Nigeria by a non-resident person to a person inside Nigeria. VAT is payable on imported services provided by a non-resident supplier to the extent that the service provider carries on business in Nigeria.

Exports

All exports of non-oil goods are zero-rated.

Exported services are exempt from VAT and defined as services rendered by a Nigerian resident or a Nigerian company to a person outside Nigeria.

There is no VAT refund to tourists on purchases made in Nigeria.



Place, time and value of supplies

Place of supply

There are no specific rules for place of supply. Supplies of goods and services in Nigeria are liable to VAT in Nigeria. Supplies made outside Nigeria are outside the scope of Nigerian VAT.

Time of supply

A supply of goods and services is deemed to take place at the earlier of the time a tax invoice is issued by the supplier or payment is received by the supplier.

Value of supply

If a supply is for monetary consideration, the consideration is the amount of the supply plus the VAT chargeable. The prices of goods and services may be stated:

- Exclusive of VAT, in which case output VAT will be calculated at 5% of the VAT-exclusive price; and
- Inclusive of VAT, in which case the tax fraction of 5/105 will be applied to the VAT-inclusive price.

If the supply is for a consideration not wholly consisting of money, the value of the supply is its open market value.

Where a taxable supply is not the only matter to which the consideration in money relates, the supply is deemed to be for such part of the consideration as is properly attributed to the taxable supply.



VAT compliance

Accounting basis and tax periods

VAT is accounted for on an invoice basis. A supplier's liability to account for output tax arises in the taxable period in which the supply takes place, irrespective of whether or not the supplier has received payment during that tax period. A registered person may thus make a claim for an input tax credit in the taxable period during which the taxable supply is made to him, provided he is in possession of a valid VAT invoice from his supplier irrespective of whether or not he has paid his supplier.

The taxable period will generally commence on the first day of a calendar month and end on the last day of that month.

Returns and payment of VAT

Where a registered person's output tax exceeds the input tax, the difference must be paid to the tax authorities at the time the return is submitted. Where the input tax exceeds the output tax, such VAT is carried forward as a future credit as cash refunds are usually not given in practice. Where a registered person does not make any supply of goods or services and does not receive any goods or services within a particular taxable period, he must submit a nil return in respect of that tax period.

The due dates for payment of VAT are as follows:

- Taxable supplies – on the submission of the return by the 21st day of the month following the end of a taxable period;
- Importation of goods – on entry for home consumption, when customs duty or excise duty is payable; and
- Notice of assessment – within 30 days of the date of the notice.



Interest and penalties

Interest and/or penalties are charged as follows for the failure to:

- Register for VAT – penalty (in Nigerian Naira/NGN) of NGN10 000 for the first month of failure and NGN5 000 for each subsequent month in which the failure continues;
- File monthly returns – penalty of NGN5 000 for every month in which the failure continues;
- Remit VAT payable to the FIRS – penalty of 5% and interest charged at the prevailing commercial lending rate (up to 21% p.a.);
- Issue a tax invoice for taxable goods or services – penalty of 50% of the cost of the goods or services for which the tax invoice was not issued; or
- Collect VAT (by a registered person) – penalty of 150% of the VAT not collected plus 5% interest above Central Bank of Nigeria (CBN) Monetary Policy Rate (MPR).

Penalty and interest are waived at the discretion of the tax authorities for any good cause. This waiver is granted at the level of the Federal Board of Inland Revenue (FBIR).

Time limit for claiming input VAT

In general, there is no time limit as to when input VAT can be claimed, as long as such claim is supported by a tax invoice. However, in line with the statute of limitations which is six years, it is unlikely that any claim in excess of this will be entertained.

VAT refunds

Where the allowable input VAT exceeds the output VAT, this may be carried forward as credit against future VAT payable. Alternatively, the FIRS Establishment Act provides for a cash refund on application within 90 days of a FIRS decision, subject to an appropriate tax audit.

Objections and appeals

Any registered person who disputes an assessment or demand notice issued to him may appeal to the Tax Tribunal in the prescribed format. An award or judgment by the Tax Tribunal will be enforced as if it were a judgment of the Federal High Court on registration of a copy of the award or judgment in the registry of the Federal High Court by the party seeking to enforce the judgment.

Following the decision of the Tax Tribunal, a notice of the amount of tax chargeable under the assessment as determined by the Tribunal will be served by the FIRS on the company or person liable for the tax. Notwithstanding a pending appeal, tax must be paid in accordance with the decision of the Tribunal within one month of notification of the amount of tax payable. Any party aggrieved by the Tribunal's decision may appeal against it on a point of law to the Court of Appeal within 30 days after the date on which the decision was given, setting out the grounds on which the decision is being challenged.



VAT compliance

Tax invoices

A tax invoice is issued on the supply of taxable goods or services in support of the transaction. The VAT invoice serves as a form of certification that VAT has been levied on a transaction and as documentary proof supporting claims for input tax by a registered person.

A tax invoice must contain the following particulars:

- Taxpayer's identification number;
- Name, address and VAT registration number of the supplier;
- Customer's name and address;
- Type of supply;
- Description of the goods and services supplied;
- Quantity of goods or extent of services;
- Rate of VAT;
- Rate of cash discount offered; and
- Total VAT payable.

The penalty for failure to issue a tax invoice for taxable goods or services is 50% of the cost of the goods or services for which the tax invoice was not issued.

Credit notes and debit notes

A credit or debit note is usually issued to take account of a change in the consideration for a taxable supply due to the following circumstances:

- The cancellation of a supply of goods and services;
- An alteration or variation in the nature of a supply;
- A change in the previously accepted consideration for the supply, e.g. due to a discount;
- A short supply of goods;
- An irrecoverable bad debt arising from a taxable supply that has been written off; or
- A return of goods to the supplier.

The issue of a credit or debit note will form the basis for the requisite adjustment to the relevant VAT return. The VAT legislation is not specific on what information is to be reflected on debit and credit notes, however such documents should contain sufficient information to identify the original transaction and the VAT invoice to which it relates.

Record-keeping

A registered person must keep records and books of all transactions, operations, imports and other activities relating to taxable goods and services sufficient to determine the correct amount of VAT due. Copies of a supplier's VAT invoices should be kept for a period of at least six years after the completion of the transaction to which they relate.

A general statutory limitation of six years immediately following the last day of the taxable period in which the transaction took place applies to the carrying out of a tax audit to produce records. This time limit can be extended when fraud is suspected to have occurred.



Records may not be kept outside the country. Records should be kept in the form of paper copies as well as in electronic form, where possible. For the purpose of ascertaining the tax liability, FIRS may require the registered person to produce records and copies of VAT invoices for retention, as it may consider necessary.

Withholding of VAT at source

Government and government agencies are required to withhold VAT at source from all 'VATable' supplies. Local recipients of services rendered by non-residents are required to withhold VAT at source from non-resident suppliers.

From 2007 oil and gas companies, including oil services companies, are required to withhold VAT at source from all 'VATable' supplies made to them.

VAT auditing, investigation and monitoring

VAT auditing is the routine verification of the registered person's books and records to ensure accuracy, completeness and genuineness of the documents on which the VAT calculations are based.

Where the VAT audit gives an indication of fraud or suspicion of sharp practices, an in-depth investigation of the registered person's affairs is conducted.



Specific VAT rules

Bad debts

Where a registered person has claimed an input tax credit and the person's debt towards the supplier is written off as irrecoverable, the registered person will be required to make an adjustment for input tax over-claimed in the past.

Where a registered person has made a taxable supply, has accounted for the output tax and has subsequently written off the whole portion of the debt as irrecoverable, the relevant adjustments should be made to the VAT return for the period concerned.

Although not specifically provided for in the VAT legislation, where a registered person subsequently recovers all or a portion of the debt that was previously written off, output tax should be paid in respect of the VAT portion of the amount recovered in the relevant tax period.

Land and buildings

The Nigerian law does not specifically exempt land from VAT; however, as land cannot be expressly described as either a good or a service, the practice is to treat land as exempt from VAT.

The supply of buildings is, however, not exempt from VAT. The FIRS would therefore demand output tax in this respect, which should be accounted for in the normal manner. Input tax in line with normal rules is capitalised as part of the cost of the asset.

Sales by real estate companies are also liable to VAT.



Other indirect taxes

Customs duties

Customs duties are payable on imported goods at the rate of duty shown in the customs duty tariff with reference to the prevailing Harmonised Commodity and Coding System (HS code). Nigeria has adopted the common external tariff (CET) for economic communities of West African states (ECOWAS). The applicable tariff ranges from 0% to 35%. Duties on imported goods are levied on the cost, insurance and freight (CIF) value of the imported good. Other rates and charges include:

- 7% surcharge (port development levy), calculated on the customs duty;
- 0.5% trade liberalisation scheme levy, calculated on customs duty (where import is from countries outside the ECOWAS region); and
- 1% Comprehensive Import Supervision Scheme (CISS) administrative charge for destination inspection, based on the FOB value of goods.

It should be noted that the Ministry of Finance reviews customs and importation guidelines and policies from time to time. Sometimes the practice is inconsistent with the law and policies. It is therefore advisable to keep abreast of developments in this area.

Recent developments that affect customs duties in Nigeria:

- The amendment bill of the Customs and Excise Management Act (CEMA) is pending before the legislature.

- Importers can now ascertain import duties payable at the Nigeria Trade Hub (NTH) website. The ECOWAS CET was approved by the President effective 11 April 2015. This means that all imports arriving in Nigeria from other ECOWAS countries would be subject to the uniform traffic contained in the CET.

In March 2016 an earlier policy was reversed in October 2015, which allowed rice imports through the land borders once appropriate duty and charges were paid. Currently, the import duty on rice is 10%.

Excise duties

Excise duties are payable on certain goods manufactured and sold in Nigeria. The following goods are liable to excise duties at the specified rates in Nigeria:

- Beer and stout – 20%;
- Wines – 40%;
- Spirits – 40%; and
- Cigarettes and tobacco – 40%.

Stamp duty

All instruments relating to an act to be performed in Nigeria, unless specifically exempted, must be stamped within 40 days of first execution. Stamp duties may be charged at a flat rate (specific) or in proportion to the value of the consideration (ad valorem) depending on the class of instrument.

The penalty for late stamping of instruments is NGN20. However, where the unpaid duty exceeds NGN20, there is a further penalty in the form of interest on the stamp duty payable at the rate of 10% per annum, subject to a maximum of the unpaid duty. Unstamped documents are generally not admissible as evidence in civil proceedings.

On 15 January 2016, the CBN released a circular directing all deposit money banks and financial institutions to commence the charging of NGN50 as stamp duties on all receipts given in acknowledgement of services rendered for eligible transactions.



Rwanda



Contact details

Website:	www.pwc.com/rw
Physical address:	Blue Star House, Blvd de l'Umuganda, Kacyiru, Kigali, Rwanda
Postal address:	PO Box 1495, Rwanda
Telephone number:	+250 252 588 303/4/5/6
PwC contact persons	Contact details
Bernice Kimacia	bernice.w.kimacia@rw.pwc.com
Nelson Ogara	nelson.o.ogara@rw.pwc.com
Frobisher Mugambwa	frobisher.mugambwa@rw.pwc.com



Introduction

VAT was introduced in Rwanda and came into effect on 20 January 2001 to replace ICHA (turnover tax). Rwanda's VAT legislation is contained in the VAT law (Law No. 37/2012 of 09/11/2012). Law No. 37/2012 of 09/11/2012 is a new law which came into effect on 5 February 2013 and repealed the old VAT law (Law No. 06/2001 of 20/01/2001).



Rates and scope

The standard VAT rate of 18% applies to all taxable supplies of goods and services that do not qualify for zero-rating or VAT exemption. There is no other higher or lower VAT rate that applies.

VAT is charged on the supply of taxable goods or services made or provided in Rwanda, and on the importation of taxable goods or services into Rwanda.



VAT registration

Compulsory registration

Suppliers of taxable goods and services are required to apply for VAT registration. These include sole proprietors, limited liability companies and corporations.

To qualify for registration, a person must have attained a taxable turnover that exceeds or is likely to exceed, in Rwandan Francs, RWF20 million (approximately USD31 000) in the previous fiscal year or RWF5 million in the preceding calendar quarter.

If a person attains or expects to attain the above threshold, he must apply for VAT registration. Failure to register for VAT will lead to retrospective compulsory registration by the Commissioner-General from the date the person became due for registration. Further, the person will be liable to a penalty of 50% of the amount of VAT payable for the entire period of operation without VAT registration.



Voluntary registration

Suppliers with an annual turnover below the registration threshold may apply for voluntary registration. However, once registered, such suppliers become subject to all provisions of the law relating to VAT.

Application for registration

The application for registration is made to the RRA by completing a VAT registration form. The RRA then issues a VAT registration certificate. The VAT law requires VAT-registered persons to display their registration certificates in a clearly visible place within their business premises.

Deregistration

A registered supplier who ceases to make taxable supplies, or whose turnover falls below the registration threshold, is required to notify the Commissioner-General in writing within 30 days of ceasing to be liable for registration, providing such information as the Commissioner-General may require to facilitate deregistration.

Under the new law, a person whose VAT registration is terminated is treated as having sold taxable goods, including taxable raw materials or services, at hand at the time the registration is suspended, but only if the input tax was refunded to the person on acquisition or importation of the goods or services.



Output tax

Calculation of output tax

Output tax is a tax imposed on goods or services made or supplied by a person. Output tax is computed by applying the VAT rate attributable to the supply to the taxable value of the supply. The VAT rate attributable to the supply will depend on whether it is a standard-rated or a zero-rated supply. Exempt supplies do not attract output tax.

Exempt supplies

Businesses that deal exclusively in exempt supplies are not required to register for VAT and cannot claim relief from input tax on the goods and services that they consume. The following goods and services are exempt from VAT:

- Water supply services – includes the supply of clean water and environmental treatment for non-profit making purposes, but excludes sewage pumping services;
- Goods and services for health purposes – includes health and medical services, equipment designed for persons with disabilities, and goods and drugs appearing on the list provided for by a ministerial order;
- Educational materials, services and equipment appearing on the list made by the Minister of Education and approved by the Minister of Finance;
- Books, newspapers, journals and other electronic equipment used as educational materials;
- Transportation services – includes transportation of persons by road in licenced buses and coaches with a seating capacity of 14 persons or more, transportation of persons by air, transportation of persons or goods by boat and transportation of goods by road;
- Lending, leasing and sale – includes sale or lease of a land property, sale of a whole or part of a building meant for residential purposes, and renting or grant of the right to occupy a house used predominantly as a place of residence of one person and their family (if the period of accommodation for a continuous term exceeds ninety days), and lease of movable property made by licensed financial institution;
- Financial and insurance services – includes premiums charged on life and medical insurance services, fees charged on the operation of current accounts, the transfer of shares and capital market transactions for listed securities. Also includes exchange operations carried out by licensed financial institutions, interest chargeable on credit and deposits, operations of the National Bank of Rwanda, and fees charged on vouchers and bank instruments;
- Precious metals – the supply of gold in bullion form to the National Bank of Rwanda;
- Any goods or services in the course of burial or cremation of a body, including the provision of any related licence or certificate;
- Energy supply equipment appearing on the list made by the Minister of Power and approved by the Minister of Finance;
- Trade union subscriptions;
- Leasing of exempt goods;
- All unprocessed agricultural and livestock products, however milk processed excluding powder milk and milk derived products are exempt from VAT;
- Agricultural inputs and other agricultural and livestock equipment provided by a ministerial order;
- Gaming activities taxable under the law establishing tax on gaming activities.
- Personal effects of Rwandan diplomats returning from foreign postings, Rwandan refugees and returnees entitled to tax relief under customs law. The 12-month period usually required for tax relief for vehicles under customs law does not apply to Rwandan diplomats returning from foreign postings;
- Goods and services meant for special economic zones (SEZs) imported by the zone user holding this status;
- Mobile handsets and SIM cards; and
- Information, communication and technology equipment appearing on the list made by the Minister of Communication Technology and approved by the Minister of Finance.

Zero-rated supplies

Zero-rated supplies include (but are not limited to) supplies of the following goods or services:

- All exported goods and services;
- Minerals that are sold on the domestic market;
- International transportation services of goods entering Rwanda and transportation services of goods in transit in Rwanda to other countries, including related services;



International trade

Imports

Goods

The term 'import' in the VAT law means to bring goods into Rwanda from a foreign country. The Commissioner of Customs Services is charged with the responsibility of collecting the VAT on imported goods at various borders of entry into the country. Transit goods are not subject to VAT.

The importation of goods occurs on the date on which the goods enter Rwandan territory under the Customs Legislation.

The basic value of imported goods is the sum of the following:

- The value of the goods for the implementation of customs duty under the customs legislation, whether or not customs duty is payable on the imported goods;
- Other related services such as
 - the cost of insurance and freight incurred in bringing the goods to Rwanda, and
 - the cost of services which facilitate the importation of goods; and
- The amount of customs duty, excise, port charges, or other fiscal charges other than VAT payable in respect of the importation.

If goods are re-imported after being exported for repair, renovation or improvement, and the nature of the goods has not changed, the value of the importation is the amount of the increase in value of the goods as a result of the repair, renovation or improvement.

Importation of taxable goods is subject to VAT at the customs point in accordance with customs legislation.

Services

The importation of services arises where a non-resident person supplies services to a resident of Rwanda in the ordinary course of business carried on outside Rwanda, but where the services are supplied for use or consumption in Rwanda.

- Goods sold in shops that are exempt from tax as provided for by the law governing customs;
- Services rendered to a tourist for which VAT has been paid;
- Goods and services intended for special persons, including those intended for diplomats accredited to Rwanda that are used in their missions, those intended for international organisations that have signed agreements with Rwanda, and those intended for projects funded by partners that have signed agreements with the government of Rwanda; and
- Goods and services donated to local non-governmental organisations which have been acquired through funding by countries or international organisations that have signed agreements with the government of Rwanda and for being used for agreed-upon purposes.
- Goods acquired or imported for entertainment purposes, unless the taxpayer's business involves providing entertainment and the entertainment is provided in the ordinary course of that business and was not entrusted to a partner or employee; and
- Goods acquired for accommodation purposes, unless:
 - the taxpayer's business involves providing accommodation services and the accommodation is provided in the ordinary course of that business,
 - the accommodation was provided to the person while away from their usual residential home for the interest of the business or the employer's interest, or
 - the acquired goods give any person the right to membership of or access to any sports, social or recreational clubs.



Input tax

Input tax allowed

VAT incurred by a VAT-registered person in respect of most expenses incurred and services received for business purposes is deductible as input tax. Input tax is not deductible where:

- A valid VAT invoice has not been obtained;
- The VAT is non-Rwandan VAT; and
- The time period for claiming input tax has expired (input tax must be reclaimed within five years of the tax point).

Input tax is directly attributable to exempt supplies where the direct attribution method for recovering input tax is applied in calculating the recoverable element of input tax.

Input tax expressly denied

No input tax is allowed on the following goods:

- Passenger vehicles, or spare parts or repair and maintenance services for such a vehicle, unless the taxpayer's business involves the re-sale or renting of such a vehicle and the vehicle was solely acquired for the purpose of such taxpayer's business;

Where VAT is paid on business overheads (e.g. telephones and electricity) where private and business use cannot be practically separated, 40% of the VAT paid is allowed as input tax.

Partial exemption

Partial exemption arises where a registered business makes both taxable and exempt supplies. Input tax can be recovered through the following two methods:

- A value-based method requiring the recovery proportion to be calculated in accordance with the ratio of taxable supplies to total supplies; or
- A method requiring all VAT to be recovered where VAT can be attributed to taxable supplies, and no VAT to be recovered where it relates to exempt supplies. The remaining (residual) VAT is then recovered according to the value of taxable supplies expressed as a proportion of total supplies.

Pre-registration VAT

A person is allowed to claim any input tax incurred within two years prior to registration for VAT, provided the pre-registration input VAT is claimed in the first VAT return following registration.



Place, time and value of supplies

A local recipient of taxable services from a foreign supplier will be required to account for reverse-charge VAT at 18% of the value of the services procured. The Act further provides that the recipient may not reclaim the corresponding input VAT unless the services so procured are not available in the local market. This means that the cost of any services procured from outside Rwanda will increase by 18% where the reverse-charge VAT is not recoverable. The RRA may deem services to be available in Rwanda even when the actual services procured are of a different specification or quality standard to those available locally. However, in respect of imported transport services, consumers of such services are allowed a deduction of reverse-charge VAT even if the services are available in Rwanda.

