



# Helping you navigate Africa's VAT landscape

June 2020



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# Preface

## VAT in Africa Guide – 6th Edition

The continent of Africa has over the last couple of years experienced stability within its political, social and economic environs. With such steadiness, Africa is ranked as one of the continents with accelerating economies. Additionally, the continent's population has been on the rise and currently is approximated at over 1.2 billion continental citizens.

With these rapid changes, African governments have been forced to be agile in response to the bulging socioeconomic demands. The governments are *inter alia* under pressure to protect their taxation base and increase efficiency in revenue collection.

Conversations on subjects such as transparent tax regimes, regulations and policy formulation relating to the taxation of nascent industries such as the digital economy and increased intra-Africa trade have become a norm.

We have witnessed bold reforms around Value Added Tax/ Goods and Services Tax (VAT/GST) compliance reporting, expansion of the Excise Duty net to cover services and increased scrutiny of inbound cross-border trade activities.

Additionally, years of talks have now yielded the African Continental Free Trade Area Agreement -AfCFTA, which was ratified on 30 May 2019. AfCFTA is expected to change the future of African trade from historical bias to ties with Europe, the Americas and Asia to African trade with itself. For once, Africa is resolute in its desire to tackle the long-standing challenges of tariff and non-tariff barriers that have inhibited the movement of goods, services, capital and people within the continent.

The African narrative as a war-torn and impoverished society has faded away and we strongly believe this is Africa's time to harness its full potential; we welcome you to take the journey with us across Africa!

## About this publication

This sixth (6th) edition of the 'VAT in Africa Guide' has been compiled by PwC tax specialists across thirty-five (35) countries featuring an additional nine (9) countries vis-à-vis the fifth edition published in January 2017. The additional countries featured in this 6th edition include Angola, Egypt, Guinea Conakry, Liberia, Sierra Leone,



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Republic of Congo, Mauritius, Seychelles and The Kingdom of Eswatini (Swaziland) including a chapter on Horn of Africa covering Ethiopia, Djibouti and Eritrea. The chapter discusses with a light touch the VAT treatment in the three (3) countries.

The guide is based on VAT laws in force as at 01 April 2020 and outlines pertinent technical principles on VAT/ GST such as the taxable versus non-taxable goods and services, VAT rates and registration with the relevant authorities. Additionally, the publication has focused on compliance requirements such as record keeping and revenue authority audits.

In compiling this publication, we have paid special attention to trends within the global tax arena such as taxation of the digital economy, introduction and adoption of withholding VAT regimes, reduced/special VAT rates for certain supplies and the paradigm shift by various governments from zero-rating to exemption.

We have seen jurisdictions such as South Africa and Nigeria increase their VAT rates and countries such as Angola and Egypt making a shift from sales tax to embrace VAT, not to mention the reduction of VAT rates by countries such as Kenya.

The publication has also sought to highlight the basic principles relating to other indirect taxes across Africa. For instance, we have made light commentary on environmental taxes and levies in Namibia and South Africa, plastic bag ban levy in Namibia and Senegal and health levies and sugar tax in South Africa.

As the guide is intended to provide an overview of the application of VAT legislation in Africa, it does not contain a comprehensive summary of all VAT principles applying in each country. Specific advice on any of the VAT or indirect tax related issues can be obtained from our indirect tax specialists whose contact details are provided in the publication.

We hope you will find our analysis insightful and we welcome your feedback to help us improve on future editions and our other thought leadership publications.

Thank you!