The tax point for imported services is the earlier of the time on which the:

- Performance of the services is completed;
- An invoice for the services is issued; or
- Payment for the services is made.



Exports

Goods

Any goods exported by a registered person or supplied by that person are zero-rated where the registered person holds evidence of exportation.

Services

Services are treated as exported where the service is physically rendered outside Rwanda.

Refunds to foreigners

VAT refunds are not allowed to tourists or non-resident businesses.

Place of supply

The following acts constitute the supply of goods and services: sale, exchange or other transfer of the right to dispose goods by the owner, and lease of goods under a leasing agreement.

Any act which is done but does not qualify as a supply of goods or money is considered as an act of service delivery. This includes the transfer or surrender of any right to any other person, provision of any means for facilitation, the toleration of any situation, the refraining from doing any act and the lease of goods under an operating leasing agreement.

Time of supply

The time of supply of goods occurs at the earlier of:

- The time when goods are removed from the premises of the supplier;
- If the goods are not to be removed, at the time when they are made available to the person to whom they are supplied;
- The time the invoice is issued; and
- The time the payment is received.

The time of supply of services occurs at the earlier of:

- The time when the services are performed;
- The time the invoice is issued; and
- The time the payment is received.

Where services are supplied for a continuous period or where the supplies are metered, such as electricity and water, the tax point is the date of first determination of the supply (when the value of the supply is established) or the time when the meter or any other calibration is next read after consumption of the supply.

Value of supply

The taxable value of a taxable supply is the total consideration paid in money or in kind. The taxable value is the open-market value of the goods and services, exclusive of tax, where goods or services are supplied:

- For a non-monetary consideration;
- For both a monetary and non-monetary consideration; or
- For consideration that is less than the open-market value of the goods or services.



VAT compliance

Returns and payment of VAT

VAT returns are filed on a monthly basis. A taxable person must furnish a VAT tax declaration in the prescribed form for each VAT period within 15 days after the end of the period of the VAT (the tax period is equal to one calendar month), except where the 15th day falls on a Saturday, Sunday or public holiday, in which case the return is due on the preceding working day.

For taxpayers whose annual turnover is equal to or less than RWF200 million, the VAT declaration is quarterly and is submitted with payment of the tax due within 15 days after the end of the quarter. Voluntary VAT declaration on a monthly basis is, however, still admissible for taxpayers in this bracket.

A taxable person must submit a VAT declaration whether there is output tax to pay or not, even if they are claiming a refund or where the difference is zero. RRA has introduced e-filing of VAT declarations, and VAT-registered persons are required to file online.

Payment of any VAT due must be made at the time of filing of VAT returns. Payment can be made in cash or by way of a cheque or a bank transfer.

The VAT payable for an import is due and payable when the imported goods reach the country.

The amount of VAT that a taxpayer must remit to the tax administration in the taxation period is the tax payable for the period. The tax is calculated by deducting the input tax allowed in the tax period from the total output tax payable.

Interest and penalties

In case of late filing or non-filing of VAT return, fines related to such violation are:

- RWF100 000 if the taxpayer's annual turnover is equal to or less than RWF20 million;
- RWF300 000 if the taxpayer's annual turnover exceeds RWF20 million;
- RWF500 000 if the taxpayer was informed by the tax administration that they are in the large taxpayers' category; and
- Twice the original fine where the same violation is committed twice within five years. Where the same violation is committed again within these five years, the fine is four times the original fine.

Late payment of VAT is subject to a late payment fine of 10% of the tax payable plus interest fixed at 1.5% per month, simple interest. Interest accrued cannot exceed 100% of the amount of tax.

In the event of an audit or investigation, the following penalties arise for understatement of VAT:

- 5% of the amount of the understatement if the understatement is equal to or more than 5% but less than 10% of the tax liability the taxpayer ought to have paid;
- 10% of the amount of the understatement if the understatement is equal to or more than 10% but less than 20% of the tax liability the taxpayer ought to have paid;
- 20% of the amount of the understatement if the understatement is 20% or more but less than 50% of the tax liability the taxpayer ought to have paid; and

- 50% of the amount of the understatement if the understatement is 50% or more of the tax liability the taxpayer ought to have paid.

In addition to the above, a taxpayer who has declared the taxes due but has not paid the taxes will be subject to an administrative penalty of 50%. However, where declaration has not been done nor taxes paid, the administrative penalty increases to 60%.

Refunds

A refund claim may arise in any prescribed accounting period when:

- The total input tax claimed in respect of purchases in the period exceeds the total output tax due on sales in that period; or
- Any amount paid in respect of a previous prescribed accounting period was in excess of the amount due and has been carried forward as a credit.

There is no special form for applying for a VAT refund claim. The submission of the normal monthly VAT return showing a refund claim provides sufficient request for refund processing. A return showing a VAT credit should serve as a notification to the Commissioner-General that the registered person is in a VAT refund situation and facilitate subsequent verification of the refund amount by RRA before approving the payment. However, to enhance the process, it is advisable for the registered person to notify the RRA to initiate the process of verifying and auditing the refund claim. The VAT law provides a timeframe of three months within which the Commissioner-General should verify the refund and approve the payment. This timeframe is impacted where there is a verification exercise that results in delays.

Once the verification exercise is complete and the refund amount has been confirmed, RRA will facilitate the payment of the refund. However, if the verification results in VAT payable by the registered person, the amount should be settled immediately by the person, including relevant penalties and interests.

The VAT law states that the Commissioner-General is required to pay the refund within 30 days after one day from the expiry of the prescribed period for tax declaration and after receipt of proof of the last outstanding tax declaration. However, a registered investor shall be refunded within a period not exceeding 15 days after receipt by the revenue authority of the relevant application. Where a verification of the claim is required, the period for response to the taxpayer will be extended to three months from the date the claim was lodged.

Objections and appeals

A person who disputes an assessment made upon him may object to the assessment by notice to the Commissioner-General. The notice must expressly state the grounds of objection to the assessment and must be received by the Commissioner-General within 30 days after the date of service of the notice of assessment.

The Commissioner-General may amend the assessment or refuse to amend the assessment. Where a person disputes the decision of the Commissioner-General on any matter subsequent to an objection he may, upon giving notice in writing to the Commissioner-General within 30 days of being notified of the decision, appeal to the Commissioner-General, provided that:

- The person pays assessed tax not in dispute or such part thereof as the Commissioner-General may require. The requirement to pay the tax in dispute may be suspended by the Commissioner-General upon a written request during the duration of the appeal; or



Credit and debit notes

- In case of any other dispute, the person, before filing the appeal, must submit all tax returns where applicable, as required, and pay the tax amount shown thereon as being due and payable.

Time limits

Input tax may not be deducted or credited after a period of two years or another longer period from the date of the relevant tax invoice or other evidence.



VAT records

Tax invoices

A VAT-registered person who sells taxable goods or services must, at the time of the supply, issue the recipient with an original tax invoice. Any registered person who makes a taxable supply must issue a tax invoice immediately when the supply is made. A tax invoice should contain the following requirements:

- The word 'tax invoice' in a prominent place;
- The name, address and VAT registration number of the supplier;
- The name, address and VAT registration number of the recipient (the purchaser);
- The serial number of the invoice and date of issue;
- The quantity or volume of the goods or services supplied;
- A description of the goods or services supplied; and
- The selling price excluding VAT, the total amount of VAT charged and the selling price including VAT.

The registered person is required to maintain a copy of all the invoices issued.

VAT-registered persons are now required to use a certified electronic billing machine (EBM) that generates tax invoices. There are significant penalties for failure to use EBM.

Where it becomes necessary to adjust the original VAT charge on a supply, a credit note may be issued by a supplier or a debit note by a customer or vice versa. In either case, copies must be kept. To be valid for VAT purposes, a credit or debit note must:

- Reflect a genuine mistake or overcharge or an agreed reduction in the value of the supply, and be issued within one month of this being discovered or agreed;
- Give value to the customer, i.e. represent a genuine entitlement (or claim) on the part of the customer for the amount overcharged to be either refunded or offset against the value of future supplies; and
- Be headed 'credit note' or 'debit note' as appropriate and show clearly the following details:
 - The identifying number and date of issue
 - The name, address and registration number of the supplier
 - The name and address of the customer
 - The reason for its issue, e.g. 'Returned goods'
 - A description which identifies the goods or services for which credit is claimed or allowed
 - The quantity and amount of each description
 - The total amount credited, excluding VAT, and the rate and amount of VAT credited
 - The number and date of the original VAT invoice. (If this cannot be done, e.g. if the returned goods cannot be identified with a particular invoice, it must be possible to satisfy the RRA by other means that VAT was accounted for on the original supply.)

Record-keeping

A registered person is required to keep records of all supplies including zero-rated, standard-rated and exempt supplies. These details should be recorded in the VAT return.

Every taxable person must, for the purpose of accounting for VAT, keep the following records:

- Business and accounting records;
- The VAT account;
- Copies of all VAT invoices issued;
- All VAT invoices received;
- Documentation relating to importations and exportations; and
- All credit notes, debit notes, or other documents which are evidence of an increase or decrease in the consideration that was received, and copies of all such documents that are issued.



Specific VAT rules

Post-sale adjustments

Post-sale adjustments arise if:

- Taxable goods and services no longer for taxable goods or services changes; or
- Goods or part of the goods are returned to the supplier.

Post-sale adjustment for irrecoverable debts

Where a registered supplier has supplied goods or services for a consideration in money, and has paid the full tax on the supply (output tax) to the tax administration, but has not received payment from the person liable, a bad debt VAT refund claim can be made after a period of 24 months from the date of supply.

The VAT-registered person should fulfil the following conditions:

- The debt should have been included as part of taxable value of goods or services;
- The debt should be written off in the books; and
- There should be convincing evidence that the debtor is insolvent and that all possible steps have been taken to pursue payment without success.



Other indirect taxes

Land and buildings

The lending, lease and sale of the following is exempt from VAT:

- The sale or lease of an interest in land;
- The sale of a building or part of a building meant for residential purposes; and
- The renting of, or other grant of the right to occupy, a house used predominantly as a place of residence of any person and his family, if the period of accommodation for a continuous period exceeds 90 days.

Second-hand goods

Input tax on second-hand goods is deductible. Output tax must be accounted for on taxable second-hand goods.

Tourism industry

The purchase of tourist vehicles and equipment for the tourism and hotel industry, and the importation of special tourist aeroplanes by persons with investment certificates are exempt from VAT.

Warranty repairs

The granting of a warranty under repair is included in the price of goods or services to be provided under that warranty and, on that basis, VAT is accounted for when accounting for the VAT on the taxable goods or services. If warranty repairs are made without a further charge, the consideration for repair under warranty would be nil.

Import duties

Import duty is imposed on goods imported into Rwanda. The rate will depend on a common external tariff (CET) in respect of the goods. The import duty rates range from 0% to 25%. The East African Community Customs Management Act governs the import duty rates and their application.

Excise duties

Excise duty is tax imposed on excisable services or excisable goods manufactured in or imported into Rwanda. Excise duty is governed by Law no. 26/2006 of 27 May 2006 which determines and establishes consumption tax on some imported and locally manufactured goods.

Excise duty must be accounted for on certain manufactured goods, including alcoholic and non-alcoholic beverages, luxury goods, soft drinks, juices, tobacco products, petroleum products, cosmetics, vehicles and mobile cellular phone services.





Senegal



Contact details

Website:	www.pwc.com/sn
Physical address:	PricewaterhouseCoopers Tax & Legal, 3, place de l'Indépendance, BP 6454, Dakar
Telephone number:	+221 33 849 0500
PwC contact persons	Contact details
Pierre Michaux	pierre.michaux@sn.pwc.com
Matthias Hubert	matthias.hubert@sn.pwc.com
Mahi Kane	mahi.kane@sn.pwc.com



Introduction

VAT (*'taxe sur la valeur ajoutée (TVA)'*) is one of the most harmonised areas of taxation within the West African Economic and Monetary Union (UEMOA). UEMOA regulations provide that the VAT rate must be unique and that it must be between 15% and 20%.

Senegalese VAT legislation is contained in the General Tax Code, from Article 351 to Article 399. VAT was introduced in 1980.



Rates and scope

The standard rate of VAT is 18%. There is a 10% reduced rate that applies to tourism-related activities (notably hotel accommodation and catering).

VAT is charged on the supply of goods and the provision of services in Senegal in the framework of an economic activity, and where the State and public entities carry out a commercial activity.

Certain operations are exempted, e.g. health care, agricultural and fishing activities, education, banking, insurance and reinsurance, and international transport companies (export).



VAT registration

Compulsory registration

Companies that carry out economic activities must be registered. They must have a tax identification number, which is valid for all taxation purposes.

Group and branch registration

Companies of a group are registered individually. A branch is considered to be a commercial company and must thus be registered with the tax administration.

Non-residents

When services are subject to VAT, foreign providers must designate a local fiscal representative for the payment of VAT. If not, the Senegalese debtor has to pay the VAT on behalf of the foreign provider.

No bank account is required in Senegal.



Input tax

Application for registration

An application for VAT registration must be submitted when the company is incorporated.

Deregistration

Deregistration is possible if the company has closed permanently. In such a case, it has to inform the tax administration of its permanent closure.



Output tax

Calculation of output tax

There are no specific rules relating to how VAT must be quoted in advertisements and prices. However, the amount of VAT must be indicated individually on an invoice.

Taxable income includes the value of the goods or services. For importation, it is the customs valuation (CIF).

The following items are not included in taxable income:

- Stamp duties;
- Disbursement under-provision; and
- Rebates or discounts.

Exempt supplies

Supplies are exempt (without credit) when they are related to the following:

- Health care;
- Education;
- Banking, insurance and reinsurance (specific taxation applies);
- International transport companies;
- Fishing activities;
- Agricultural activities; and
- Exportation.

Zero-rated supplies

No supplies are zero-rated, but economic operators who are exempted because of exportation activities may deduct input VAT and obtain a reimbursement of the corresponding credit, subject to certain conditions.

Input tax allowed

VAT applied on goods and services acquired for business needs is deductible.

Input tax expressly denied

VAT incurred on the following items is generally not deductible:

- Restaurant and housing expenses; and
- Vehicles for transporting persons.

Partial exemption

When performing taxable and non-taxable (exempted operations without right of deduction), the deductible VAT is calculated by way of the apportionment formula, where:

- The numerator is the total of taxable operations plus exports; and
- The denominator is the total of taxable operations plus exempt operations plus exports.
- The taxpayer must also divide itself into sectors for VAT purposes (subject to conditions). If the division into sectors is retained, there will be:
- A taxable sector, where the VAT paid to providers is fully deductible; and
- An exempted sector, where the VAT paid is not deductible.

VAT paid to providers for goods and services acquired for both sectors, which is deductible as input tax, is calculated in accordance with the above apportionment formula.

Adjustments

An adjustment must be made in the following instances:

- If the goods are no longer used for a taxable activity, the VAT must be calculated on the basis of the value of the goods; and
- In the case of a sale of depreciable goods for which input VAT has been deducted, an amount of VAT calculated in proportion to the remaining depreciable period must be paid. However, if the goods have been fully depreciated, there is no adjustment.



International trade

Imports

Imports of goods are subject to VAT at CIF value. If the foreign service provider has not designated a local fiscal representative, the Senegalese debtor must pay VAT on behalf of the foreign provider.

Exports

Exports of goods and services are exempted from VAT. Refunds to foreigners are not available in practice.



VAT compliance

Returns and payment of VAT

VAT returns must be filed and VAT paid within 15 days after the end of the month within which the tax event occurred.

Interest and penalties

In the case of late payment, 5% interest is levied on the amount due and an additional 0.5% duty is payable per month of delay or portion of a month of delay. These late payment charges are due when the taxpayer's regularisation is spontaneous. If such payment is triggered by a tax audit from the authority itself after the due date for payment, however, a 50% penalty applies. Interest and penalties are applicable irrespective of whether the non-compliance results in a loss to the State or in a benefit for the taxpayer.

Refunds

VAT refunds are possible only where the liable person cannot deduct a VAT credit from the output VAT or where the credit is due to exempted income with a right of deduction or applies under the VAT-withholding tax system (in limited cases, the output VAT is directly paid by the client of the Senegalese entity). In such a case, a refund application must be made to the tax administration within a period of two years following the origination of the credit. The refund is possible regardless of whether it is related to fixed assets or general expenses.



Objections and appeals

Any liable person can contest liability for VAT before the courts after receipt of an assessment notice or a notice of refusal of a VAT refund. A specific procedure must be followed and a limitation period may apply, depending on the nature of the contestation.

Time limits

Omissions or errors noted in the calculation or payment of VAT can be rectified by the tax administration within a period of four years. The maximum period for the taxpayer to claim corrections is two years after the tax event.



VAT records

Tax invoices

A proper tax invoice should include:

- The name, address, fiscal identification number, trade registration number and amount of share capital of the supplier of goods or provider of services;
- The nature and quantity of the goods or services;
- The net amount, the amount of VAT, the rate of VAT and the gross amount;
- The exemption provision from the tax code (if VAT is not applicable); and
- The bank account into which the payment should be made.

The Senegalese entity generally uses the French language and the local currency when issuing invoices; however, invoices may be in a foreign language and currency.

Credit notes and debit notes

Credit notes and debit notes are just accounting notions and are considered to be neither legal documents nor invoices.

Additional export documentation

In case of export, the following documents are required:

- Proof that the goods will be transported outside Senegal (international transportation documentation);
- Copy of export declaration stamped by Customs; and
- Banking documents proving that payment has been made by the importer.

Record-keeping

All records and books of account must be held inside Senegal. The records must be kept for a period of ten years. The retention of records in electronic or scanned formats is allowed, provided certain conditions are met.



Specific VAT rules

Bad debts

VAT on bad debts is recoverable. A claim must be made to the tax administration.

Land and buildings

Renting of residential blocks is exempt from VAT if they are unfurnished. The sale of land and buildings is exempt from VAT where stamp duties are applicable.

Leasing

Leasing operations are exempt from VAT where related to goods, the supply of which is also exempted.

Small business scheme

An individual conducting a small business can opt for the 'global contribution regime' and will then be liable for a fixed tax in full discharge, which includes the following:

- Income tax;
- Minimum income tax;
- Business licence tax;
- VAT;
- Fixed valuated employer tax; and
- Drinking establishment licence.

To benefit from this regime, the turnover of the small business should not exceed (CFA Franc – BCEAO) XOF50 million (approximately USD102 000).

A tax scale determines the amount of tax due according to the turnover of the retailer.

Promotional gifts

VAT on promotional gifts is recoverable if the value of each item is not above XOF20 000.

Tourism industry

Apart from VAT, the following specific taxes are applicable to a stay in a hotel:

- XOF600 per day for a single hotel bed; and
- XOF1 200 per day for a double hotel bed.

Transfer of a business

Transfer of a business is liable to registration duties. No VAT is applicable.

Warranty repairs

Warranty repairs are subject to VAT if they constitute a service invoiced separately. However, if the service is included in the price of the goods, VAT should not be applicable.

Other indirect taxes

Import duty

In the case of the importation of goods, some taxes are applicable, such as:

- Customs duty – ranging from 5% to 35%;
- Statistical tax – 1%;
- Solidarity community levy – 1%;
- CEDEAO levy – 0.5% (only applicable among CEDEAO countries); and
- COSEC levy – 0.4% (only applicable on importation by sea).

Excise duty

The products on which the Senegalese authorities levy excise tax, and the relevant excise tax rates, are as follows:

- Beverages – 40% for beverages containing alcohol plus an additional tax ranging from XOF1 500 to XOF5 000 per litre, and 3% for sparkling beverages;
- Tobacco – 45%;
- Coffee – 5%;
- Tea – 5%;
- Fat – rate varies from 5% to 12%;
- Private cars with a horsepower rating superior to 13CV: 10%;
- Cosmetic products – 10% (increased to 15% for depigmentation products); and
- Oil products – rates per nature and per hectolitre: XOF21 665 for super-petrol, XOF19 847 for conventional petrol, XOF3 856 for petrol for the use of pirogues, XOF10 395 for diesel.

Registration taxes

The following transfers trigger registration taxes:

- Transfer of shares or debts – 1%;
- Sale of real estate – 5%; and
- Sale of business – 5%.

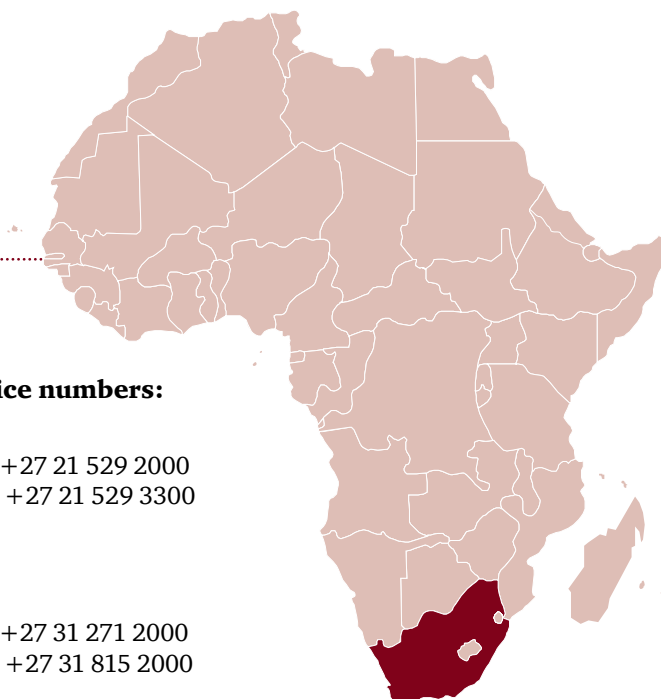
Stamp duty

Among the transactions subject to stamp duties are any document pertaining to registration formalities; acknowledgment of payment in cash; and bills of exchange.

The stamp duty is XOF2 000 per page. There are also stamp duties due on payment made in cash: 1% if the payment is higher than XOF100 000. If below, no stamp duty.



South Africa



Contact details

Website: www.pwc.co.za

Physical address: **Postal address:**

Office numbers:

Cape Town

5 Silo Square
V&A Waterfront
Cape Town
8002

PO Box 2799
Cape Town
8000

Tel: +27 21 529 2000
Fax: +27 21 529 3300

Durban

34 Richefond Circle
Ridgeside Office Park
Umhlanga Ridge
4319

PO Box 1049
Durban
4000

Tel: +27 31 271 2000
Fax: +27 31 815 2000

Gauteng – Sunninghill

2 Eglin Road
Sunninghill
2157

Private Bag X36
Sunninghill
2157

Tel: +27 11 797 4000
Fax: +27 11 797 5800

Port Elizabeth

PwC Building
Ascot Office Park
1 Ascot Road
Port Elizabeth
6045

PO Box 27013
Greenacres
6057

Tel: +27 41 391 4400
Fax: +27 41 391 4500

Office

PwC contact persons

Contact details

Cape Town

Charles de Wet
Mariette Cruywagen-Louw
Matthew Besanko

charles.de.wet@pwc.com
mariette.cruywagen-louw@pwc.com
m.besanko@pwc.com

Durban

Rodney Govender

rodney.govender@pwc.com

Gauteng (Sunninghill)

Gerard Soverall
Lesley O'Connell
Herman Fourie
Louis Carney
Dorwin Nyaga

gerard.soverall@pwc.com
lesley.oconnell@pwc.com
herman.fourie@pwc.com
louis.carney@pwc.com
d.nyaga@pwc.com

Port Elizabeth

Mornay Schafer

mornay.schafer@pwc.com



Introduction

Value-added tax (VAT) was introduced in South Africa with effect from 30 September 1991 by way of the Value-Added Tax Act 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

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. Money and tax stamps are neither goods nor services.

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.



VAT registration

Compulsory registration

The registration threshold (in South African Rand/ZAR) is ZAR1 million (\pm USD66 500). If a person's total annual value of taxable supplies has exceeded this threshold during the past 12 months, or there are reasonable grounds to expect that the threshold will be exceeded during the following 12 months (there is a contractual obligation in writing motivating that this threshold will be exceeded), the person must apply for registration. 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.

Provisions have been introduced, with effect from 1 April 2014, where foreign suppliers of electronic services are required to register where supplies are made to residents of South Africa, or recipients who have a business, residential or postal address in South Africa, or payment is made from a South African bank account, and the value of these supplies has exceeded R50 000 (\pm USD3 500). At least two of these three provisions should be satisfied.

Voluntary registration

A person may apply for voluntary registration if:

- Their taxable supplies have exceeded ZAR50 000 in a preceding 12-month period;
- They carry on an enterprise that can be expected to result in taxable supplies in excess of ZAR50 000 during a 12-month period due to its nature;
- They buy a business as a going concern if the previous owner made taxable supplies in excess of ZAR50 000 in a 12-month period; and
- The entity falls within a category specified by the legislation, including but not limited to welfare organisations, share block companies, foreign donor-funded projects, municipalities etc., even if the ZAR50 000 requirement has not been met.



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 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 the municipal account of the business and representative; and
- Copies of the past three months' bank statements for purposes of determining the value of the business' 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 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 ten digits, starting with a '4', for example, 499 9999 999.

The registration process for foreign suppliers of electronic supplies can be done via email. The following information, translated into English, will need to be submitted (and, thus, attached to the email):

- The completed VAT registration form (VAT 101);
- The certificate of incorporation of the foreign entity;
- Proof of registration with a foreign tax authority;
- The ID of the person responsible for the compliance;
- Copy of recent a bank statement for a South African or foreign bank account, whichever is applicable.

Deregistration

A vendor whose taxable supplies do not exceed the ZAR1 million limit has the option to deregister. A vendor must apply for deregistration if their taxable supplies did not exceed the ZAR50 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.

Upon deregistration the vendor must pay output tax on all assets of the enterprise held by them immediately prior to their deregistration.



Output tax

Calculation of VAT

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 the following goods or services are exempt:

- Certain financial services;
- Donated goods or services supplied by an association not for gain;
- Residential accommodation in a dwelling;
- Leasehold land that is or will be used to erect a dwelling;
- Land (including existing improvements) situated outside South Africa;
- Management services supplied by bodies corporate of sectional title property schemes, share block companies, housing development schemes for retired persons, home owners' associations and body corporates;
- Passenger transport by road or railway;
- Educational services;
- Crèche and after-school services;
- Services supplied by employee organisations against payment of membership contributions;
- Goods supplied in South Africa by a person who is not a resident of South Africa, and is not a vendor, if the goods have not been entered for home consumption (unless approval is obtained to zero-rate the supply);
- Goods or services by a bargaining council against payment of membership contributions; and
- Goods or services by a political party against payment of membership contributions.

Zero-rated supplies

Supplies of the following goods or services are zero-rated, provided that all documentary and procedural requirements have been met.

Zero-rated goods

- Exportation of goods;
- Leasing of goods for exclusive use in an export country;
- Supply of an enterprise (or separately registered branches) as a going concern;



Input tax

Input tax allowed

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 a vendor carries on an entertainment business;
 - Where the entertainment expenses are incurred for personal subsistence for business purposes (subject to requirements);
 - Where entertainment forms part of a taxable transport service;
 - Where food and drinks are included in the fee for a seminar;
 - Where the entertainment is supplied by a municipality in providing sports or recreational facilities or amenities to the public;
 - Where a welfare organisation incurs entertainment expenses (must relate to the carrying out of the welfare's aims and objectives);
 - Where entertainment is provided to an employee at a medical care facility;
 - Where a meal or refreshment is supplied to a crew member of a ship or vessel;
 - Where entertainment is provided as a prize in a competition if the entry fees were subject to VAT;

Zero-rated services

- Unmanufactured gold supplied to the South African Reserve Bank, the South African Mint Company or a registered bank;
- Certain gold coins;
- Certain agricultural products supplied under prescribed circumstances;
- Fuel levy goods and petroleum oil;
- Goods transferred to a foreign branch;
- Basic foodstuffs such as brown bread, brown wheaten meal, maize meal, samp, mealie rice, dried maize, beans and lentils, pilchards or sardinella, rice, vegetables, fruit, vegetable oil, milk, cultured milk, milk powder, dairy powder blend, eggs and edible legumes;
- Illuminating paraffin (kerosene) used for illuminating or heating;
- Movable goods (excluding a motor car) sold to a registered vendor in a customs controlled area (CCA) (in an industrial development zone), if the goods are physically delivered to the CCA recipient by the supplier or their cartage contractor;
- Certain mining rights;
- Goods associated with animal disease grants;
- 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;
- Supply of goods by an inbound duty- and tax-free shop; and
- 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).
- International transport of passengers or goods – outside, to or from South Africa;
- Local leg of international carriage by aircraft;
- Local leg of international transport of goods;
- Certain services rendered to a foreign branch;
- Services relating to land and improvements outside South Africa;
- Certain services relating to goods outside South Africa, foreign-going ships or aircrafts, goods temporarily admitted, goods exported or a foreign-operated railway train;
- Services rendered elsewhere than in South Africa or to a registered vendor in a CCA;
- 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;
- Services rendered by welfare organisations, to the extent that the services are funded by national or local government;
- Certain services funded by government grants;
- Services funded by international donor funds;
- Vocational training of employees of non-resident, non-vendor employers;
- Housing subsidies;
- Certain warranty services;
- Municipal property rates; and
- Race-horse winnings.



- Motor cars, unless acquired by a motor dealer or rental firm for resale or rental purposes or as demonstration model, 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 (without credit) supplies, an apportionment of VAT incurred must be made. 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' 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.

Adjustments

When the application or use of goods or services is changed subsequent to the acquisition thereof, the amount of VAT that was originally deducted as input tax may no longer be equitable and appropriate in view of the subsequent application of the goods or services.

Adjustments must be made to the vendor's output tax where:

- Goods or services acquired for making taxable supplies are subsequently applied wholly for non-taxable purposes. Output tax, calculated on the open market value of the goods or services, must be accounted for in the tax period in which the non-taxable application occurs; and
- The extent of taxable use or application of capital goods and services (costing more than ZAR40 000) has decreased by more than 10%. Output tax, which is calculated as $[14/114 \times \text{lesser of cost or open market value} \times \% \text{ of decreased taxable use}]$, must be accounted for in the tax period in which the last day of the vendor's income tax year of assessment falls.

Adjustments must be made to the vendor's input tax where:

- Goods or services acquired for non-taxable purposes are subsequently applied for making taxable supplies. The deduction is calculated as $[14/114 \times \text{lesser of cost or open market value} \times \% \text{ of taxable use}]$ and may be made in the tax period in which the taxable application occurs; and
- The extent of taxable use or application of capital goods or services (costing more than ZAR40 000) has increased by more than 10%. The deduction is calculated as $[14/114 \times \text{lesser of cost or open market value} \times \% \text{ of increased taxable use}]$ and may be made in the tax period in which the last day of the vendor's income tax year of assessment falls.

Pre-registration and post-deregistration VAT

Under certain circumstances, a company can claim input tax on goods and services acquired by a person on behalf of the company before incorporation.

A person who has incurred VAT on the acquisition of goods or services prior to their VAT registration date, and who will use the goods or services subsequent to their registration as a VAT vendor, may make a deduction. It is calculated as $[14/114 \times \text{lesser of cost or open market value} \times \% \text{ of taxable use}]$ in the tax period in which the taxable application occurs.

When a vendor is deregistered, VAT is payable on all assets of the business on the date of cancellation of registration. VAT incurred after deregistration cannot be recovered as input tax.



International trade

Imports

Goods

VAT 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 $[\text{customs value of goods} + 10\% \text{ thereof} + \text{customs and excise duties}] \times 14\%$.

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.

Services

A reverse-charge rule applies when a non-resident (being a non-vendor) provides recipients in South Africa with services which would be neither exempt nor zero-rated if made by a VAT vendor 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 ZAR100 per invoice.

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.



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;
- Supplied directly to the non-resident or any other person who is in South Africa when the services are rendered; or
- In connection with a restraint of trade relating to an enterprise in South Africa.

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 (through a designated commercial port) within three months. The refund request must be received by SARS within three months after the date of export.



Place, time and value of supplies

Place of supply

In line with the destination-based principle, the VAT Act aims to tax only consumption within South Africa by allowing zero-rating for exports of goods and services rendered to non-residents.

As the VAT Act does not contain specific place-of-supply rules, uncertainties and disputes have arisen as to when foreign enterprises making supplies in South Africa, for example by way of local agents or the Internet, must be registered as vendors in South Africa.

Provisions have been introduced that foreign suppliers of electronic services are required to register if they supply electronic services to any person resident in South Africa via the Internet or other electronic means.

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, whichever is earlier;
- Goods supplied progressively or periodically and construction services – when each payment becomes due or is received, or an invoice is issued, whichever is earlier;
- Instalment credit agreement – when the goods are delivered or any payment is received, whichever is earlier;
- Fixed property – when registration of transfer is effected in the Deeds office, or any payment is made, whichever is earlier; or
- Coin-operated machines – the time of supply for the supplier is when the coin or token is taken from the machine, while time for the recipient is when the coin or token is inserted into the machine;
- Goods supplied under an agreement (other than instalment credit agreement or rental agreement) for which the whole consideration is not determined – when and to the extent that any payment is due or received, or an invoice is issued, whichever is earlier;
- Services supplied under an agreement for which the consideration is not determined – when and to the extent that any payment is due or received, or invoice is issued, whichever is earlier; and
- Supplies between connected parties – particular time-of-supply rules and provisions apply.

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 or the consideration cannot be determined at the time 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;
- Supply of certain residential accommodation for an uninterrupted period exceeding 28 days – value is 60% of the all-inclusive charge;
- Exportation of second-hand goods – value is the purchase price to the supplier;
- Fringe benefits – value is the cash equivalent of the benefit for income tax purposes;
- Supply of entertainment if input tax was denied on the goods or services acquired to supply the entertainment – value is nil; and
- No price is paid and no special rule applies – value is nil.



VAT compliance

Accounting basis and tax period

Tax periods are periods of one, two, 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;
- Six months – agricultural, pastoral or other farming enterprise with annual taxable turnover not exceeding ZAR1.5 million may apply;
- 12 months – companies and trusts letting goods and providing administrative services to related persons on annual basis may apply; and
- 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.

VAT payments can be made at SARS offices, at certain commercial banks, and by way of Internet payments. Payment may be made in cash (but not at SARS offices) or by cheque (limited to ZAR50 000), by bank transfer (electronic funds transfer (“EFT”)) or by way of the SARS e-filing payment facility.

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;
- Penalty 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' side, a serious financial hardship, or other circumstances of analogous seriousness; and
- An 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

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' 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', and from 8 January 2016 the words 'tax invoice', 'VAT invoice' or '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, and the rate of VAT charged.

If the consideration for the taxable supply does not exceed ZAR5 000, the supplying 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 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 their output tax for the period in which the debit note was issued, and the recipient (if a registered vendor) may increase their input tax to reflect the debit note. Where a credit note was issued, the supplier has an option to either decrease their output tax or increase their input tax. The opposite applies to the recipient (if registered as a vendor).

Additional export documentation

Specific documentary requirements have been prescribed by SARS for substantiating the zero-rating of an export, for example:

- The supplier's copy of the zero-rated tax invoice;
- The recipient's order or the contract between the supplier and recipient;

- Export documentation as prescribed under the Customs and Excise Act;
- Proof of payment;
- Proof that the exported goods have been received by the recipient outside South Africa; and
- Other specific documents, depending on the mode of transport.

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.



Specific VAT rules

Bad debts

A vendor may claim a deduction if a bad debt has been written off for accounting purposes. If the bad debt is subsequently recovered, output tax must be accounted for.

Bad debt relief cannot be claimed when a vendor transfers accounts receivable on a non-recourse basis. If transferred on a recourse basis, a deduction can be claimed only when the debt is transferred back to the vendor in respect of any part of the debt that was subsequently written off as irrecoverable.

If a vendor who is registered on the invoice basis claims an input tax deduction and fails to pay the invoice within 12 months, the vendor must account for output tax on the outstanding invoice amount (exceptions apply). When the vendor subsequently pays any amount of the invoice value, an input tax deduction can be claimed.



Land and buildings

The sale of land and buildings by a vendor during the ordinary course of its business is subject to VAT, in which case no transfer duty is payable. The sale of fixed property by a non-vendor is subject to transfer duty only (unless an exemption applies).

A vendor may claim an input tax deduction on the acquisition of second-hand fixed property under a non-taxable supply to the extent that payment has been made and transfer of the property was effected by registration in a deeds registry in the name of the vendor making the input tax deduction.

Accommodation

The letting of a dwelling to be used as a residence of a natural person is exempt from VAT.

The supply of short-term accommodation, for example holiday accommodation in hotels and guesthouses, is subject to VAT if the supplier is registered as a VAT vendor in respect of this activity. A person who provides such accommodation qualifies for VAT registration only if they have made (or are expected to make) taxable supplies of such accommodation of more than ZAR120 000 per annum. If such accommodation is provided for an uninterrupted period exceeding 28 days, VAT is charged on only 60% of the charge.

Leasing

If goods are supplied under an instalment credit agreement, the supplier must account for output tax on the total cash value excluding any finance charges when the goods are delivered or the first payment is made, whichever time is the earlier.

If goods are supplied under a rental agreement, output tax is payable on the full amount of each periodic payment. While VAT is also levied on any finance charges included in the rental, VAT is not payable upfront but only when the instalments are paid.

Promotional gifts

Where no consideration is received for promotional gifts distributed by a vendor, no output tax will be payable. A vendor who acquires promotional gifts for purposes of distribution in the course of making taxable supplies (diaries, pens, clothing or product samples, for example) may claim input tax in respect thereof, unless the input tax is specifically denied, that is where the gift constitutes entertainment (e.g. wine or chocolates).

Second-hand goods

The supply of second-hand goods by a vendor is subject to VAT. A vendor who has purchased second-hand goods under a non-taxable supply may, subject to certain conditions, deduct 'notional input tax' that is calculated as the tax fraction (14/114) of the lesser of the open-market value or the consideration paid. Where the second-hand goods are fixed property, the notional input tax may be deducted to the extent that payment has been made and the transfer of the property was effected by registration in a deeds registry in the name of the vendor making the input tax deduction.

Tourism industry

The transport of fare-paying passengers by road or railway is exempt, excluding transport by way of a funicular railway or a game-viewing vehicle. The transport of passengers from South Africa to a destination outside South Africa (and vice versa) is zero-rated. The zero-rate also applies to the local leg of an international flight, for example a connecting flight between Cape Town and Johannesburg en route to New York. The supply of accommodation and meals (e.g. in hotels) is subject to VAT at the standard rate.

Travel agency fees charged for arranging a tour package are zero-rated if the tourist is outside South Africa when the tour package is arranged, and standard-rated if the tourist is in South Africa when the tour package is arranged. Tour operators must keep accurate records to establish which part of the package relates to exempt supplies (e.g. travel in South Africa), zero-rated supplies (e.g. travel to a place outside South Africa) and taxable supplies (e.g. hotel accommodation).

Transfer of a business

The sale of an enterprise (or part thereof) to a registered vendor is zero-rated if the parties have agreed in writing that:

- The enterprise will be sold as a going concern at 0%;
- The enterprise will be an income-earning activity on the date of transfer; and
- The assets that are necessary to carry on the enterprise are disposed of to the purchaser.

If the purchaser of an enterprise that was sold as a going concern at 0% acquires the enterprise partly for non-taxable purposes, output tax must be paid to the extent of the intended non-taxable application (if more than 5% of total application).

Warranty repairs

The supply of services to a warrantor for consideration in respect of goods under warranty is zero-rated if the warrantor is a non-resident and non-vendor; the warrantor is outside South Africa at the time the services are rendered; and VAT was paid on the importation of the goods under warranty.



Other indirect taxes

Customs duty

Customs duty is payable on the importation of goods into South Africa at the time of entry for home consumption. The rate of duty is often determined as a percentage of the value of the goods (ad valorem) at a rate ranging from 0% to as high as 60%. Additional ad valorem customs duties are levied on a range of luxury items.

South Africa is a member of the Southern African Customs Union (SACU), which includes as other members Botswana, Namibia, Lesotho and Swaziland. Import duties are not levied on movements of goods between these countries.

Depending on the origin of the imported goods concerned, preferential tariff treatment may be applied. Furthermore, a number of duty relief schemes are available depending on the type of customs-related activities in which an importer or exporter engages.

Excise duty

Excise duty is payable on certain locally manufactured goods, and non-essential products consumed locally with a corresponding customs duty (at the same rate of duty) on imported goods of the same class or kind, for example fuel products, tobacco products, malt beer, traditional African beer, spirits (liquor) products, wine, other fermented beverages, ad valorem products and environmental levy goods. The rate of excise duty is levied on the specific quantity or volume consumed.