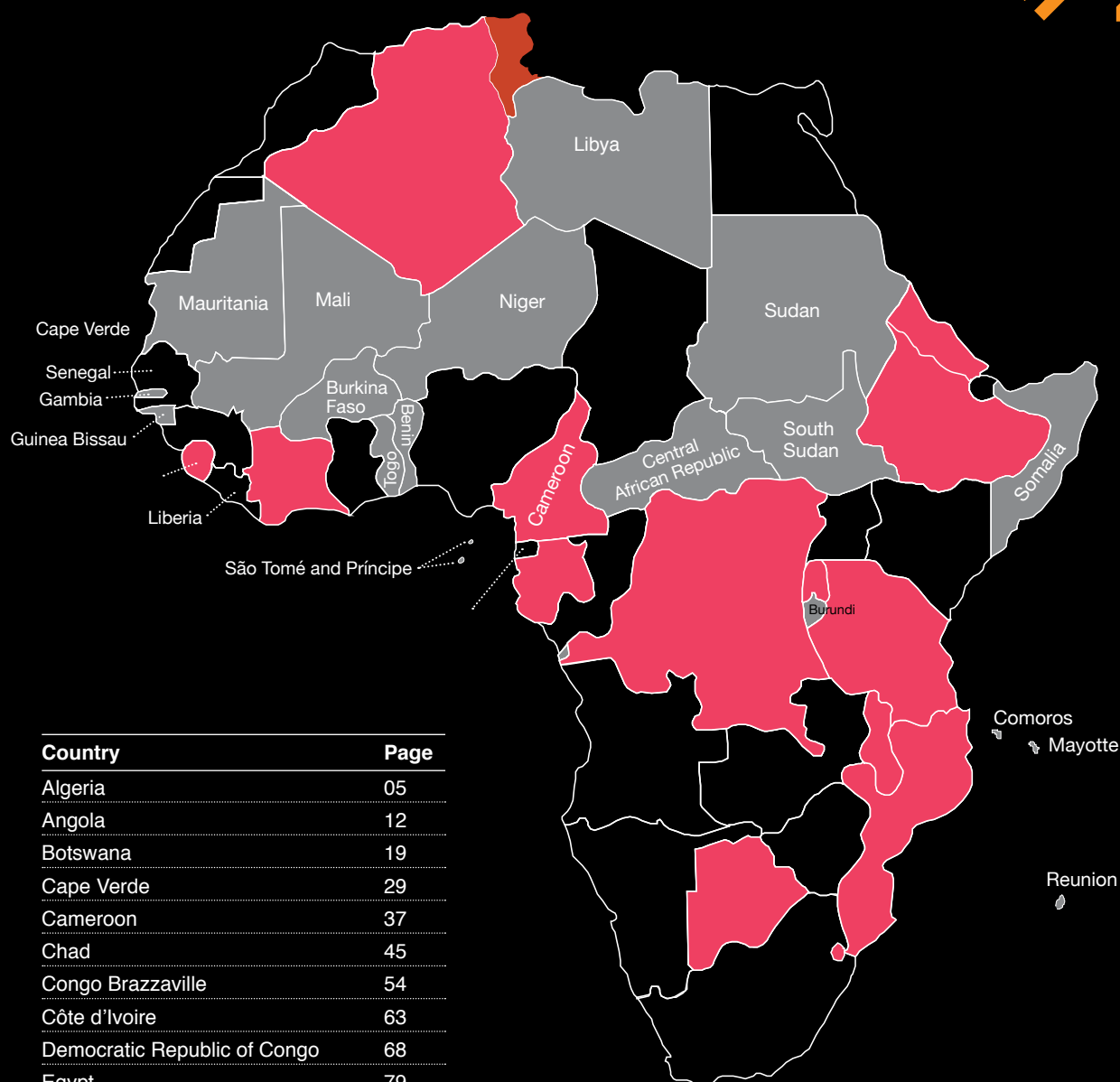
**#PwCAfricaVATGuide**

**#PwCTaxInsights**





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# Algeria



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## Scope of VAT

### Territoriality of VAT

VAT applies only to transactions deemed to be made in Algeria (art. 7 of the Algerian Turnover Tax).

Definition of a business deemed to be made in Algeria

- Sale: when it is carried out under the conditions of delivery of the goods in Algeria;
- Other operations: when the service rendered, the right transferred, the object leased or the studies carried out are used or exploited in Algeria.