Ad valorem excise duty is payable on other locally manufactured non-essential or luxury products with a corresponding ad valorem customs duty (at the same rate of duty) on imported goods of the same class or kind. These include motor vehicles, cell phones, cosmetics and television receivers. The excise duty is assessed on the value of the products consumed locally.

Environmental levy

An environmental levy is charged on certain locally manufactured and imported plastic carrier bags and flat bags (e.g. grocery bags), electricity generated at an electricity generation plant in South Africa, electrical filament lamps and carbon dioxide (CO₂) vehicle emissions.

Transfer duty

Transfer duty is payable on the transfer of immovable property unless the supply of the property is subject to VAT. The person acquiring the property must pay the transfer duty. The following rates apply with effect from 1 March 2016:

- If the value of the property is less than ZAR750 000 – 0%;
- If the value of the property exceeds ZAR750 000, but not ZAR1.25 million – 3% on the value above ZAR750 000;
- If the value of the property exceeds ZAR1.25 million but not ZAR1.75 million – ZAR15 000 + 6% of the value above ZAR1.25 million;
- If the value of the property exceeds ZAR1.75 million but not ZAR2.25 million – ZAR45 000 + 8% of the value above ZAR1.75 million;

- If the value of the property exceeds ZAR2.25 million but not ZAR10 million – ZAR85 000 + 11% of the value above ZAR2.25 million; and
- If the value of the property exceeds ZAR10 million – ZAR937 500 + 13% of the value above ZAR10 million.

Securities transfer tax

Securities transfer tax is charged on the transfer of listed and unlisted securities at the rate of 0.25% of the taxable amount (the purchase consideration unless a special rule applies) in respect of any transfer of a security.

Skills development levy

A skills development levy is payable by employers who have an annual payroll in excess of ZAR500 000 at a rate of 1% of the total remuneration paid to employees. This is a compulsory levy scheme for the funding of education and training.

Turnover tax

Certain persons whose turnover does not exceed ZAR1 million during the year of assessment, and who do not render professional services, may apply to be registered for the turnover tax for microbusinesses. This is a simplified tax system which serves as an alternative to VAT, income tax, provisional tax, etc.

General fuel levy and Road Accident Fund levy

The general fuel levy and the Road Accident Fund levy are payable on the sale of petrol and diesel. No VAT is payable on fuel levy goods.

Air passenger departure tax

Passengers departing to Botswana, Lesotho, Namibia and Swaziland pay air passenger departure tax of ZAR100 per passenger, while passengers departing to other international destinations pay ZAR190 per passenger.



Tanzania



Contact details

Website:	www.pwc.com/tz
Physical address:	369 Toure Drive, Oysterbay, Dar es Salaam Ground Floor, Office No. A1, PPF Kaloleni Commercial Complex, Moshi Arusha Road, Arusha
Postal address:	PO Box 45, Dar es Salaam PO Box 3070, Arusha
Telephone number:	+255 22 219 2200 +255 27 254 8881
Fax number:	+255 22 219 2000 +255 27 250 8166

PwC contact persons

David Tarimo	david.tarimo@tz.pwc.com
Rishit Shah	rishit.shah@tz.pwc.com
Joseph Lyimo	joseph.lyimo@tz.pwc.com
Miriam Sudi	miriam.sudi@tz.pwc.com
Fabiola Ssebuyoya	ssebuyoya.fabiola@tz.pwc.com

Contact details



Introduction

A new VAT Act came into effect from 1 July 2015 (Value-Added Tax Act 2014, 'VAT Act 2014'), replacing the Value-Added Tax Act Cap 148 of 1997, the 'VAT Act 1997', which was operational from 1 July 1998 to 30 June 2015. In Zanzibar, the VAT Act 1997, which came into effect in

Zanzibar on 1 July 1998, has not changed. VAT is administered by the Tanzania Revenue Authority (TRA) in Mainland Tanzania, and in Zanzibar by the Zanzibar Revenue Board (ZRB). Mainland Tanzania and Zanzibar have different VAT legislation.



Rates and scope

The standard rate of VAT is 18%. There is no higher or reduced rate (except for the zero rate).

VAT is charged on any supply of goods or services made in Mainland Tanzania where it is a 'taxable supply' made by a 'taxable person' in the course or furtherance of an economic activity carried on by them. VAT is also chargeable on the importation of taxable goods and services.



VAT registration

Compulsory registration

A person is obliged to register for VAT when making supplies of goods and/or services within 30 days of their taxable turnover becoming equal to, exceeding, or being likely to exceed:

- TZS100 million (approximately USD50 000) in a period of 12 consecutive months; or
- TZS50 million (approximately USD25 000) in a period of six consecutive months.

A person's turnover in respect of imported services shall be considered for registration where that person has a turnover resulting from taxable supplies other than supplies of imported services.

It is mandatory for the following persons to register for VAT:

- Professional services providers (regardless of their turnover); and
- A government entity or institution which carries on an economic activity other than its statutory activities.

VAT legislation also empowers the Commissioner General to register an entity regardless of the registration threshold. This is upon the Commissioner being satisfied that there is a good reason to do so, including protection of Government revenue.

Voluntary registration

Application for registration may be made in advance of any requirement to do so, but registration is allowed only at the Commissioner's discretion.

Intending traders

The Commissioner General may register a taxable person as an intending trader upon their fulfilment of the following conditions:

- Provide sufficient evidence to satisfy the Commissioner of their intention to commence an economic activity, such as contracts, tenders, building plans, business plans or bank financing;

- The person must be making or intending to make supplies that will be taxable supplies if that person is registered; and
- Specification of the period within which the intended economic activity will commence.

An application for registration of an intending trader may be made at any time.

Group or branch registration

Group registration for companies is not allowed in Tanzania. Registration by a person is regarded as a single registration and covers all economic activities undertaken by that person's branch or divisions. If taxable supplies are made in Zanzibar, a separate 'branch' registration in Zanzibar is required.

Non-residents

A non-resident who carries on an economic activity in Mainland Tanzania without a fixed place and makes taxable supplies in excess of the VAT registration threshold is required to appoint a VAT representative.

Application for registration

Registration for VAT is applied for on form ITX245.02.E, which can be obtained from the TRA's website (follow the link <http://www.tra.go.tz/index.php/forms>). An application must be lodged within 30 days of the business becoming liable to make the application.

Deregistration

If a person ceases to be liable to be registered, either through cessation of trading or because their turnover falls below the registration threshold, they must apply for deregistration within 14 days. Deregistration may also be initiated by the TRA where it sees fit.

VAT must be accounted for on all stock and assets on hand at deregistration, unless the business is a going concern that is being transferred.



Output tax

Advertised prices must be stated inclusive of VAT. Output tax is calculated on the taxable value of the supply.

Exempt supplies

The following supplies are exempt from value-added tax:

1. Agricultural implements;
2. Agricultural inputs;
3. Livestock, basic agricultural products and foods for human consumption;
4. Fisheries implements;
5. Bee-keeping implements;
6. Dairy equipment;
7. Medicine or pharmaceuticals products, not including food supplements or vitamins;
8. Articles designed for people with special needs;
9. Education materials;
10. Health care;
11. Immovable property;
12. Educational services;
13. Intermediary services (including several insurance and some financial services);
14. Non-statutory services by a government entity or institution;
15. Petroleum products;
16. Supply of water, except bottled or canned water or similarly presented water;
17. The transportation of a person by any means of conveyance other than taxi cabs, rental cars or boat charters;
18. Supplies of arms and ammunitions, and parts and accessories thereof, to the armed forces;
19. Funeral services, as regards the coffin, shroud, transportation, mortuary and disposal services of human remains;
20. Gaming supplies;



21. Supply of solar panels, modules, solar charger controllers, solar inverters, solar lights, vacuum tube solar collectors and solar batteries; and
22. Supply of air charter services.

Note: Items 1 to 9 and item 15 are restricted to prescribed HS codes.

The following imports are exempt from value-added tax:

1. An import of baggage or personal effects (exempt from customs duty under the Fifth Schedule of the East African Customs Management Act, 2004);
2. An import of goods given as an unconditional gift to the State, otherwise than for purposes of sale;
3. An import of goods (including containers) if the goods have been exported and then returned to Mainland Tanzania by any person without being subjected to any process of manufacture or adaptation and without a permanent change of ownership, but not if at the time when the goods were exported, they were the subject of a supply that was zero-rated under this Act or under repealed Value-Added Tax Act, Cap. 148;
4. An import of goods shipped or conveyed to the United Republic for transshipment or conveyance to any other country;
5. An import of goods made available free of charge by a foreign government or an international institution with a view to assisting the economic development of the United Republic;
6. An import of food, clothing or shoes donated to a non-profit organisation for free distribution to orphanages or schools for children with special needs in Mainland Tanzania;
7. An import of goods by a non-profit organisation for the provision of emergency and disaster relief; where such goods are capital goods, the goods shall be handed to the National Disaster Committee upon aversion, completion or diminishing of the disaster;

8. An import of goods by a religious organisation for the provision of health, education, water or religious services in circumstances that, if services are supplied –

- (a) without fee, charge or any other consideration in a form of fees, or
- (b) on payment of any consideration,

the fees or charges will not exceed 50% of the fair market value;

9. An import of goods that is exempt under an agreement entered into between the Government of the United Republic and another government or an international agency;
10. An import of goods by a registered and licensed explorer or prospector for exclusive use in oil, gas or mineral exploration or prospection activities to the extent that those goods are eligible for relief from customs duties under the East African Customs Management Act, 2004;
11. An import of an aircraft, aircraft engine or parts by a local operator of air transportation;
12. An import of a railway locomotive, wagons and tramways, and of their parts and accessories by a registered railways company, corporation;
13. An import of fire-fighting vehicles by the Government;
14. An import of laboratory equipment and reagents by an education institution registered by the Ministry responsible for education, to be used solely for educational purposes;
15. An import of CNG plants, equipment, natural gas pipes, transportation and distribution pipes, CNG storage cascades, CNG special transportation vehicles, natural gas metering equipment, CNG refuelling or filling, gas receiving units, flare gas systems, condensate tanks and leading facility, system piping and pipe rack, or condensate stabilizer by a natural gas distributor; and
16. Firefighting equipment.



Input tax

Input tax allowed

A taxable person shall be allowed a credit for input tax if:

- Goods, services or immovable property on which the input tax was incurred were acquired or imported into Mainland Tanzania by the person in the course of their economic activity and for the purpose of making taxable supplies;
- In case of imported services, the person has accounted for output tax on the same VAT return; and
- Costs incurred on supplies to employees, if output VAT was accounted for on a related benefit in kind.

Other conditions include:

- Input tax incurred for which a 'fiscal receipt' is held at the time the deduction is claimed; and
- Input tax incurred where the 'fiscal receipt' is dated less than six months before the deduction is claimed.
- The deduction of input tax is subject to a de minimus rule, as follows:
- Full recovery if a person makes taxable supplies of more than 90%;
- Partial recovery if a person makes taxable supplies of more than 10% but less than 90%; and
- No recovery if a person makes less than 10% of taxable supplies.

Input tax expressly denied

No input tax may be claimed on the following expenses: entertainment; sporting, social or recreational clubs or associations; spare parts; and repair or maintenance costs in respect of passenger vehicles.

Note:

An input tax credit in respect of a passenger vehicle shall be allowed where a person's economic activity involves dealing in, hiring out, or providing transport services in passenger vehicles and the vehicle was acquired for that purpose. According to VAT Regulations 2015, a 'passenger vehicle' for which input tax credit will be allowed is a vehicle with a passenger seating capacity of more than sixteen persons.



International trade

Partial exemption

If a business makes both exempt supplies and taxable supplies, it is said to be 'partially exempt'. The amount of input tax it may reclaim will be restricted to that related to its taxable supplies. There is one method specifically mentioned in the legislation to calculate this amount, i.e. the average method. It is arguable that the direct attribution method can also be used according to the interpretation of the legislation.

Average method

The average pro rata method is based on the proportion of taxable supplies over total supplies.

Under this method, the deductible input tax is calculated using the apportionment formula, where the numerator is the total value of all zero-rated and standard-rated supplies (VAT-exclusive) and the denominator is the total value of all zero-rated, standard-rated (VAT-exclusive) and exempt supplies.

Adjustments

Adjustments are required in the following circumstances:

- When VAT previously accounted for by a supplier is different from the VAT duly payable on the supply;
- Change of use;
- Bad debts;
- Making and receiving insurance payments;
- Correction of minor errors; and
- Becoming registered and cancellation of registration.

Pre-registration and post-deregistration VAT

Input tax incurred within the six months prior to registration can be claimed no later than in the third VAT return submitted following registration. A person whose registration is cancelled must, within 30 days after the date of cancellation of their registration, file a final VAT return and pay all taxes due under this Act. This includes claiming any input tax in respect thereof.

Imports

Goods

VAT is chargeable at importation on all goods that are not exempt from VAT or do not qualify as capital goods. The value for VAT is the CIF value plus any customs and/or excise duty. There is a VAT deferment scheme for the importation of capital goods. VAT, if applicable, must be paid before the goods will be released by Customs.

Services

The reverse charge applies to imported services subject to the de minimus rule (90:10 ratio), as explained below:

- If a recipient of services makes taxable supplies that are less than 10% of total supplies, they have to account for output tax on imported services while not being allowed to claim any input tax;
- If a recipient of services makes taxable supplies of more than 90% of total supplies, they do not have to account for VAT on imported services as all the resultant input tax on applying a reverse charge will be claimable; and
- If a recipient of services makes taxable supplies such that $10\% < X < 90\%$, that person will be required to do reverse charge accounting of imported services and charge output tax in full, and they will only be entitled to claim partial input tax depending on the ratio of taxable supplies to the total supplies (exclusive of imported services).

Exports

Goods

Exports of goods are zero-rated. This applies whether goods are standard-rated or exempt when supplied for domestic consumption. Zero-rating is applicable only to the actual exporter, and not to any preceding transactions. Zero-rating is conditional on satisfactory proof of exportation being produced to TRA if required.

Foreign companies which are profit organisations are not entitled to refunds.

However, non-profit organisations without a VAT registration in Tanzania can get a refund if they are operating under a bilateral agreement between the Government of Tanzania and another government or an international agency listed under the Diplomatic and Consular Immunities and Privileges Act. Such agreement must entitle a person to an exemption from tax on the person's purchases or imports.

Services

The list of services excluded from being standard-rated is broader than the restricted approach under the previous VAT Act. In particular, the following should be noted:

- Subject to exceptions for certain types of supply (for example, services related to land / immovable property, essential services, telecommunications, radio and television, and electronic services), services will be zero-rated if performed in Tanzania for a person based outside Tanzania who effectively uses or enjoys the service outside Tanzania.
- Services subject to zero-rating also include international transport and certain related services (except ancillary transport services as defined), services supplied to a non-resident warrantor, services directly related to land outside Tanzania, certain services physically performed outside Tanzania, services connected with temporary imports, intellectual property rights for use outside Tanzania, and supplies of telecommunications services by a resident telecommunications service provider to a non-resident telecommunications service provider.



Place, time and value of supplies

Place of supply

A supply of goods shall be treated as a supply made in Mainland Tanzania if the goods are:

- Delivered or made available in Mainland Tanzania;
- Installed or assembled in Mainland Tanzania by, or under a contract with, the supplier;
- Dispatched or transported from Mainland Tanzania to a place outside the United Republic; or
- A supply of immovable property situated in Mainland Tanzania or a supply of services directly related to land situated in Mainland Tanzania.

Time of supply

The value-added tax imposed on a taxable supply shall become payable at the earlier of the time-

- When the invoice for the supply is issued by the supplier;
- When the consideration for the supply is received, in whole or in part; or
- Of supply.

The time of supply is defined as:

- For goods – when they delivered or made available; and
- For immovable property – the earlier time at which the property is (i) created, transferred, assigned, granted or otherwise supplied to the customer; or (ii) delivered or made available.

For imports of goods, VAT must be paid at the time the customs duty is payable. Where the imported goods are capital goods as defined in the Customs Tariff, VAT deferral is allowed if certain procedures are followed.

Consideration for supply

If the supply is for a monetary consideration, the value of the supply is taken to be the taxable consideration.

If the consideration is not monetary or only partly monetary, the value of the supply is the open-market value thereof. The open-market value of the goods or services is deemed to be the value that it would fetch in the ordinary course of business, where the supplier and purchaser are not connected.

Consideration of supply shall not include a price discount or rebate allowed and accounted for at the time of supply, i.e. discounts and rebates are allowable reductions to the consideration.



VAT compliance

Accounting basis and tax period

VAT returns are electronically filed every month through the TRA website.

A taxable person is required to record each supply made and account for VAT on it at the time of supply (i.e. in the month in which the supply took place). Accounting for input tax is based on the accrual principle (i.e. upon receipt of the fiscal receipt).

Returns and payment of VAT

A VAT return on the prescribed form ITX 240.02 B must be lodged with any VAT payment due or claim to repayment, by the last business day of the month following the month in which the relevant transactions were incurred, known as the prescribed accounting period. Payment can be made by cheque or bank transfer. A direct bank transfer is encouraged. VAT on imported taxable goods is payable at the time customs duty is payable. Where the imported goods are capital goods as defined in the Customs Tariff, VAT deferment is allowed if certain procedures are followed.

Interest and penalties

Penalties can be imposed for failure to (i) maintain documents; (ii) file VAT returns; (iii) make false or misleading statements; or (iv) aiding or abetting.

Interest can be imposed for failing to pay tax (VAT).

Penalties are imposed by the Tax Administration Act 2015 and not the principal VAT legislation.

Late lodgement of returns

A monthly penalty is applicable upon late filing, amounting to the greater of (i) 2.5 % of tax assessable less tax paid; and (ii) five currency points for individuals and 15 currency points for body corporates.

1 currency point = TZS15 000 (approximately USD7)

Failure to pay tax

Where any amount of tax remains unpaid after the due date, interest at the statutory rate is calculated on the amount for the period of time it has been due/unpaid.

Refunds

At the end of a six-month period commencing with the return when a repayment first became due, taxpayers may apply for the refund of any accumulated or residual credit. A taxpayer in a regular repayment situation, defined as one who over a six-month period is in a net credit situation, can apply for repayments to be made on a monthly basis. All refund claims must be examined by a registered auditor, who will issue a 'certificate of genuineness'. There is a three-year time limit for lodging VAT refund claims.

If a business does not wish to make a claim, it can elect to carry forward excess VAT credits for offset against future payments.

Objections and appeals

If an objection to a VAT assessment is to be lodged, it must be lodged with the Commissioner-General within 30 days from the date of the assessment.

Once the notice of objection has been lodged against the assessment (within the prescribed 30 days from date of assessment), the Commissioner will consider the objection, or request further evidence in order to consider the objection, then either amend the assessment or refuse to do so.

Where the Commissioner agrees to amend the assessment as per the objection, a notice of the final assessment will be issued to the tax payer.

The tax payer has 30 days to respond to the Commissioner's proposal in writing, either agreeing or disagreeing with the proposed amended assessment or the proposed refusal.

Following this, the Commissioner will issue a notice of final determination and proceed to prepare the final tax assessment and serve the objector with a notice thereof.

If the taxpayer is aggrieved by the final determination of the assessment and wishes to dispute the assessment, they must lodge a notice of intention to appeal with the Tax Revenue Appeals Board within 30 days, and a statement of the ground for appeal within 45 days from the date of the notice of confirmation of the assessment. This same appeal process must be followed in any case where the taxpayer wishes to dispute the TRA's calculation of the amount due for refund or the refusal to make a refund.

A taxpayer can appeal against the decision of the Appeals Board to the Tax Revenue Appeals Tribunal. A notice of intention to appeal must be lodged within 30 days from the date of the Board's ruling and a statement of the grounds for appeal must be submitted within 15 days of lodging the notice of intention to appeal. A taxpayer can appeal against the decision of the Tax Appeals Tribunal to the Court of Appeal of Tanzania.

Dispute resolution procedures are not part of the main VAT legislation but occur under the Tax Administration Act (where resolving with the Revenue Authority) and later through the Tax Revenue Appeals Act (when resolving through quasi-judicial and judicial bodies).



VAT records

Electronic fiscal device

Businesses registered for VAT are required to use an electronic fiscal device (EFD) to record their daily supply of goods and services and issue a fiscal receipt or invoice for each transaction.

Fiscal receipt/invoice

A fiscal invoice/receipt generated by EFD must have the following contents:

- The name of the supplier;
- The VAT registration number of the supplier; and
- The taxpayer identification number (TIN) of the supplier.

The following only has to be included if the value of the supply exceeds TZS100 000:

- The name of the customer;
- The VAT registration number of the customer; and
- The taxpayer identification number (TIN) of the customer.

The invoice has to be a fiscal document (issued by means of an EFD) so that it is either a receipt from an electronic device or a tax invoice with an electronic signature.

The invoice furthermore has to be serially numbered and show the following information:

- Date of issue of the invoice;
- Description, quantity and other relevant information about the items supplied; and

- Total consideration payable for the supply and the amount of value-added tax included in that consideration.

Although electronic fiscal receipts and invoices may be issued, hard copies of these must be made available for inspection. The TRA also requires the purchaser to hold the original fiscal receipt or invoice. Foreign languages may not be used on the fiscal receipt or invoice. Invoicing may be done in a foreign currency, but a TZS equivalent and VAT amounts should also be shown.

Adjustment notes

An adjustment note may be issued if a supply is cancelled, the goods are returned to the supplier, or part or all of the supply is altered or varied. Decreasing adjustment notes must contain all the information required for a fiscal invoice or receipt, and must also state the amount of the decreasing adjustment and the reason for it.

Record-keeping

Records must be kept for a period of five years. Records may be kept outside Tanzania, but must be made available for inspection in Tanzania when required. Records may be kept in electronic form, but hard copies must be made available for inspection.



Specific VAT rules

Land and buildings

The sale of vacant land is exempt from VAT. The sale of newly constructed residential premises or a subsequent sale if the premises have been occupied as a residence for less than two years is standard-rated. If these conditions are not applicable, such sale is exempt from VAT.

Leasing

A lease, licence, hire or other form of supply, to the extent that it is a supply of the right to occupy and reside in residential premises, is exempt from VAT.



Other indirect taxes

Promotional gifts

Gifts of goods are taxable supplies. VAT should be accounted for at the open-market value. There is no de minimis limit for business gifts, nor any concessions for business promotion schemes.

Second-hand goods

VAT is chargeable on the sale of second-hand goods, unless the items are exempt from VAT. Exports of second-hand goods also qualify for zero-rating.

Tourism industry

Tourist services such as tourist guiding, game driving, water safaris, animal or bird watching, park fees, tourist charter services and ground transport are exempt from VAT. However, this does not include the provision of food and accommodation.

Transfer of a business

No VAT is chargeable and no input tax is deductible on transactions that qualify as the transfer of a going concern.

Customs duties

Customs duty is charged on imports at rates of 0%, 10% and 25%, based on a common external tariff for the East African community. The import of goods from one East African country to another is free from customs duty, subject to satisfaction of rules of origin. The top rate of 25% applies to consumer goods. The East African Community Customs Management Act, 2004, governs the customs duty rates and their application.

Excise duties

Excise duties are chargeable on petroleum products, beer, wine, spirits, soft drinks, mineral and bottled water, juices, tobacco and tobacco products, electronic communication services, money transfers, satellite and cable TV, motor vehicles over 1 000 cc in engine size, various cosmetics, handbags, yachts and other vessels for pleasure, imported furniture and firearms.

The scope of excise duty has also been extended to cover bank charges and fees as well as electronic and communication services.

Fuel levy

A fuel levy is charged on petroleum products at a rate of TZS313 per litre.

Stamp duty

Stamp duty is chargeable on certain prescribed instruments, including conveyances, leases, transfers of shares, and the issue and transfer of debentures.





Tunisia



Contact details

Website:	tunisie.pwc.fr
Postal address:	PricewaterhouseCoopers Tunisia, Imm. PwC Rue du Lac d'Annecy, 1053 Les Berges du Lac, Tunis, Tunisia
Telephone:	+216 71 160 000
PwC contact persons	Contact details
Mabrouk Maalaoui	mabrouk.maalaoui@tn.pwc.com
Borhene Tmar	borhene.tmar@tn.pwc.com



Introduction

VAT is levied under the Tunisian VAT Code and is due on all transactions taking place in Tunisia. VAT was introduced in June 1988 to replace the existing tax on production, the consumption tax and the tax on services that had been in force since 1955.



Rates and scope

The standard rate of VAT is 18%. Lower rates of 6% and 12% apply to specifically designated operations.

Some operations, products or services are out of the scope of VAT in Tunisia and others are expressly exempt from VAT. Some goods and services may be acquired VAT-free based on a certificate delivered for the purpose by the relevant tax authorities. This exemption is granted mainly to wholly exporting companies, oil and gas companies, and their contractors and subcontractors.

Unless expressly exempt, transactions that take place in Tunisia relating to commercial operations other than sales (sale operations subject to VAT are expressly designated), industrial and artistic operations, and independent personnel services are subject to VAT. This is regardless of the targets, the results and the legal status of the persons conducting the relevant operations and regardless of their liabilities for other taxes.



VAT registration

Compulsory registration

The following persons are liable for compulsory registration:

- Individuals and companies carrying out transactions that are subject to VAT;
- Individuals and companies mentioning – by mistake – VAT on their invoices, despite the fact that they are not subject to VAT. However, these individuals and companies are to be considered as subject to VAT only in respect of the relevant operations;
- Individuals and companies that opt to be liable for VAT;
- Entities affiliated with companies subject to VAT, regardless of their legal form; and
- Persons storing alcoholic drinks and wholesalers of wine and alcoholic drinks.

Persons liable for VAT can be either totally or partially subject to VAT.



Voluntary registration

Voluntary registration is allowed where persons:

- Carry out activities that are outside the scope of the Tunisian VAT. In this case, the option has to be a full option, which means that all the activities carried out by these persons will be subject to VAT; or
- Carry out operations that are exempt from VAT and that are destined for export, or supply products and services that are exempt from VAT to persons liable for VAT. In this case, the option may be a partial or a full option.

Group and branch registration

The branch or the subsidiary must register for VAT with the tax department, regardless of its liability for VAT, in order to get a tax identification number that shows the status of the registrant in regard to VAT. The registration must be made prior to starting any activity.

Non-residents

In case VAT is due on a transaction invoiced by an entity that is neither resident nor established in Tunisia, VAT will be withheld at source by the Tunisian entity and paid on behalf of the non-resident, non-established entity in Tunisia to the Tunisian Government within 28 days following the end of the month during which the transaction took place.

The entity not established in Tunisia that carried out a transaction liable for VAT in Tunisia may file a return with the Tunisian tax authorities in order to deduct the input VAT on the purchase of goods and services necessary for the realisation of the transaction subject to VAT in Tunisia from the amount of the VAT due in Tunisia on that transaction, and which was withheld at source by the Tunisian client.

Application for registration

A written application is to be filed with the relevant tax authorities by newly created enterprises before starting any activity. In case of voluntary registration, the application may be submitted at any time during the tax year (most of the time the tax year coincides with the calendar year) and the option becomes effective from the first day of the month following the one during which the optional registration is accepted by the tax authorities.

The registrant must remain subject to VAT for a four-year period starting from the day the option becomes effective (see above) until 31 December of the fourth year following the one during which the registration for VAT took place. No deregistration is possible during this period.

In case of deregistration, a written request is to be filed with the relevant tax authorities three months before the expiry of the four-year period. Failing that, the registration will be tacitly renewable for four years each time.

Deregistration

Deregistration is not possible in the case of compulsory liability for VAT. In case of voluntary registration, the deregistration is to be made by a written application to be filed with the relevant tax authorities within three months before the end of the four-year registration period.



Output tax

Output VAT is calculated on the basis of the amount of the invoice, excluding VAT. The VAT rate to be applied depends on the nature of the goods or services to be provided.

Exempt supplies

The VAT exemptions include, but are not limited to:

- Retailing of foodstuffs and products that are subject to the government homologation of prices;
- Books, brochures and similar products (other than those made with leather);
- Certain agricultural products and equipment;

- Aircrafts intended to be used in public air transport, and related equipment;
- Air and shipping transport, country-collective transport;
- Bank interest derived from deposits; and
- Sale by a property developer of apartment buildings exclusively intended for residential purposes.

VAT exemptions also apply to sales defined as exports, which means sales of goods and services to entities not located in Tunisia, as well as sales to wholly exporting entities governed by the Incentives Investment Code, to companies based in free zones, to offshore banks and to certain other entities benefiting from a VAT exemption.

Zero-rated supplies

The zero rate does not apply in Tunisia.



Input tax

Input tax allowed

Individuals and companies that are subject to VAT may deduct the input VAT incurred on the purchase of goods and services necessary to carry out activities subject to VAT.

Input tax expressly denied

VAT incurred on the following expenses may not be deducted as input VAT:

- Purchases of passenger cars other than those that constitute the main activity of the business;
- Expenses related to the functioning or maintenance of passenger cars;
- VAT unduly charged (charged by mistake by a supplier who is not liable for VAT);
- AT mentioned on invoices that do not comply with the VAT requirements, i.e. invoices that do not mention the compulsory information such as the amount excluding VAT, the rate and amount of the VAT, the amount including VAT, and the name and address of the client; and



International trade

Imports

The importation of goods and services is subject to VAT.

Exports

The exportation of goods and services is not subject to VAT. VAT exemption applies to sales defined as exports, which means sales of goods and services to entities which are not located in Tunisia, as well as sales to wholly exporting entities governed by the Incentives Investment Code, to companies based in free zones, to offshore banks and to certain other entities benefiting from a VAT exemption.

VAT charged on goods bought by non-resident individuals (tourists) may be refunded.

Place of supplies

The sale of goods is considered as taking place in Tunisia and thus subject to VAT if the goods sold are delivered in Tunisia.

The sale of services is considered as taking place in Tunisia and thus subject to VAT if the services sold are consumed or used in Tunisia.



VAT compliance

Accounting basis

The Tunisian accounting legislation is based on an accrual principle. The VAT is accounted for and declared during the month during which the expense or the revenue is incurred or realised, notwithstanding the disbursement of the receipt date.

Returns and payment of VAT

The VAT is declared and paid on a monthly basis.

Refunds

If the input VAT exceeds the output VAT, the VAT credit resulting from the difference may be reimbursed on the basis of a written request made to the tax authorities.

The VAT credit is refundable if it arises from:

- Exportation operations of goods and services, sales made to clients allowed to acquire goods and services VAT-free, and withholding tax on the remunerations paid to companies that are neither resident nor established in Tunisia or remunerations paid by the government, local authorities or public establishment – such VAT credit is refundable if it is shown at least in one monthly tax return;
- Investments destined for the carrying out of new projects as provided for in the Tunisian Incentives Investment Code – such VAT credit is refundable if it is shown in at least three successive monthly tax returns;
- Suspension of activity – such VAT credit is refundable after a tax audit; and
- Other operations – such VAT credit is refundable if it is shown in at least six successive monthly tax returns.
- In order to benefit from the refund of the VAT credits, the taxpayer has to file supporting documents such as declarations relating to exportation of goods, documents proving that the service rendered by the Tunisian taxpayer was used or consumed outside Tunisia, authorisations to sell VAT-free, and withholding tax certificates. Further, the taxpayer must already have submitted all his tax returns and paid all taxes due at the time of submission of the request for a refund and at the date of the notification of the refund decision made by the tax authorities.

- VAT due on transactions of which the amount exceeds TND20 000 and are paid in cash. However, the limit of TND20 000 is reduced to TND10 000 for the fiscal year 2015 and to TND5 000 as from the fiscal year 2016.

Partial exemption

Partial exemption applies if the company is carrying on two or more activities and one or several of these activities are not subject to VAT. In this case, the input VAT to be deducted is a portion of the whole input VAT incurred. This portion is calculated by multiplying the total amount of the input VAT by a quotient where:

- The numerator is the total amount of the turnover subject to VAT plus the turnover realised from exportation, plus the turnover realised from sales made to persons allowed to acquire goods and services necessary for their activities VAT-free, based on a certificate issued by the tax authorities, plus the turnover realised from international air transportation, increased by the theoretical VAT; and
- The denominator is the total amount of the numerator increased by the turnover realised from sales exempt from VAT and sales outside the scope of VAT.

Adjustments

During the course of the year, the company deducts the input VAT on a pro rata basis (as described above). The quotient applied is calculated by using the data of the previous year. At the end of the current year, the company must calculate the quotient to be applied and corresponding to that year. If the difference exceeds 5%, the company must adjust the input VAT.



The VAT credit is to be reimbursed within:

- Seven days if it arises from exportation operations of goods and services;
- 30 days if it arises from sales made to clients allowed to acquire goods and services VAT-free, withholding tax on VAT, upgrading investment or investments destined to carry out new projects as provided for in the Tunisian Incentives Investment Code;
- 60 days if it arises from companies whose accounts are legally subject to statutory audit, as long as the certification of its accounts has no reserves affecting the tax basis; and
- 120 days if it arises from other cases.

An advance payment of 15% of the VAT credit is to be paid to the taxpayer as soon as he presents the request for refund if the VAT credit arises from operations other than export, suspension of activity and operations of companies that are neither resident nor established in Tunisia. This rate is to be increased to 50% if the taxpayer is a company whose accounts are legally subject to statutory audit, as long as the certification of its accounts has no reserves affecting the tax basis.

The above rate will be 100% for companies under the Direction of Large Companies Direction des Grandes Entreprises (DGE) based on special report of the statutory audit.

Time limits

The taxpayer may claim for the VAT credit within three years, calculated from the date from which the VAT becomes refundable.

Interest and penalty

Delay penalties are due at the rate of 0.5% in the case of spontaneous payment and 1.25% in the case of tax audit. This latter rate is reduced by half in the case of cash payment.

Tax invoices

A proper tax invoice should include:

- The name, address and tax identification of the supplier;
- The name, address and tax identification of the client;
- The designation of the goods or services;
- The transaction date; and
- The amount excluding VAT, the VAT rate, and the VAT amount.



Specific VAT rules

Bad debts

VAT related to bad debts (irrecoverable invoices) can be neither deducted nor refunded.

Land and buildings

The sale by a property developer of buildings exclusively destined for housing is VAT exempt. The same rule applies to the rent of non-equipped houses.

Leasing

Leasing operations are subject to VAT. Leasing companies deduct, as input VAT, the VAT due on the purchase of the goods leased. The output VAT is calculated on the basis of the whole amount paid by the lessee (principal and interest).

Second-hand goods

If a person acquires second-hand goods:

- The seller has to reimburse the VAT initially deducted or the theoretical VAT which would have been paid in case of a purchase based on a certificate delivered by the tax authorities, decreased by a fifth (1/5) per calendar year of detention if assets are constituted by equipment and materials, and decreased by a tenth (1/10) per calendar year of detention if the assets are constituted by constructions and buildings, but in other cases, the VAT is to be reimbursed in full.

- The purchaser deducts the amount reimbursed by the seller, provided that the invoice shows the amount of the VAT paid back by the latter.

Small retailer scheme

Retailers realising a turnover exceeding (in Tunisia Dinar) TND100 000 (USD60 600) are subject to VAT. However, the sales made by retailers of the following products are exempt from VAT: food and products, the sale price of which is fixed by the Tunisian State.

Retailers have to maintain registers in which they register, on a day-to-day basis, their purchases (the nature of the goods, price excluding VAT, rate and amount of VAT, etc.) and their turnover.

Retailers are allowed to issue, by the end of the business day, one single invoice for all the sales made during the day, as it is difficult in practice to issue an invoice for each customer.



Other indirect taxes

Registration tax

The registration of some operations is compulsory. In these cases, the registration fees are expressly determined by the Registration Fees and Stamp Duties Code, whereas the registration remains optional for certain operations. In case of optional registration, the registration fees due to be paid are equal to TND20 per page.

In case of compulsory registration, the due fees depend on the nature of the transaction and the goods involved.

Stamp duty

Companies have to charge a stamp duty of TND0.500 on each issued invoice, unless the customer is expressly exempt.

Uganda



Contact details

Website: www.pwc.com/ug
Physical address: Communication House, 1 Colville Street
Postal address: PO Box 8053, Kampala, Uganda
Telephone number: +256 312 354400

PwC contact persons

Francis Kamulegeya
 Plaxeda Namirimu
 Joanita Nakimuli
 Dorothy Uzamukunda

Contact details

francis.kamulegeya@ug.pwc.com
plaxeda.namirimu@ug.pwc.com
joanita.x.nakimuli@ug.pwc.com
dorothy.uzamukunda@ug.pwc.com



Introduction

VAT was introduced in Uganda with effect from 1 July 1996, to replace sales tax. VAT is charged in accordance with the provisions of the VAT Act, Cap. 349.

The Uganda Revenue Authority (URA), the head of which is the Commissioner-General, administers the VAT system.



Rates and scope

The standard rate of 18% applies to all supplies that do not qualify for an exemption, except for the zero-rated supplies.

The following transactions are subject to VAT:

- Taxable supplies of goods or services made by a taxable person; and
- Importation of goods or services (other than exempt imports or services) by any person.



VAT registration

Compulsory registration

The annual registration threshold for domestic supplies is Uganda Shillings (UGX) 150 million (approximately USD45 000).

Applications for registration for VAT must be made by all persons carrying on existing business activities whose annual taxable turnover exceeds or is expected to exceed UGX150 million in a 12-month period or UGX37.5 million in a three-month period.

A person who fails to register is liable for a penalty equal to double the amount of tax payable during the period for which no application for registration was filed, or for which registration by the Commissioner-General has not yet taken place.



Voluntary registration

Persons carrying on a taxable activity may register voluntarily if their expected turnover is below the annual registration threshold of UGX150 million.

Any person that is a national, regional, local or public authority or body that carries on taxable activities may register voluntarily without regard to the threshold requirement of UGX150 million, subject to the fulfilment of certain conditions.

Prior to 1 July 2011, an application could be made for registration under the Investment Trader Status scheme before taxable supplies were made. This scheme allowing any person to register during the pre-operation phase was revoked with effect from 1 July 2011. In July 2015, the VAT law was amended again to allow specific categories of persons to apply for voluntary VAT registration, regardless of whether they are currently making taxable supplies. These include a licensee undertaking mining or petroleum operations, a person undertaking the construction of a petroleum refinery or petroleum pipeline, and any person engaged in commercial farming.

Group or branch registration

Separate registration is needed for the different entities in a business group, as group registration is not provided for in the law.

In addition, the law does not provide for the registration of separate branches or divisions of the same business. All transactions are aggregated and filed as those of one entity.

Place of supply of services

A supply of services is deemed to have taken place in Uganda if the business of the supplier that supplies the services is in Uganda.

Notwithstanding the above, the supply of services takes place in Uganda if the recipient is not a taxable person and:

- The services are physically performed in Uganda by a person who is in Uganda at the time of the supply;

- The services are in connection with immovable property in Uganda;
- The services are radio or television broadcasting services received at an address in Uganda;
- The services are electronic services delivered to a person in Uganda at the time of the supply;
- The supply is a transfer, assignment or grant of a right to use a copyright, patent, trademark or similar right in Uganda; and
- The services are telecommunication services initiated by a person in Uganda, other than a supply initiated by a supplier of telecommunications services; or a person who is roaming while temporarily in Uganda.

Where a non-resident person provides services to non-registered persons in Uganda and they fall in the categories above, then such services are classified as having been supplied in Uganda. The non-resident is required to register for VAT subject to the turnover conditions. A non-resident who is required to apply for registration but who does not have a fixed place of business in Uganda must appoint a VAT representative in Uganda within 30 days after being required to apply. If the non-resident does not appoint an agent, the Commissioner may do so on behalf of the non-resident. The agent should ordinarily be resident in Uganda.

The appointed agent is then responsible for all the VAT obligations of the non-resident and is jointly and severally liable for the payment of all taxes, fines, penalties and interest imposed on the non-resident under the VAT Act.

Accounting for VAT on imported services continues to be the responsibility of the importer of the services where the services imported into Uganda are not covered by the above rules. Following the amendment of the VAT law in July 2011, VAT on imported services is no longer claimable as input VAT under the reverse VAT system. In other words, the recipient of the services is required to pay VAT at 18% to the URA but cannot claim it as input VAT. The VAT is therefore a cost to the importer of the services.