### Taxable transactions

***Taxable transactions by nature (art. 1 The Turnover Tax Code "CTCA")***

VAT applies on:

- Operations of sale, real estate works and provision of services other than those subject to special taxes of an industrial, commercial or artisanal nature and carried out in Algeria on a regular or occasional basis. This tax applies regardless of the legal status of the persons who intervene for their realisation or their situation with regard to other taxes, the form and nature of their intervention;
- Import operations.

***Transactions taxable by specific provision of the law (Art. 2 CTCA)***

VAT applies on:

- Real estate works;
- Self-supplies by taxable persons;
- Rental operations, provision of services, studies and research work, as well as all operations other than sales and real estate work;
- Operations carried out by banks and insurance companies;
- Sales of real estate or goodwill by persons who habitually or occasionally purchase such property on their own behalf with a view to reselling it;
- Operations carried out in the course of the exercise of a liberal profession by natural persons and companies, with the exception of operations of a medical, para-medical or veterinary nature. However, services relating to accommodation and catering provided by health care establishments other than those in the public health sector remain subject to the tax;
- Shows, games and entertainment of any kind organised by any person, even if acting under the cover of associations governed by the legislation in force;



Value-added tax (VAT) was introduced in Algeria in April 1992. It concerns the industrial and commercial transactions. VAT is entirely supported by the consumer. It is however regularly collected whenever a taxable transaction is carried out

– Lazhar Sahbani, Partner, Tax and Legal Services, PwC Algeria

- Telephone and telex services provided by postal and telecommunications services;
- Sales transactions carried out by supermarkets, multiple trading activities and retail trade, excluding transactions carried out by taxpayers subject to the flat-rate system.
- Multiple trading shall be understood to mean retail purchase/resale transactions which meet the following conditions:
- Items put up for sale falling within at least four different categories of businesses, regardless of the number of items put up for sale;
- The premises must be accessible on a self-service basis.
- Operations carried out by banks and insurance companies and
- Sales operations carried out by electronic means.

#### *Taxable transactions by option (Art. 3 CTCA)*

Taxable transactions on the option exercised by legal persons carrying on business outside the scope of VAT, to the extent that they supply:

- For export;
- To oil companies;
- To companies benefiting from free VAT purchase mechanism.

This option is valid for a period expiring on December 31 of the third year following the year in which it took place and renewable by tacit agreement unless expressly waived.

#### **VAT Rates**

VAT rates in Algeria are as follows:

- Reduced rate: 9% for goods and services of particular economic, social or cultural interest;
- Standard rate: 19% for transactions, goods and services not specifically subject to the reduced rate.

#### **VAT Registration**

##### **VAT registration in general**

No VAT registration is required in Algeria. Companies must register with relevant tax authorities, where a tax identification number will be assigned.

VAT related to all kinds of operations is declared and paid through monthly declarations called Gn°50.

##### **Non-residents**

Non-resident suppliers with no legal presence in Algeria must appoint a representative domiciled in Algeria in order to comply with local regulation and fulfil their VAT obligations, as provided for by Article 63 of the CTCA.

Failing this, the tax and, where appropriate, the related penalties shall be paid by the client on behalf of the person not having an establishment in Algeria.

#### **Input VAT deduction**

##### **Right of deduction**

Basic principles:

- The VAT charged on the cost price components of a taxable transaction is deductible from the VAT applicable to that transaction;
- The deduction is valid if, after or without processing, the materials, products, objects or services are used in a transaction which is effectively subject to VAT;
- The deduction is to be operated in respect of the month or quarter in which the VAT was payable. The tax which deduction has been omitted may be included on subsequent returns up to 31 December of the year following the year of the omission;
- If the VAT due for a month or a quarter is less than the deductible VAT, the remainder is carried forward to the following months or quarters;



- The deduction is not allowed for invoices paid in cash when the amount of the invoice exceeds DA 100,000.

### Scope of application

Right to deduct:

- The right to deduct VAT is intended for taxable persons carrying out taxable supply transactions.
- Also gives the right to deduct VAT (31 of the Finance Act for 2017):
  - *Export transactions;*
  - *Transactions for the supply of goods and services to an exempt sector or benefiting from the tax-free purchase regime.*
  - *Transactions of sales of exempt products and services which prices or margins are regulated.*

Transactions not giving rise to a right of deduction:

- Transactions outside the scope of VAT;
- Retail trade activities;
- Commissionaires and brokers;
- Sports meetings of all kinds.