Application for registration

In order to apply for VAT registration, one first has to obtain a tax identification number (TIN). Entities that are registering with the URA for the first time may register for all the different taxes at the same time. The application for VAT registration (both compulsory and voluntary registration) must be made on form DT 1011, Application for VAT Registration. Application is made using e-forms, which are uploaded on the URA portal once they have been completed. As part of the registration process, a URA officer conducts a visit to verify the business address and activity of the applicant. Once the applicant is registered, the Commissioner-General provides a certificate of registration, indicating the TIN and the effective date of registration. If registration is denied, the applicant is notified accordingly.

The format of the VAT registration number is a 10-digit TIN issued by the URA. A single TIN number is issued for all taxes that a person is registered for, all of which are indicated on the certificate of registration.

Deregistration

A taxable person may apply in writing to have their VAT registration cancelled in the following circumstances:

- If the person ceases to make supplies of goods or services for consideration as part of their business activities; or
- If, in the most recent period of three calendar months, the value of the taxable supplies exclusive of VAT does not exceed 25% of the annual registration threshold of UGX150 million and if the value of the taxable supplies exclusive of VAT for the previous twelve calendar months does not exceed 75% of the annual registration threshold.

A voluntarily registered taxable person (with a turnover below the annual registration threshold) may apply for deregistration after the expiration of two years from the date of registration. The Commissioner-General may cancel the registration of a voluntarily registered taxable person where the person:

- Has no fixed abode or place of business;

- Has not kept proper accounting records relating to any business activity carried on by them;
- Has not submitted regular and reliable tax returns; and
- Is not, in the opinion of the Commissioner-General, a fit and proper person to be registered.

The Commissioner-General has to notify the taxable person of the cancellation of registration within 14 days of making the decision. The cancellation takes effect from the end of the tax period in which the registration is cancelled. Obligations and liabilities incurred by a taxable person before deregistration are not affected by the cancellation of the person's registration.



Output tax

Calculation of output tax

Output tax is calculated by applying the VAT fraction (18/118) to the VAT-inclusive value, or by applying the rate of 18% to the taxable value of the transaction. Where the taxable value is determined without a separate amount of the consideration being identified as VAT, it is assumed that the taxable value is inclusive of VAT.

Exempt supplies

Exempt supplies in respect of which the supplier should not charge input tax include (but are not limited to) the following supplies:

- Unprocessed foodstuffs and unprocessed agricultural products (except wheat grain and livestock);
- Postage stamps;
- Financial services;
- Health insurance services, life insurance services, micro insurance services and re-insurance services;
- Unimproved land;
- Sale, lease or letting of immovable property other than:
 - Of commercial premises or hotel or holiday accommodation for periods not exceeding three months,
 - For parking or storing of cars or other vehicles, or
 - Of serviced apartments;
- Educational services;
- Veterinary, medical, dental and nursing services;
- Social welfare services;
- Betting, lotteries and games of chance;
- Goods transferred as part of a business as a going concern by one taxable person to another taxable person;
- Burial and cremation services;
- Precious metals and other valuables to the Bank of Uganda for the State Treasury;
- Passenger transportation services (other than registered tour and travel operators);
- Petroleum fuels subject to excise duty (motor spirit, kerosene and gas oil), spirit-type jet fuel and kerosene-type jet fuel, and residual fuels used in thermal power generation to the national grid;
- Dental, medical and veterinary equipment and ambulances;
- Machinery, tools and implements suitable for use only in agriculture;
- Photosensitive semiconductor devices, including photovoltaic devices, whether or not assembled in modules or made into panels; light-emitting diodes; and solar water heaters, solar refrigerators and solar cookers;
- Lifejackets, lifesaving gear, headgear, and speed governors;
- Goods and services to contractors and subcontractors of hydro-electric power projects; and
- The supply of power generated by solar energy.
- Drugs and medicines;
- Educational materials;
- Cereals grown, milled or produced in Uganda;
- Seed, fertilisers, pesticides and hoes;
- Sanitary towels and tampons, and inputs for their manufacture;
- Leased aircraft, aircraft engines, spare parts for aircraft and aircraft maintenance equipment; and
- Handling services provided by the National Medical Stores in respect of medical supplies that have been funded by donors.



Input tax

Input tax allowed

Generally, VAT is recoverable on taxable supplies made to the taxable person during the tax period and on all imports of goods and services made by that person if they are directly related to taxable transactions of the taxable person.

VAT is not recoverable on taxable supplies made to the taxable person and on imports of goods or services made by that person if they are not for use in the business of the taxable person (for example where the goods and services are directly related to exempt transactions).

Input tax expressly denied

VAT incurred on the following supplies is specifically not allowed for input tax deduction:

- Goods or services acquired for purposes of entertainment (i.e. the provision of food, beverages, tobacco, accommodation, amusement, recreation or hospitality of any kind), unless the taxable person is in the business of providing entertainment, or supplies meals or refreshments to their employees in premises operated by them, or on their behalf solely for the benefit of their employees;
- A passenger automobile, and the repair and maintenance of that automobile, including spare parts, except in the case of motor dealers or motor rental businesses;

Zero-rated supplies

Supplies where VAT at the rate of 0% can be accounted for include (but are not limited to) the following (a supplier may claim input tax on these items):

- Goods or services exported from Uganda (including services supplied by persons engaged exclusively in handling goods for export at a port of exit);
- International transport of goods and passengers (transport tickets);



- Telephone services to the extent of 10% of the input tax on those services; and
- Imported services, unless the importer of the services is a contractor or licensee (of petroleum and mining operations) during the tax period, as this category is able to claim the input VAT on imported services.

Partial exemption

Where goods or services are acquired only partially for purposes of making taxable supplies, the taxable person can only claim a proportion of the VAT incurred on purchases during the tax period according to an apportionment formula B/C where:

- The numerator B is the total amount of taxable supplies in the tax period; and
- The denominator C is the total amount of all supplies in the tax period (other than the supply of goods as part of the transfer of a business as a going concern).

If the apportionment percentage is less than 5%, no input tax may be credited for the period. If it is more than 95%, the full amount of input tax may be credited for the period.

The standard alternative method (or the direct attribution method) allows a person to directly attribute input tax separately to the exempt and taxable supplies, and to claim for all the input tax related to the taxable supplies and for none of the input tax related to exempt supplies. The balance of input tax that cannot be directly attributed can be apportioned according to a given formula. This method, or any other method, may be used only with the approval of the Commissioner-General.

Pre-registration and post-deregistration VAT

VAT incurred prior to registration as a taxable person can be recovered in respect of taxable supplies of goods where the supply or import was for use in the business of the taxable person, provided the goods are on hand at the date of registration and the supply or import occurred not more than six months prior to the date of registration.

A taxable person whose registration has been cancelled is regarded as having made a taxable supply of all goods on hand, including capital goods, and will be liable for output tax on all the goods on which they have received input tax credit. The output tax payable will be based on the fair market value of the goods at the time of cancellation of registration.



International trade

Imports

Goods

VAT on imports is payable on the date on which the imports are cleared under the customs clearance procedures. The taxable value is the total of:

- The value of the goods for customs duty purposes (cost, insurance and freight [CIF], packing costs, selling commission, and royalty or licence fees) and the value of any other services excluded from the customs duty value; and
- The amount of customs duty, excise tax and any other fiscal charge payable (other than VAT).

Uganda is a signatory to the World Trade Organisation (WTO) agreement. The URA uses the valuation method of the WTO's General Agreement on Tariffs and Trade (GATT), namely the transaction value method. The importer must produce documents for the transactions relating to the imports, and the values contained therein are used to determine the customs value. If the goods cannot be valued on the basis of the transaction value method, secondary bases may be used.

Services

A registered taxpayer who receives a supply of services from a non-resident supplier must account for the VAT due on the supply at the earlier of the time:

- When performance of the service is completed;
- When payment for the service is made; or
- When the invoice is received from the non-resident supplier.

The VAT payable is calculated by applying the VAT rate to the total consideration paid to the non-resident supplier. The recipient must account for VAT. VAT accounted for on imported services cannot be claimed as a credit due on the supply.

Non-VAT-registered persons who are not covered by the new rules on place of supply of services must declare the VAT on imported services through the e-return, even though they are not specifically registered for VAT, but should have a TIN. VAT-registered persons account for VAT on imported services through the monthly VAT return, alongside other transactions.

An import of services is exempt if the services would have been exempt, had they been supplied in Uganda.

Exports

The supply of goods that are exported from Uganda is taxed at the zero rate. The zero rate will apply if:

- The goods are supplied by a registered taxpayer to a person in another country;
- The goods are delivered by a registered taxpayer to a port of exit for export;
- The registered taxpayer obtains documentary proof as set out below; and
- The goods are removed from Uganda within 30 days of delivery via a port of exit.

Further, the Commissioner may require goods to be distinctively labelled by the exporting taxpayer. For an export transaction to qualify for zero-rating, a registered taxpayer should obtain and retain the prescribed documentary proof of export (see 'Additional export documentation' below).

Where services are supplied by a registered person outside Uganda and satisfy the definition of place of supply as being outside Uganda, the services will qualify for zero-rating.

The Act does not authorise any refunds to tourists or non-residents.



Place, time and value of supply

Place of supply of goods

A supply of goods takes place in Uganda where the goods are delivered or made available in Uganda by the supplier, or if the delivery or making available involves transportation, if the goods are in Uganda when the transport commences.

Time of supply

The time of the supply (sale) of goods or services occurs:

- Where the goods are applied for own use – on the date on which the goods or services are first applied for own use;
- Where the goods or services are supplied by way of gift – on the date on which ownership in the goods passes or the performance of the service is completed; and
- In case of a supply of goods under a rental agreement (including letting of goods, hire purchase agreements or finance lease) or of services under an agreement or law which provides for periodic payments – on the earlier of the date on which each payment is due or received, for each successive supply.

In any other case, on the earlier of the date on which:

- Goods are delivered or made available, or the performance of the service is completed;
- Payment for the goods or services is completed; or
- A tax invoice is issued.

Input tax is claimed in the tax period in which the invoice or customs bill of entry and URA receipt are obtained from the supplier. For taxable persons on the cash basis, input tax is claimed when payment is made and the taxable person has evidence to certify it.

Value of supply

The taxable value of a taxable supply is the total consideration paid in money or kind by all persons for that supply.

‘Consideration’ in relation to a supply of goods or services means the total amount in money or kind paid or payable for a supply by any person, directly or indirectly, including any duties, levies, fees and charges paid or payable on, or by reason of, the supply other than VAT, reduced by any discounts or rebates allowed and accounted for at the time of the supply. The concepts ‘consideration’ and ‘value’ must be distinguished as follows:

- Value of the supply = amount payable inclusive of VAT; and
- Consideration for the supply = amount payable exclusive of VAT.

The taxable value of a taxable supply of goods by way of an application for own use or a taxable supply for reduced consideration is the fair market value of the goods or services at the time the supply is made.

The taxable value of a taxable supply of goods under a rental agreement is the amount of the rental payments due or received.



VAT compliance

Accounting basis and tax period

Under the invoice basis, VAT is accounted for by using the formula $(X - Y)$, where:

- ‘X’ is the total of the VAT payable in respect of taxable supplies (sales) made by the taxable person during the tax period; and
- ‘Y’ is the total credit (on purchases) allowed to the taxable person in the tax period.

The cash basis applies to taxable persons whose annual taxable supplies do not exceed UGX200 million. Under this scheme, the taxable person accounts for VAT on the actual cash receipts and payments.

A tax period is a period of one calendar month.

Returns and payment of VAT

VAT returns must be made monthly and filed within 15 days of the end of the tax period. The filing of returns and payment of tax thereon are now done electronically.

The VAT due must be paid within 15 days of the end of the tax period, i.e. when the return must be filed. A taxpayer has to register the payment on the electronic system with one of the approved banks, subsequent to which a payment can be made with the chosen bank. Payments above UGX20 million have to be effected by electronic funds transfer.

Interest and penalties

The penalty for not filing a VAT return is the greater of UGX200 000 or the compounded interest rate of 2% per month for the period for which the return is outstanding. The penalty for late payment of VAT is calculated at a compound interest rate of 2% per month for the period during which the tax is unpaid.

If a person knowingly or recklessly makes a statement or declaration to an officer of the tax authority that is false or misleading in a material manner and the resulting tax payable or refundable is different from the proper tax payable, the person is liable to pay double the amount of excess tax.

Further, a person who claims a refund that is in excess of what is due during a tax period is liable to a penal tax equal to 100% of the excess.

Where good cause is shown, in writing, by the person liable to pay a penal tax, other than a penal tax arising from the offence of late payment of tax, the Commissioner-General may waive the whole or part of the penal tax payable. Good cause could be a justifiable explanation of circumstances that caused the non-compliance. Where the non-compliance does not result in loss to the state or benefit to the taxpayer, the URA could allow the waiver of the penalties. This, however, will be at the authority’s discretion.



Refunds

Businesses that are in a regular repayment (zero-rated taxpayer) position will be refunded in cash. Cash refunds can be made to such businesses within one month following the due date or when the return was made.

On the other hand, refunds can be made within ten days of lodging the claim under the customised fast track (CFT) system for businesses whose services are not normally zero-rated. Taxpayers are subject to preliminary evaluations on a case-by-case basis before they qualify for the CFT.

Where businesses are not in a regular repayment position and the refund is:

- Less than UGX5 million: the refund will be offset against the next tax period's liability; or
- More than UGX5 million: the business can opt to offset the refund as described above, or get a cash refund.

Where the URA fails to make a refund which has been applied for within one month, the URA will pay interest at a rate of 2% per month compounded on the amount of the refund. The taxpayer should have filed accurate declarations to the effect that the variance between the figures established by the URA and the declarations does not exceed UGX50 000.

Objections and appeals

A person who is dissatisfied with an assessment may lodge an objection with the Commissioner-General within 45 days after receipt of the notice of the assessment decision.

Where a person is dissatisfied with the objection decision from the Commissioner-General, that person may lodge an application with the Tax Appeals Tribunal for review of the objection within 30 days of having been served with the notice of the objection decision. Before lodging the application with the Tribunal, the person is required to pay the Commissioner-General 30% of the tax in dispute or that part of the tax assessed not in dispute, whichever is the greater.

Where a person is dissatisfied with the decision of the Tax Tribunal, a notice of appeal may be lodged with the Registrar of the High Court within 30 days of being notified of the decision. An appeal to the High Court is always made on a question of law only.

Time limits

Where a person fails to lodge a return as required, or the URA is not satisfied with a lodged return, or the URA has reason to believe that a person will become liable to pay VAT but is unlikely to pay the amount due, an assessment will be issued within five years of the date on which the return was lodged by that person. An assessment may be issued any time where fraud or gross or wilful neglect has been committed by, or on behalf of, a person.

A claim for output tax that has been over-paid must be made within three years after the end of the tax period in which VAT was over-paid. An application to alter a return can be made within three years after the date on which the return was lodged.



VAT records

Tax invoices

Every taxable person must issue an original tax invoice to the recipient (whether a taxable person or not) at the time of a supply. An invoice for VAT purposes should contain the following information:

- The words 'tax invoice';
- The commercial name, address, place of business, VAT registration number and taxpayer identification numbers (TINs) of the supplier and recipient;
- The serial number and date of issue of the invoice;
- The description, quantity or volume of goods or services supplied;
- The rate of VAT for each category of goods or services and the total amount of VAT charged; and
- The consideration for the supply excluding tax, and the consideration including VAT or, where the amount includes VAT, a statement that it includes VAT, and the rate thereof.

Invoicing may be done in a foreign currency but the returns have to be filed in Uganda Shillings. Where an amount is expressed in a currency other than Uganda Shillings, the amount must be converted into Uganda Shillings using the weighted average selling rates of the previous month for the currency concerned. The Bank of Uganda normally issues these rates at the beginning of every month.

Tax invoices prepared by the principal may be passed to the agent for issue. The principal may also authorise the agent to issue tax invoices on their behalf. This authorisation must be in writing and must be retained by the agent. The authorisation commits the principal to meeting the VAT obligations resulting from the agent's actions.

Credit notes and debit notes

Where in relation to a taxable supply by a taxable person:

- The supply is cancelled;
- The nature of the supply has been fundamentally varied or altered;
- The previously agreed consideration for the supply has been altered by agreement with the recipient of the supply, whether due to an offer of a discount or for any other reason; or
- The goods or services or part thereof have been returned to the supplier; and
- The taxable person making the supply has provided a tax invoice in relation to the supply and the amount shown therein as the VAT charged on the supply is incorrect as a result of the occurrence of any one or more of the above-mentioned events; or
- The taxable person has filed a return for the tax period in which the supply occurred and has accounted for an incorrect amount of output tax on that supply as a result of the occurrence of any one or more of the above-mentioned events,

the taxable person must issue a credit note or debit note.

A credit note is issued where the actual VAT chargeable is less than the amount on the tax invoice. A debit note is issued where actual VAT chargeable is more than the amount on the tax invoice.



Specific VAT rules

Additional export documentation

A tax invoice issued to a non-resident recipient generally shows tax at a zero rate. In order to qualify for zero-rating on exports, the supplier must also have the following:

- A copy of the invoice issued to the foreign purchaser with tax shown at 0%;
- A customs bill of entry or export, certified by the customs authorities at the point of exit;
- A CD3 form issued by a commercial bank; and
- Evidence sufficient to satisfy the Commissioner-General that the goods have been exported, in the form of an order form or of a signed contract with a foreign purchaser, or transport documentation that identifies the goods, such as:
 - A transit order or consignment note issued by the railway company for goods exported by rail,
 - A copy of a bill of lading for goods exported by water,
 - A copy of an airway bill for goods exported by air, or
 - A copy of a transport document for goods exported by road.

Record-keeping

Currently, records must be kept for at least six years after the end of the tax period to which the records relate. There is a provision under the Tax Procedures Code Act (TPC Act) to amend this period to five years, which will be consistent with the Income Tax Act (although this Act is not yet operational). Records may not be kept outside the country. Records can also be maintained in electronic form. Records should be maintained in the English language and may be accessed by the Commissioner-General or an authorised officer at any time during normal working hours.

Bad debts

Bad debt relief may be allowed by the Commissioner-General where:

- A registered person has supplied goods or services and has accounted for and paid VAT on that supply but has not received any payment from the person liable to pay the tax;
- Two years from the date of that supply have elapsed or that person has become legally insolvent; and
- The Commissioner-General is satisfied that the person has taken all reasonable steps to recover the money and they have been futile.

Land and buildings

The supply of unimproved land is exempt from VAT.

The letting and disposal of immovable property is exempt. However, the letting and disposal of commercial premises, hotel or holiday accommodation property for periods not exceeding three months, serviced apartments, or property for parking or storing vehicles are standard-rated.

In the case of building or construction services, VAT is payable when an invoice is issued or when payment is received or becomes due, whichever is the earlier, in respect of each stage of the work completed. Where an invoice or a claim for payment by a contractor requires certification (e.g. by an architect), the time of supply is the time of certification. Where a contractor varies the cost of a contract during the course of execution, the variations to the original contract are deemed to include VAT.

Petroleum and mining operations

The VAT Amendment Act of 2014 introduced a special regime for petroleum and mining operations. For example, the VAT law allows for voluntary VAT registration regardless of whether the following categories of persons are currently making taxable supplies:

- A licensee undertaking mining or petroleum operations;

- A person undertaking the construction of a petroleum refinery or petroleum pipeline; and
- A person engaged in commercial farming.

There is also a special treatment for VAT on the supply of goods or services from a contractor to a licensee for exclusive use in mining or petroleum operations. The VAT on the supply is deemed to have been paid by the licensee to the contractor; the contractor does not account for the deemed VAT payment as output tax; and the licensee does not claim the deemed VAT payment as input tax. The rationale for the provision is to provide for VAT cash-flow neutrality in transactions between contractors and licensees.

Contractors or licensees are able to claim an input tax credit for the reverse-charge VAT paid on imported services. This restores the position that used to apply up to 2011, although this does not apply to other taxable persons.

In respect of tax refunds, where a licensee's input credit exceeds its output liability for a tax period, the amount must either be refunded or (at the licensee's option) carried forward and offset against a future liability. The Commissioner's ability to unilaterally carry forward overpayments of less than USD5 million no longer applies to a licensee.

Leasing

In the case of a rental agreement (i.e. an agreement for the letting of goods, including a hire-purchase agreement or a finance lease), goods are treated as having been successively supplied for successive parts of the period of the agreement, and each successive supply occurs on the earlier of the date on which payment is due or received. VAT is payable on the amount of rental payments due or received.

The supply of goods under a finance lease is treated as a supply of a good under a rental agreement. The lessor may claim the input credit at inception of the finance lease and must charge VAT on the lease rentals (including the finance charge). The lessee, if registered for VAT, may claim an input tax credit.



Promotional gifts

The taxability of promotional gifts depends on the relationship between the supplier and the consumer. Where the supplier and consumer are related parties, then the giving of a promotional gift is regarded as a taxable supply of goods or services and VAT is therefore charged on the market value of such gifts. Where the supplier and consumer are not related parties, then the giving of a promotional gift is treated as a supply for zero consideration and therefore no VAT is charged.

Second-hand goods

There are no specific rules for second-hand goods. Sales made by a taxable person are subject to VAT. The export of second-hand goods is zero-rated in accordance with general rules.

Small retailer scheme

No special scheme is available for small retailers.

Tourism industry

The VAT consequences of supplies made by tour operators can be summarised as follows:

- Air travel – international travel is zero-rated and local travel is exempt;
- Car rental – standard-rated;
- Accommodation – standard-rated;
- Tourism services – standard-rated;
- Packaged tours – standard-rated; and
- Marketing and management fees – standard-rated.

Transfer of a business

Transfer of a business (or a separate part thereof) as a going concern is exempt if the transferor and transferee are both taxable persons and both parties notify the Commissioner-General within 21 days of the transfer in writing of the details of the transfer. The same business should be maintained for two years after the transfer.

Warranty repairs

The importation of parts under the warranty agreement is subject to VAT at the standard rate of 18%. Services offered to foreign companies are considered exported services and are charged at the zero rate, provided the services are consumed outside Uganda subject to the place-of-supply rules.



Other indirect taxes

Import duties

Import duties are taxes imposed on imported goods. There are different rates for COMESA (Common Market for East and Southern Africa, which includes Kenya, Tanzania, Mauritius, Rwanda, Burundi, Malawi, Zambia, Zimbabwe and Mozambique) and for the rest of the world.

The COMESA rates vary between 4% and 10%. For the rest of the world, the highest import duty is 25%. In addition, all goods coming into the East African Community, of which Uganda is a member, are subject to the three-tariff band (0%, 10% or 25%), depending on the origin of the goods. The East African Community member countries include Uganda, Kenya, Rwanda, Tanzania and Burundi.

Infrastructure levy

An infrastructure levy of 1.5% on selected imports was introduced into East Africa to finance railway infrastructure development. This is chargeable on all goods which have a customs external tariff (CET) that is not zero (0%). The levy is chargeable on the transaction value.

Excise duties

Excise duty is imposed on certain excisable goods as well as on selected imported products. These products largely include spirits, soft drinks, beer, wine, cigarettes and tobacco, fuel, motor vehicles, sugar, mineral water, petrol and diesel, cement, sugar, money transfer services, and luxury goods such as cosmetics and perfumes. The excise duty rates range from 5% to 160%.

Excise duty is also levied on airtime and talk time. The rates are 12% for mobile telephone services and 5% for fixed lines.

Bank charges, with the exception of those which are loan-related, are also subject to excise duty of 10%.

Motor vehicle fees

Fees are levied on the registration and transfer of ownership of motor vehicles.

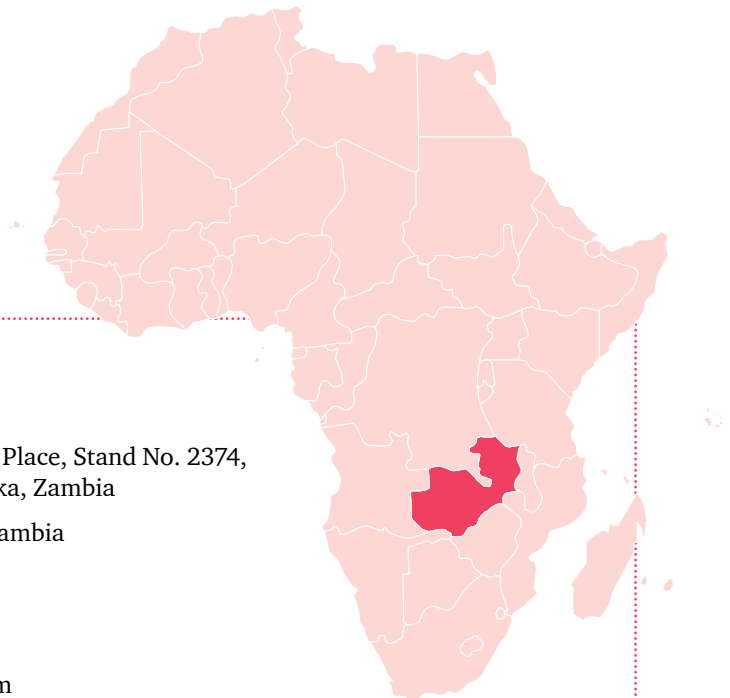
Stamp duty

Stamp duties are charged on various legal documents and agreements such as:

- Bills of exchange, promissory notes and bonds;
- Marketable securities, including debentures;
- The sale, conveyance, mortgage and lease of any property situated in Uganda; and
- Insurance policies.

Stamp duty is payable within 45 days of the execution of the instrument (if executed in Uganda) and within 30 days of being received in Uganda (if executed outside Uganda).

Zambia



Contact details

Website:	www.pwc.com/zm
Physical address:	PricewaterhouseCoopers Place, Stand No. 2374, Thabo Mbeki Road, Lusaka, Zambia
Postal address:	PO Box 30942, Lusaka, Zambia
Telephone number:	260-211-334000
PwC contact persons	Contact details
Jyoti Mistry	jyoti.mistry@zm.pwc.com
Lydia Pwadura	lydia.g.pwadura@zm.pwc.com
George Chitwa	george.chitwa@zm.pwc.com
Emmanuel Chulu	emmanuel.e.chulu@zm.pwc.com



Introduction

Value-added tax (VAT) was introduced in Zambia on 1 July 1995 to replace the sales tax. It is largely invoice driven and therefore generally uniform.

VAT is administered under the Domestic Taxes Division of the Zambia Revenue Authority (ZRA).

The primary law relating to VAT is contained in the VAT Act, 1995 as amended. The subsidiary legislation comprises the general Regulations made by the Minister of Finance through statutory instruments and administrative rules made by the Commissioner General of the ZRA through gazette notices.



Rates and scope

Rates

Supplies for VAT purposes are classified into three categories, namely:

- Exempt supplies;
- Standard-rated supplies at 16%; and
- Zero-rated supplies taxable at 0%.

There are currently no special rates applicable in Zambia for VAT purposes.



Scope

VAT is charged on taxable goods and services supplied by VAT-registered suppliers in the course or furtherance of business in Zambia. The tax also applies on the importation and export of goods and services.

VAT accounting options

VAT is generally accounted for on an accruals basis. However, taxable suppliers in certain industries, such as the construction industry, can apply to the ZRA to be assessed on the cash accounting basis. In this instance output VAT need only be accounted for once the supplier has received payment for goods and services supplied. Likewise, input VAT on qualifying business expenditure can only be claimed once payment is made for the purchase.



Registration

Compulsory registration

It is a statutory requirement that suppliers making taxable supplies with a taxable turnover exceeding ZMW800 000 (approximately USD80 000) in any 12 consecutive months or ZMW200 000 in any three consecutive months, or whose taxable turnover is expected to exceed either ZMW800 000 or ZMW200 000 in the subsequent 12 months or three months respectively, must make an application for VAT registration with the ZRA.

A supplier who is required to apply for VAT registration and fails to do so within a month after meeting the criteria is liable to a fine not exceeding 10 thousand penalty units (a penalty unit is currently ZMW0.30) or ZMW3 000 (approximately USD300), or imprisonment for a term not exceeding 12 months or both.

Where a supplier who is eligible for registration fails to register, tax due on supplies made shall be assessed together with any penalties and interest on late payment. The assessment will be from the time the supplier was due to register to the date of assessment.

Voluntary registration

Suppliers whose taxable turnover does not meet the statutory requirement, but who wish to be registered for VAT, may do so on a voluntary basis. Suppliers registered on a voluntary basis will have the same obligations to abide by the rules that apply to statutory registered suppliers.

The period of voluntary registration is restricted to 12 months, and as such any supplier registered under voluntary registration is required to renew the registration every 12 months.

Group registration

The VAT Act provides for two or more companies incorporated in Zambia that make taxable supplies to form a recognised group and apply for group registration. To qualify for group registration, the following conditions must be met:

- One of the group members controls each of the others;
- One person, whether a company or an individual, controls them all; and
- Two or more individuals carrying on a business partnership controls them all.

Where the above criteria is met and approval to operate as a group for VAT purposes obtained from the ZRA, the group of companies can submit a single return for all members.

Any supply of goods or services by a member of the group to another member of the group will not constitute a supply for VAT purposes (i.e. will not be subject to VAT). Therefore, inter-group transactions will not be subject to VAT.

Application for registration

Application for VAT is made on a prescribed application form. The ZRA will only process a VAT application form if the supplier has applied for and been allocated a Taxpayer Identification Number (TPIN).

Deregistration

Cancellation of registration may take place if:

- There is a change in the legal status of an entity;
- The business ceases trading permanently;
- The business is sold;
- The business was registered as an intending business and the intention to make supplies ceases; or
- The business stops making taxable supplies.

Applications for deregistration should be made in writing to the ZRA.

The ZRA normally undertakes a VAT audit prior to de-registration.



Output tax

VAT is charged at the rate of 16% or 0% depending on the supply in question.

Where the consideration for goods or services is:

- Non-monetary;
- Partly monetary; or
- Less than the open-market value,

the open-market value is used to determine the VAT liability.

Exemptions and zero-rating

Exempt supplies

The VAT (Exemption) order, 2014 as amended generally provides exemptions for the following:

- Mains water and sewage services;
- Health and medical services provided by registered health professionals;
- Educational services provided to pre-school, primary, secondary and post-secondary learners;
- Booklets and newspapers;
- Transportation of persons;
- Relief at importation for certain goods;



Input tax

Input tax expressly denied

- Conveyance, sale or lease of non-commercial property;
- Certain insurance and financial services;
- Supply to a bank of gold in bullion form;
- Funeral services;
- Domestic kerosene;
- Statutory fees;
- Trade union subscriptions; and
- Unprocessed agricultural foods and products, and certain agriculture supplies.

The above list is not exhaustive and is generic. It is for guidance purposes only and specific advice should be sought in each case.

Zero-rated supplies

The VAT (Zero-rating) order, 2014 as amended generally provides the following as zero-rated for VAT purposes:

- Export of goods where appropriate evidence of exportation is produced to the ZRA;
- Freight transport services from or to Zambia;
- Supplies to privileged persons;
- Medical supplies;
- Educational materials;
- Energy saving appliances, machinery and equipment;
- Certain agriculture equipment and accessories; and
- Wheat, flour, bread, bread rolls and buns.

The above list is not exhaustive and is generic. It is for guidance purposes only and specific advice should be sought in each case.

VAT incurred in respect of the following goods and services may not be deducted as input tax:

- Entertainment including business entertainment;
- Motor cars (principally saloon cars and double cabs);
- 80% of the expenditure incurred on petrol for business purposes;
- Telephone and internet services; and
- All non-business purchases, including expenses incurred for the benefit of employees.

The claim for input VAT on services provided by foreign suppliers that are generally subject to VAT reverse charge will be denied where the foreign supplier does not appoint a local tax agent to account for output VAT on their supplies in Zambia.

Partial exemption

A business that makes both taxable and exempt supplies is allowed to claim input VAT to the extent that the expenditure relates to taxable supplies.

Input VAT in this instance can be claimed using any of the following four methods:

- Method 1 – Input VAT claimable for each month is determined by identifying the input VAT that is directly attributable to the taxable supplies;
- Method 2 – Input VAT claimable for each month is determined by taking the input VAT that is not directly attributable to taxable or exempt supplies and claiming a portion of this based on the proportion of total taxable supplies divided by total supplies. This is then added to input VAT that is directly attributable to taxable supplies.

- Method 3 – Input VAT claimable for each month is determined as per method 1 above but by using aggregate sales figures for the year to date. The claim for the month is then computed by deducting aggregate input claims made to date against the aggregate input VAT claimable to date; or
- Method 4 – Input VAT claimable is determined using a similar basis to method 2 above but by using aggregate year to date values.

Pre-registration input VAT

A business registered for VAT may claim input VAT on goods or services relating to the start-up of the business on expenditure that was incurred up to three months prior to registration. However, the business should have the goods on hand and must have a tax invoice from the supplier to be allowed the claim.

Intending traders

An intending trader is a taxable person who is registered in anticipation of commencing trading activities.

Such a trader may register for VAT with the ZRA, and the sole purpose of such registration would be to claim input tax.

The time limit within which an intending trader must commence business/make taxable supplies to continue claiming input VAT on goods and/or services purchased is as follows:

- Electricity generation, farming and mining – within a period of four years after registration;
- Exploration – within a period of seven years after registration; and
- Any other intending trader – within a period of two years after registration.



Exports

Time limits

The time limit for claiming input tax is six months from the date of the purchase invoice or other relevant supporting document.



Imports

Goods

Imported goods that are classified as standard-rated supplies are subject to import VAT at 16% on importation. Importation of certain types of capital goods may qualify for VAT deferment. Although such goods may be classified as standard-rated supplies, they will not be subject to import VAT where the importer has applied and qualifies for the VAT-deferment scheme.

Services

Services provided by a foreign supplier

The procurement of services from a foreign supplier which have not been subject to tax in the country of export, by a local supplier (recipient) is liable to VAT reverse charge (VAT RC). The recipient of imported services is required to account for VAT RC on the value of services procured each month through the monthly VAT returns.

Under the VAT RC regulations there can be no corresponding claim for input VAT. Hence the cost of procuring services would increase by 16%.

The impact of the VAT RC can be mitigated where the foreign supplier appoints a local tax agent in Zambia to account for output VAT on their behalf. In this instance the tax agent would account for VAT on behalf of the foreign supplier, which will enable the Zambian recipient to claim an input tax credit with respect to the imported services.

In essence, the local tax agent once appointed will issue an invoice under their local VAT registration on behalf of the foreign supplier. The tax agent will of course, charge a fee for their service. However, there should still be a net benefit in instances where the expenditure incurred on services procured from abroad is significant.

Goods

The export of goods from Zambia by or on behalf of a taxable supplier is zero-rated (0%). Zero-rating for exported goods is not automatic as there are certain documentary requirements that need to be met.

The documentary requirements are as follows:

- Copies of export documents for the goods, bearing a certificate of shipment provided by the ZRA;
- Copies of import documents for the goods, bearing a certificate of importation into the country of destination provided by the customs authority of the country of destination, or copies of transit documents for goods bearing a certificate of transit provided by the customs authority of the country of transit;
- Valid tax invoice for the goods exported;
- Documentary evidence proving that payment for the goods has been made in the exporter's bank account in Zambia; and
- Other documentary evidence that the ZRA may reasonably require.

Services

Only services that are physically rendered outside Zambia are zero-rated.



Place, time and value of supply

Place of supply

The place of supply is the location of the goods when supplied to a customer. Goods are supplied in Zambia if:

- They are exported from Zambia or if their supply does not involve their removal from or to Zambia;
- Their supply involves their installation or assembly at a place in Zambia to which they are removed; and/or

- They will be deemed to be supplied outside Zambia if their supply involves their installation or assembly at a place outside Zambia to which they are removed.

Services will be deemed to be supplied in Zambia if the supplier of the services:

- Has a place of business in Zambia and no place of business elsewhere;
- Does not have a place of business in Zambia and elsewhere but the supplier's usual place of residence is in Zambia;
- If the supplier of the services has a place of business in Zambia and elsewhere but the place of business most directly concerned with the supply of the services in question is the one in Zambia; or
- If the service is imported.

Special rules apply for the place of supply of radio, television, telephone or other communication services, where the signal or service originates outside Zambia. The place of supply of these services is taken to be the place where the recipient receives the signal or service, provided that a consideration is payable for receiving the service or signal.

Time of supply

The time of supply or tax point is basically the time when tax is due and payable.

For goods the time of supply or the tax point for accounting for VAT arises on the earliest of the time:

- When the goods are removed from the supplier's premises;
- When they are made available to the buyer;
- When the supplier receives payment; or
- When the supplier issues a tax invoice to the buyer.



VAT records

Tax invoices

Tax invoices should normally be issued in the same month that the goods or services are supplied. Tax invoices must be retained for a minimum period of six years. Only one tax invoice may be issued for any taxable supply. A customer is, however, entitled to ask for a duplicate invoice in case of loss of the original tax invoice. The duplicate invoice must be prominently marked 'duplicate'.

The following details must appear on the tax invoice:

- The words 'tax invoice' in a prominent place;
- Name, address and taxpayer identification number of the supplier;
- Name or business name and address of the recipient;
- Serial number of the invoice and date of issue;
- Quantity or volume of the goods or services supplied;
- Description of the goods or services supplied;
- The selling price, excluding VAT and any discount;
- The total amount of the VAT charged; and
- The selling price including VAT, or the total charge on the invoice inclusive of VAT, any discount and the rate of VAT.

The ZRA requires tax invoices to be issued from a pre-printed sequentially numbered invoice book that is obtained from an authorised supplier. If the supplier wishes to issue a computer-generated invoice, the accounting package used by the supplier must be audited and approved by the ZRA.

Where an invoice is issued in a foreign currency, it must show the Kwacha exchange rate and the Kwacha equivalent of the amounts due on the invoice at the date of the transaction. The date of transaction will normally be the date on which the tax invoice is raised.

The time of supply of services for VAT purposes is the earliest of the time when:

- The supplier receives payment;
- The supplier issues the tax invoice; or
- The supplier actually renders or performs the services.

A part or advance payment made or interim invoice raised for a service or good which is not rendered or delivered will also be liable for VAT.

Value of supply

The taxable value of goods or services that are supplied:

- Otherwise than for a monetary consideration;
- For a consideration that consists only partly of money; or
- for a consideration that is less than the open-market value of the goods or services,

will be the open-market value of the goods or services.

The open-market value is the price at which the goods or services being supplied would have been supplied in the ordinary course of business to a person independent of the supplier.



VAT compliance

Returns and payment of VAT

Returns must be submitted monthly. However, upon application to and approval by the ZRA, some businesses may submit VAT returns on a quarterly or six-monthly basis.

VAT returns must be lodged with the ZRA within 21 days of the end of the prescribed accounting period.

VAT returns are filed electronically. Where a taxable supplier has less than five transactions that are reported on the return, they have the option to file the return manually. However, in this instance the taxable supplier will have to submit their VAT return within five days of the end of the prescribed accounting period.

VAT due and payable to the ZRA must be paid within 21 days following the end of the prescribed accounting period.

VAT may be paid in cash, by cheque or by bank transfer. Payments must be in the Zambian currency (Kwacha).

Interest and penalties

Businesses that do not lodge a return within the time allowed are liable to a penalty equal to the higher of:

- 1 000 penalty units (ZMW300) each day the return is late; or
- 0.5% of the VAT payable in respect of the tax period covered by the return for each day that the return remains unsubmitted.

For late payment of VAT, the penalty is 0.5% of the tax due for each day the VAT remains unpaid. Interest is also chargeable for each month that a payment is overdue and is charged at the Bank of Zambia's discount rate plus 2%.

Refunds

When accounting for VAT a business is required to deduct input VAT incurred on qualifying business expenditure from the output VAT that it is liable to pay on its supplies. Where the input VAT is greater than the output VAT, the taxable supplier will be in a refund position.

To obtain a refund from the ZRA, a formal request must be made. Before granting any refunds the ZRA will generally conduct a credibility check to verify the authenticity of the refund. This means that VAT refunds are not automatic.



Other indirect taxes

Credit notes

Credit notes may be issued where:

- The supply has been cancelled;
- The supply or total purchase price has been varied or altered; or
- The goods have been returned to the supplier.

The details required on the credit notes are the same as those required on a tax invoice. The credit note must be clearly headed 'credit note'.

The credit note should also include details of the person or business receiving the credit, the quantity and amount credited for each item, the number and date of the original tax invoice, and a brief reason for issuing a credit note. The supplier must also maintain a clear audit trail to show that VAT was accounted for on the original supply.

The supplier that issues a credit note may deduct the credit due for the VAT previously paid on the original invoice from the total output VAT due as per the monthly VAT return. A business in receipt of a credit note for goods or services that have been subsequently cancelled or returned should ensure that input VAT is not claimed. If it was previously claimed then it should be credited and refunded to the ZRA through the monthly VAT return.