VAT excluded from the right to deduct:

- VAT charged on goods and services used for private use or for a non-taxable activity;
- VAT charged on services, spare parts and supplies used for the repair of goods excluded from the right of deduction;
- VAT charged on passenger cars and passenger transport vehicles not constituting the main tool of the holding;
- VAT on donations and gifts.

Obligations relating to the right to deduct:

- Mandatory information on invoices;
- The turnover statement must be submitted to the tax collector within 20 days of the calendar month.

This statement must be supported by a report containing, for each supplier, the following information:

- Statistical identification number;
- Surname and first name(s) or company name;
- Address;
- Trade register entry number;
- Invoice date and reference;
- Amount of purchases made or services received;
- Amount of VAT paid.

## VAT free purchases regime

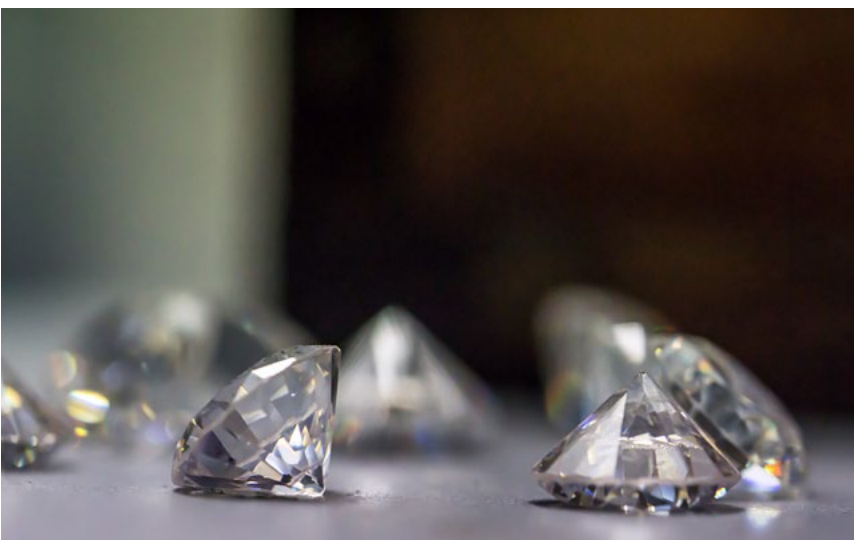
### Overview

- This regime enables a taxable person who is unable to charge the VAT paid on his purchases to acquire, free of VAT, goods and services intended either for export or for the production of goods expressly exempted by law.
- The transactions benefiting from this regime are expressly listed by law.
- This regime needs to obtain an authorisation setting an annual quota of VAT-free purchases from the territorially competent regional tax director (or DGE), under certain conditions and in accordance with a specific procedure.
- Existence of VAT free purchase formalities and obligations borne by the beneficiary of the authorisation.

### Scope of application

Operations benefiting from VAT free purchases regime:

- Goods and services acquired by suppliers of oil companies for use directly in the exploration, research, exploitation, liquefaction and pipeline transportation of liquid and gaseous hydrocarbons, as well as the construction of hydrocarbon refining and processing facilities;
- Purchases or imports of goods made by an exporter for export or re-export in the same condition or for incorporation in the manufacture, composition, conditioning or





packaging of products for export, as well as services directly linked to the export operation;

- Purchases of specific raw materials, components or packaging used for the production, packaging or commercial presentation of products expressly exempted or intended for the VAT-exempt sector;
- Goods and services acquired in the context of a contract concluded between a foreign company not having a permanent professional establishment in Algeria and a contracting party benefiting from this regime.