Record keeping

Unless the ZRA advises otherwise, all tax and relevant accounting records and documents must be kept for a minimum period of six years. Furthermore, they should be maintained in Zambia and be available for inspection by the ZRA upon request.

Records may be kept in electronic form, but hard original copies must be made available for inspection purposes.

Customs duties

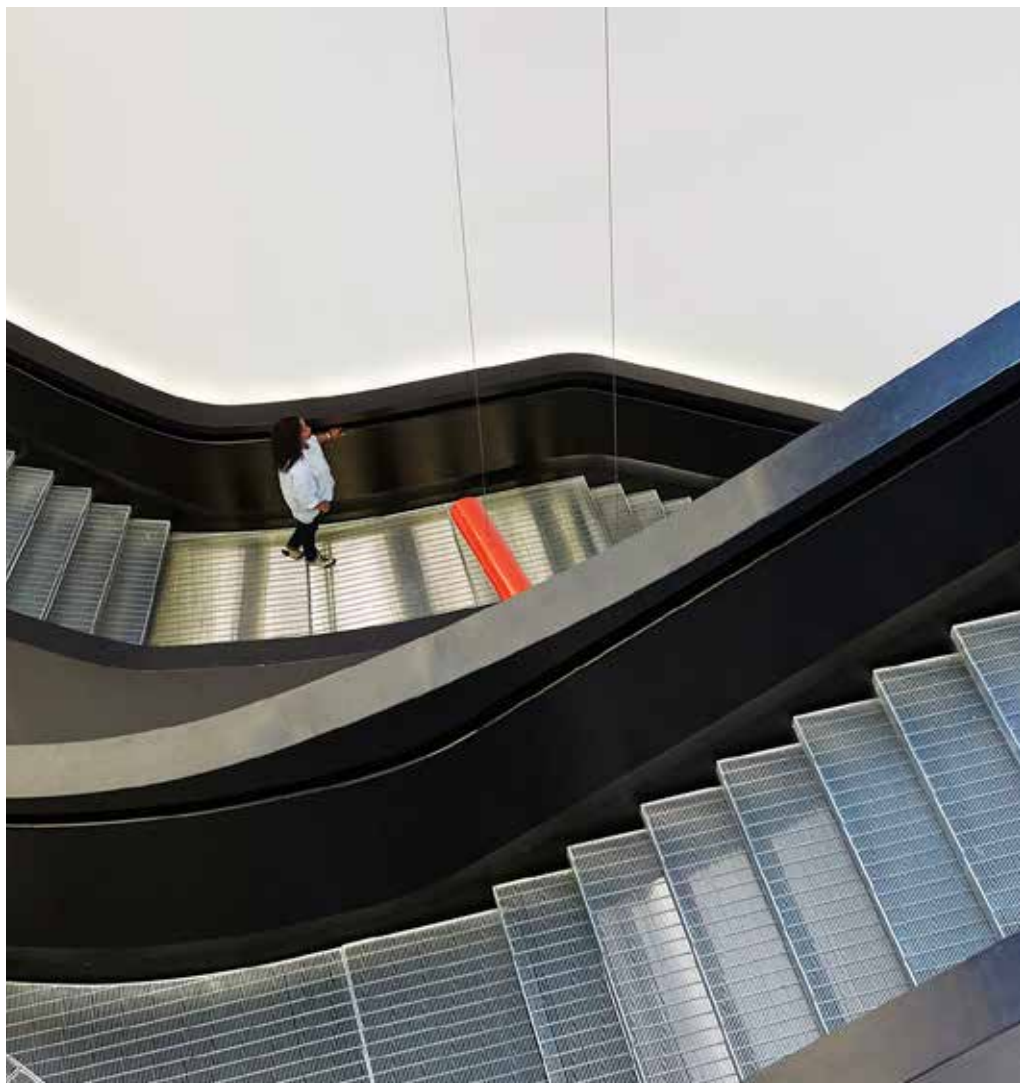
Customs duty is payable on goods imported in the Republic. Duty is applied on the value of goods for duty purposes at the rate prescribed by the Customs and Excise HS code. The value for duty purposes (VDP) generally comprises the cost of the goods being imported, plus insurance, freight and incidental costs of importation.

Excise duties

Excise duty is levied on specified goods that are imported, manufactured or produced in Zambia. Examples of such goods that are liable to excise duty are petroleum products, beers, spirits, tyres, soft drinks, cigarettes and electricity.

Import VAT at importation

In addition to customs and/or excise duty, import VAT is payable on all taxable goods imported into the Republic. Import VAT is payable on the value of goods as assessed for duty (the VDP) plus the customs and excise duty payable on importation.



Zimbabwe



Contact details

Website:	www.pwc.com/zw
Physical address:	Building No. 4, Arundel Office Park, Norfolk Road, Mount Pleasant, Harare
Postal address:	PO Box 453, Harare, Zimbabwe
Telephone number:	+263 4 33 8362-8
PwC contact persons	Contact details
David Masaya	david.masaya@zw.pwc.com
Manuel Lopes	manuel.lopes@zw.pwc.com
Peter Cawood	peter.cawood@zw.pwc.com
Christopher Muzhingi	christopher.muzhingi@zw.pwc.com
Edmore Mandizha	edmore.mandizha@zw.pwc.com
Chris Noble	chris.noble@zw.pwc.com



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 20% rate applicable to the export of unbeneficiated chrome; and
- The zero rate of 0%.

The introduction of export tax on unbeneficiated platinum has been deferred to January 2017.

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, and unbeneficiated chrome and platinum.



VAT registration

Registered operator

A registered operator is a person who is registered or is required to be registered for VAT. It is the person and not the trade that is registered for VAT. A person is only registered once for all the trades, divisions or branches carried on.

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 their 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 any decision to register is made on an individual basis.

The Commissioner may refuse to allow 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 person 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), and the form must be accompanied by 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 persons, proof of residence of these, 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.

Deregistration

A registered operator may be deregistered if:

- The value of their taxable supplies falls below the registration threshold;
- They cease to carry on any trade and will not carry on any trade during the next 12 months;
- They have applied for registration in anticipation of commencing a trade and have not commenced with that trade; or
- They have successfully applied for voluntary registration and subsequently fail to comply with the requirements.

Cancellation of registration, with the approval of 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.



Output tax

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 must 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:

- Financial services (excluding financial services charged at 0%);
- Donated goods or services or any other goods made or manufactured by an association not for gain if at least 80% of the value of the materials used in making or manufacturing such other goods consists of donated goods;



- 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;
- Educational services;
- Medical services;
- Membership contributions paid to an employee organisation;
- Piped water, rates charged by a local authority and electricity charges for supplies made for domestic purposes;
- Certain agricultural equipment and machinery;
- Certain fuel and fuel products (including ethanol fuel);
- Certain live animals;
- Tobacco supplied on the auction floors and, with effect from 1 February 2013, the supply of tobacco and other items of tobacco supplied otherwise than through auction sales;
- Fruits and vegetables, specific protective clothing generally used in farming (e.g. gloves, raincoats and gumboots), mineral water and brown rice with effect from 1 February 2016.
- Goods supplied under a rental agreement if used in or paid for from outside Zimbabwe – this zero-rating only applies to foreign-registered businesses;
- A business supplied as a going concern;
- Gold supplied to the Reserve Bank or a registered bank;
- Regular inputs supplied to farmers for farming, e.g. herbicides, fodder and insecticide;
- Soya bean and cottonseed (raw materials in oil expression);
- Certain basic foodstuffs, e.g. milk, raw meat and bread;
- Goods for disabled persons;
- Goods supplied to an independent branch in an export country;
- Gold coins issued by the Reserve Bank;
- Drugs as defined in the Medicines and Allied Substances Control Act;
- International transportation of passengers or goods;
- Transportation of passengers from one place to another place in Zimbabwe by aircraft to the extent that the travel constitutes 'international carriage';
- Transportation and ancillary transport services supplied within Zimbabwe in respect of imports and exports of goods, if supplied by the same supplier responsible for the international transport of those goods;
- Insuring and arranging of the transport and arranging of insurance for passengers or goods in respect of international transport;
- Transportation services for the movement of goods through Zimbabwe from one export country to another, when provided to a non-resident (non-registered operator) who does not carry on a business in Zimbabwe;
- Services in connection with land or improvements outside Zimbabwe;
- Services in connection with movables situated outside Zimbabwe or goods temporarily admitted into Zimbabwe that are exempted from import duties;
- Services relating to foreign-going aircraft;
- Handling, pilotage, salvage, towage and operation or management of a foreign-going aircraft, where supplied to a non-resident, non-registered operator;
- Arrangement of the supply of goods, services or transport of goods for a person who is a non-resident and a non-registered operator;
- Repair of a train operated by non-residents, not carrying on business in Zimbabwe;
- Services rendered whilst physically outside Zimbabwe (other than telecommunication services utilised in Zimbabwe);
- Services supplied to a non-resident who is outside Zimbabwe at the time the services are rendered, except where related to land and improvements thereto, or movable property situated inside Zimbabwe;
- Patents and other intellectual property for use outside Zimbabwe;
- Deemed services supplied by a charitable organisation to a public or local authority; and
- Services supplied by a registered operator to their branch situated in an export country.

Zero-rated supplies

Supplies that are zero-rated but in respect of which the supplier may deduct input tax include supplies of the following goods and services:

- Goods (including consumables) supplied to repair goods temporarily admitted into Zimbabwe;
- Goods supplied under a rental agreement if used exclusively outside Zimbabwe;

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.



Input tax

Input tax allowed

Where a registered operator incurred VAT on the acquisition of goods or services for the purpose 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, they 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.

Value Added Withholding Tax

The requirement to withhold VAT on payments made to suppliers of goods or services is effective from 1 November 2016. The Commissioner may appoint any VAT registered operator as an agent for purpose of withholding of VAT when making payments. An agent is required to furnish the registered operators from whom the amount is withheld with a certificate. The applicable rate is 10% of the amount paid. The amount withheld is due for remittance to the tax authority by the 15th of the following month. The amount withheld is deducted from output tax as a credit provided the registered operator retains proof of payment of the withholding tax.

Failure to deduct the withholding VAT makes the agent liable for the amount withholding VAT due. Additionally, the default attracts a penalty that is equal to 100% of the amount of withholding

tax due, a fine of up to USD400 or an imprisonment term of up to 12 months or both such fine and imprisonment.

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.

Input tax expressly denied

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

- Entertainment;
- Membership fees or subscriptions to clubs, associations or societies of a sports, social or recreational nature;
- Medical costs paid by a medical scheme on medical services provided to its members;
- Non-commercial motor vehicles, with the exception of acquisition by motor-dealers; and
- Exportation of raw hides, rough diamonds and unbeneficiated chrome and platinum.

Partial exemption

Where goods or services were acquired only partly as 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 bases for apportionment.

Adjustments

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

Pre-registration and post-deregistration VAT

Where a company reimburses a 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, which does not qualify as 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).

An 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.



International trade

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.

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 value of supply is consideration paid or payable. The recipient must declare and pay VAT on the prescribed form (VAT 9) within 30 days of importation.

Exports

Goods

Where goods are consigned to or delivered at an address outside Zimbabwe, the supply of the goods will be zero-rated. Any goods or services consumed within Zimbabwe are not eligible for zero-rating.

With effect from 1 August 2010, 20% VAT is chargeable on the export of unbeneficiated 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).

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 purpose of carrying on a trade in Zimbabwe.

Refunds to foreigners

No refunds are made 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 in the form of tourist services that include accommodation and food, hunting safaris where tourists use foreign currency to pay 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 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; and
- 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;

- Instalment 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;
- Public or local authorities – the value is the amount of the cash value (capital balance);
- Betting – the value is the amount received;
- Take-back bet – the value is the amount received as winnings;
- Tokens, vouchers and stamps with monetary face value – no supply is made until exchanged;
- Supply of entertainment where no input tax deduction is allowed – value is nil;
- Supply of medical or dental services to medical aid members – value is nil for medical aid scheme;



- 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.



VAT compliance

Accounting basis and tax periods

Tax periods are as follows:

- Categories A and B – Two-month periods, applicable to traders with a turnover below USD240 000;
- Category C – One-month periods, applicable to traders with a turnover above USD240 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. Payments must generally be made in cash or by cheque, and at the same time when a return is submitted.

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 to be made that is more than is 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.

Refunds

A registered operator is entitled to a refund of VAT when, in a particular tax period, their input tax exceeds their output tax. A routine refund must be paid 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.

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 the 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.

Since 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 in which 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 their 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 their 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 their 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:
- It must have 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 value of sales of the goods or services in question,

- The amount of 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, a 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.
- 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.

The fiscalisation requirements were extended to categories A, B and C with effect from 1 January 2017.

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; it must refer to the original tax invoice that is affected by the adjustment (i.e. the invoice date and number); and it must give reasons for the issuing of the credit or debit note. Credit notes issued and debit notes received must be reflected as input tax on VAT returns, while debit notes issued and credit notes received must be reflected as output tax on VAT returns.

Additional export documentation

This may change from time to time, but the major documents are 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.

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.

Specific VAT rules

Bad debts

Bad debts written off or factored without recourse qualify for input tax credit equal to the tax fraction applicable at the time output tax was accounted for. If no output tax was paid, e.g. where the operator was allowed to account for VAT on a cash basis, the issue of adjustment does not arise.

Land and buildings

Sale of buildings and land, other than farmland, is standard-rated. Farmland which is used for agricultural and pastoral activities is not fixed property for VAT purposes.

Leasing

Leasing is generally taxable as part of an instalment credit agreement, and the sum payable is standard-rated, excluding the finance charges. The letting of fixed property for use by natural persons as dwellings or the construction of such dwellings is exempt from VAT.



Promotional gifts

Input tax is allowed on promotional gifts.

Second-hand goods

There are no special rules regarding second-hand sales except where fixed property subject to stamp duty is concerned. VAT is applicable on sales as normal. Normal input tax principles apply. Notional input tax applies only to fixed property where stamp duty was payable, and not to the sale of other second-hand goods. Exports are zero-rated as in all other cases.

Tourism industry

Supplies by tour operators are treated as exports and are therefore zero-rated when payments are made in foreign currency for facilities such as food, accommodation and other tourist-related services. The payment could be made by foreign bank draft, credit card or foreign bank cheque.

Transfer of a business

The sale of a business as a going concern is a zero-rated supply if the following conditions are fulfilled:

- Both parties are registered operators;
- The parties have agreed in writing that the trade or part of trade will be disposed of as a going concern;
- The parties have agreed in writing that the trade or part of trade will be an income-earning activity from the date of transfer; and
- The supplier disposes of assets necessary for such continuity.

If not transferred as a going concern, the assets in the business would be taxable as supplies made in the ordinary course of trade. Where one of the parties is a non-registered operator, VAT would apply as in all other trades.



Other indirect taxes

Import duties

Import duties are levied on imported goods that are classified by a commodity code under customs tariffs. Rates vary from duty-free to more than 40% of the value. A surtax of 25% of the value is levied on imported second-hand light passenger motor vehicles that are more than five years old from the date of original manufacture.

Excise duties

Excise duties are levied on a limited number of locally manufactured commodities as listed in excise tariffs, e.g. beer, spirits, wine, cigarettes and tobacco products.

A 5% special excise duty is payable by the buyer based on the value of the relevant vehicle upon change of ownership of locally registered vehicles. A few exceptions exist where vehicle ownership is changed under the following circumstances:

- Vehicle ownership transfers that form part of an approved scheme of reconstruction or a similar arrangement;
- Transfers between spouses or parents and their children;
- Transfers that arise from inheritance; and
- Transfers to private voluntary organisations (for the benefit of social welfare activities).

A 5% special excise duty also applies to bulk airtime when supplied to retailers by cellular telecommunication service and internet service providers. Airtime is taxed at source and therefore subsequent retailers are not liable to the excise duty.

Transfer duty

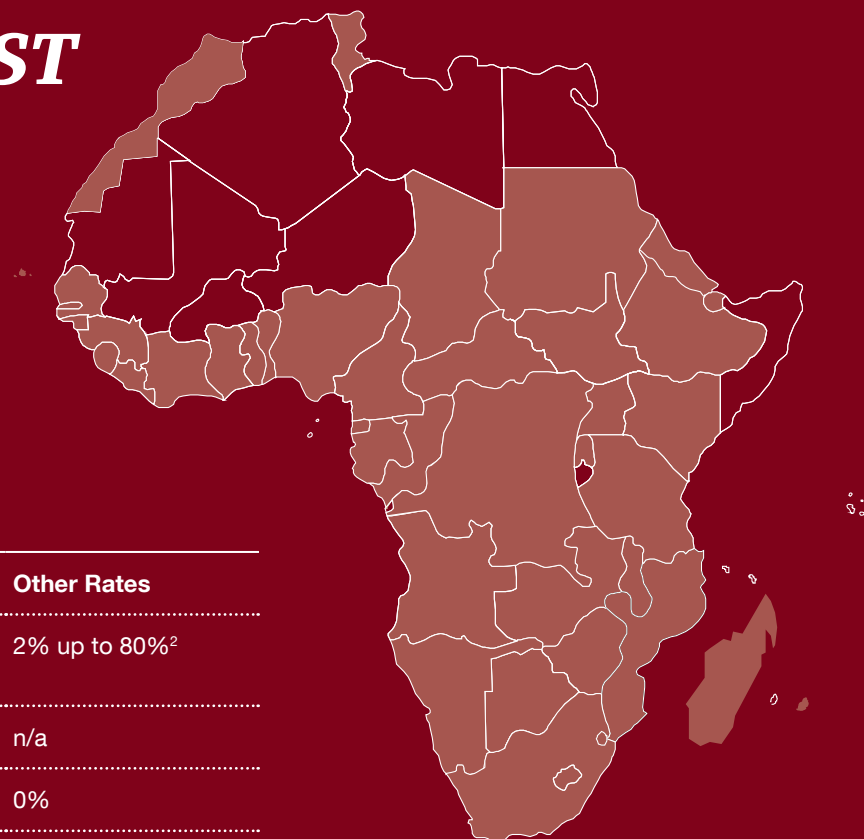
Transfer duty is calculated at 6% of the market value of fixed property or at 3% of the value of quoted or listed shares. Unquoted shares do not attract any transfer duty.

Stamp duty

Stamp duty on cheques is USD0.05.



Africa – VAT/GST rates



Country	Standard Rate	Other Rates
Angola	Consumption Tax 10% ¹	2% up to 80% ²
Benin	18%	n/a
Botswana	12%	0%
Cameroon	19.25%	0%
Cape Verde	15%	0%
Central African Republic (CAR)	19%	0%, 5%
Chad	18%	0%
Congo	18%	0%, 5%
Côte d'Ivoire	18%	0%, 5%, 9%, 10%, 18%
Democratic Republic of Congo (DRC)	16%	0%
Djibouti	10%	0%
Equatorial Guinea	15%	0%, 6%
Ethiopia	15%	0%
Gabon	18%	0%, 5%, 10%
Gambia	15%	0%
Ghana	17.5% (incl 2.5% health levy)	0%, 5%
Guinea Bissau	GST 15% ³	0%
Guinea Conakry	20%	0%
Kenya	16%	0%
Lesotho	14%	0%, 5%



Country	Standard Rate	Other Rates
Liberia	GST 7%-10% ⁴	0%
Madagascar	20%	0%
Malawi	16.5%	0%
Mauritius	15%	0%
Morocco	20%	7%, 10%, 14%
Mozambique	17%	0% and lower effective rate on certain items
Namibia	15% ⁵	0%
Nigeria	5%	0%
Rwanda	18%	0%
Senegal	18%	10%
Sierra Leone	GST 15% ⁶	0%
South Africa	14%	0%
Sudan	17%	0%, 30%
Swaziland	14%	0%
Tanzania	18%	0%
Togo	18%	n/a
Tunisia	18%	6%, 12%
Uganda	18%	0%
Zambia	16%	0%
Zimbabwe	15% ⁷	0%

¹ Consumption tax (imposto do consumo) is a combination of a single stage sales tax & excise duty

² These rates may apply on internal transactions or imports.

³ GST is levied on the value added in respect of taxable supplies of goods and services

⁴ CST is a cascading tax

⁵ The effective VAT rate for the importation of items subject to 15% VAT will be 16,5%, due to a 10% upliftment factor

⁶ GST is levied on the value added in respect of taxable supplies of goods and services

⁷ A rate of 20% applies to the export of unbeneficiated chrome



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