#### Quota (contingent)

- The authorisation for VAT-free purchases, which shall be valid for one calendar year, shall be issued for an annual quota, the amount of which may not exceed:
  - *Either the sales value, excluding tax, of goods normally subject to VAT, delivered by the beneficiary during the previous financial year, or*
  - *The amount, excluding tax, of purchases of such products during the previous year plus 15%.*
- An additional quota may be granted on presentation of supporting documents justifying the need for the requested increase;
- A provisional quota fixed at  $\frac{1}{4}$  of the previous year's quantum may be granted at the beginning of the calendar year pending the renewal of the annual authorisation.

## Output VAT

### Description

Taxable turnover includes the price of goods, works or services, including all costs, duties and taxes, excluding VAT itself.

The operative event is constituted by:

- The legal or physical delivery of the goods for resale activities;
- The total or partial collection for services provision.

VAT related to each month is declared and/or paid through the monthly declarations G50 to be submitted before the 20th of the following month.

### Exempt supplies

The below operations are exempt from VAT:

#### **Business done inside the country:**

- Operations excluded from the scope of VAT, such as:
  - *Listed products liable to the sanitary tax on meat;*
  - *Gold, silver and platinum articles, subject to the guarantee right, except luxury jewellery;*
  - *Transactions carried out between companies of a same group as defined by provisions of the Algerian Tax Code.*
- Operations expressly exempt from VAT as provided for by article 9 of the CTCA.

#### **Import business:**

- Products which domestic sale is exempt from VAT are, on importation, exempted under the same conditions;
- Are also exempt from VAT on imports:
  - *Goods placed under one of the customs duty suspensive regimes;*
  - *Goods subject to exceptional duty-free admission;*
  - *Aircrafts intended for use by air navigation companies;*
  - *Articles and products, raw or manufactured, for use in the construction, fitting out, repair or conversion of aircrafts, approved flying schools and training centers;*
  - *The refurbishment, repair and transformation of Algerian ships and aircraft abroad;*
  - *Goods imported under barter arrangements in accordance with the conditions provided for by the laws and regulations in force;*
  - *Ships intended for shipping companies listed under headings certain headings of the Customs Tariff.*

#### **Export business:**

- Sales and processing businesses relating to exported goods, subject to some conditions;
- The business of selling and processing of goods of national origin delivered to legally established bonded warehouses.

## International trade

### Goods and services

Goods and services imports are subject to VAT at the rate of 19% or 9%, except where a specific exemption applies.



The taxable base is constituted by the customs value including all duties and taxes, excluding VAT itself.

Goods and services intended for export are generally exempt from VAT under some conditions (Article 13 of CTCA).

However, there are some exceptions such as sales of antiques, paintings, watercolors, postcards, drawings, original sculptures, engravings or prints, gemstones, rough or cut, fine pearls, precious metals, etc.

The taxable base for taxable products is the value of the goods at the time of export, including all duties and taxes, excluding VAT itself.

### Place, time and value of supply

#### Operative event and due date

Article 14 of the Algerian Turnover Tax Code (CTCA) specifies the operative event as per the below:

- Sales and similar operations: physical or legal delivery of the goods;
- Real estate works: total or partial collection of the price;
- Self-deliveries of manufactured movable goods and real estate works: delivery;
- Provision of services: total or partial collection of the price;
- Import: introduction of the goods into customs;

- Export: presentation to customs.

#### Time of supply

VAT related to each month is declared and/or paid through the monthly declarations G50 to be submitted before the 20th of the following month.

#### Value of supply

- For operations carried out inside the territory: The taxable turnover includes the price of the goods, works or services, all costs, duties and taxes included, excluding VAT itself.
- For import operations: The taxable base is constituted by the customs value including all duties and taxes, excluding VAT itself.
- For export operations: The taxable base for taxable products is the value of the goods at the time of export, including all duties and taxes, excluding VAT itself.

### VAT compliance

#### Accounting basis and tax period

VAT is accounted at the time of receipt of the invoice. It is declared to the tax authorities under a statement (series G n°50) indicating the turnover realised with the payment of all mandatory taxes.

VAT related to each month is declared and paid through the monthly declarations G50 to be submitted before the 20th of the following month.



### Interest and penalties

Any late payment of the VAT will give rise to a penalty, calculated on the amount to be paid, by a percentage which differs according to the period of delay,

- between the 21st of month N+1 and the last day of month N+1, the penalty is 10%,
- beyond month N+1, a penalty of 3% will be added every month to the initial rate until it reaches 25%.

### Withholding VAT obligation

In Algeria, VAT is not declared by withholding system. Each taxpayer will have to pay the VAT for the transactions carried out.

Non-resident suppliers with no legal presence in Algeria have to appoint a representative domiciled in Algeria in order to comply with local regulation and fulfil their VAT obligations, as provided for by Article 63 of the CTCA.

In some cases and under certain conditions, the VAT can be declared and paid by the Algerian customer through the reverse charge mechanism (case of foreign suppliers who do not have permanent business facilities in Algeria).

### VAT refunds

#### Overview

- If the deductible VAT cannot be fully offset against the output VAT, the resulting VAT credit can be refunded by the tax authorities, in certain cases restrictively listed by law;
- The refund is granted to the taxpayer, under certain conditions expressly provided for in the law;
- A refund application file must be submitted by the taxpayer, in accordance with a specific refund procedure provided for by law.

#### Right of reimbursement

Refunds are provided for where the deductible VAT cannot be fully offset against the VAT due on taxable transactions carried out by a taxable person, in the following cases:

1. Exempt transactions:
  - *Export transactions;*

- *Trade operations of goods, goods and services expressly exempt from VAT;*
- *Transactions involving the supply of goods, works, goods and services to a sector which is exempt or which benefits from the VAT-free purchase authorisation regime.*

2. The cessation of activity: The refund of the VAT credit is determined after regularisation of the overall situation of the taxpayer, in particular with regard to the repayment of initial deductions and capital gains on business transfers.
3. The difference in VAT rates: This can be resulting from the application of the standard rate on the acquisition of materials, goods, depreciable goods and services and the reduced rate on taxable business.
4. Transactions carried out by partial payers: refund limited to the deductible VAT fraction, the non-deductible fraction being regarded as a deductible expense for the purpose of determining taxable profit.

#### Refund condition

- Keeping of accounts in the regular form;
- Production of a cleared statement of account or a payment schedule;
- Mention of VAT credit tax on the monthly G 50;
- VAT deduction refund requests must relate to financial years not covered by the four-year statute of limitations;
- Amount of the transaction in respect of which VAT was due must be higher than DA 10,000 and paid by a method of payment other than cash;
- Application for refund of the VAT credit must be submitted by the 20th of the month following the quarter in respect of which the refund is requested at the latest;
- No deferral of the VAT credit for which the refund is requested as soon as the refund application is submitted;
- The refund application must be for an amount equal to or higher than DA 1 000 000, otherwise it will be inadmissible. This threshold does not apply to partial taxpayers.

## VAT record keeping

### Tax invoice

For VAT to be admissible, the invoice must include the following statements:

- The Name, address and tax identification of the client;
- Name, address and tax identification of the supplier;
- The date of transaction;
- The amount excluding VAT;
- Quantity of goods or extent of services;
- Rate of VAT, and the VAT amount;
- Total payable amount.

### Record keeping

Records of invoices must be kept for a period of 10 years

## Specific VAT rules

### Bad debts

VAT related to bad debts cannot be deducted or refunded.

### Digital economy

Sales transactions carried out by electronic means are subject to a reduced rate of 9%.

### Land and buildings

Transactions relating to immovable property such as land and buildings are subject to value added tax standard rate.

### Leasing

The leasing operation are subject to VAT standard rate.

### Second-hand goods

Transactions involving used motor vehicles and used bicycles and motorcycles are subject to VAT standard rate.

### Tourism industry

Touristic activities are subject to VAT.

## Currency conversion

Invoices related to import/export transactions are allowed to be in foreign currency however the applicable VAT shall be converted to Algerian Dinars.

### Transfer of business

VAT standard rate applies to transfert of business and ongoing business.

### Warranty repairs

No VAT applies for repairs under warranty as the original goods were costed to allow for such repairs.

## Other indirect taxes

### Import duties

There are customs duties in Algeria which can vary from 5 to 30%. In addition, the Internal Consumption Tax can reach 60%.

### Stamp duty

Stamp duty is levied at varying rates on transactions, including the execution of various documents and deeds.

## Other indirect taxes publications

### *Bank domiciliation tax*

Bank domiciliation Tax set at 0.5 %. The latter applies on the importation of goods or merchandise intended for resale in the same state. For importation of services the Bank domiciliation tax is set at 4%.

### *The tax on polluting and environmentally hazardous activities*

This tax applies to the activities listed in the annex to Executive Decree No. 09-336 of 20 October 2009, which defined the activities subject to the tax on polluting or environmentally hazardous activities and set the multiplier coefficient.

### *Energy Efficiency Tax*

The rate of the EE tax, required at customs clearance, varies between 5 and 30% of the ex-works price of the product for locally manufactured products and between 5 and 40% for imported products (by energy class, etc.).





# Angola



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## Introduction

**VAT came into force from 1 October 2019, replacing the Consumption Tax. The Angolan VAT system is a modern regime with a rate of 14% (with an exceptional 2% for some operations in Cabinda) with an established broad tax base. The VAT system in Angola has some provisions such as the captivation regime and/or refund through tax credit certificates.**

## Scope of VAT

VAT applies to:

- Supply of goods: the transfer of the right to dispose of tangible property as owner, and
- Supply of services: as a residual concept it includes all operations carried out that are not a supply of goods or an importation of goods or money
- Any person who unduly charges VAT on an invoice
- Any person that is a purchaser of services from non-resident entities
- The state, except when acting within its power or authority and from which competition distortion does not result

Both the supply of goods and the supply of services must take place in Angolan territory by a taxable person acting as such.

The importation of goods means the entry of goods into the territory of the country is in accordance with the customs legislation.

The following persons are liable for the payment of VAT:

- Any person carrying on an economic activity on an independent basis
- Importers (in accordance with the customs legislation)

## VAT rates

The standard VAT rate is 14%.

There is a special regime for Cabinda Province, where the VAT rate for importation or supply of goods is 2%.

## 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 must be submitted 15 days

prior to the start of operations. With effect from the introduction of VAT on 1 October 2019 to 31 December 2020, only the taxpayers registered in the Large Taxpayers Office must be registered for VAT.

Taxpayers registered in all other tax offices and having a turnover exceeding USD250,000 per annum will only be obliged to register with effect from 1 January 2021. Until then they will be under the VAT Simplified Regime, where they must pay 3% on their received turnover of the previous three months, quarterly, in April, July, October and January. They can deduct such payments up to a limit of 4% of the tax on their purchases of goods and services included in the list of suppliers.

### **Voluntary and group registration**

No provision is made for voluntary registration, neither for group registration.

### **Non-residents**

Non-resident entities without a permanent establishment in Angola 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 to the Angolan Tax Authorities.

### **Application for registration**

No instruction explaining the procedure has been published by the tax authorities.

### **Deregistration**

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

## **Input tax deduction**

### **Input tax allowed**

VAT is fully recoverable in the case of taxpayers carrying out fully taxable activities, subject to compliance with the prescribed legal requirements, which means that only when a taxpayer is in possession of an invoice or an equivalent document in its name, only then can the taxpayer be allowed to deduct VAT. 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:

- Acquisition, manufacture or import, utilisation, transformation and repair of passenger vehicles, pleasure boats, helicopters, aircraft and motorcycles
- Acquisition or import of tobacco
- Lodging, food and drink, and reception expenses, including those related to the reception of business visitors and the expenses related to buildings or part of buildings and their equipment, intended principally for such reception

However, input tax is allowed when they relate to goods or services whose sale or supply constitutes an activity of the taxable person.

### **Partial exemption**

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





### Oil investing companies

Input tax is expressly denied for oil investing companies, on the following expenses:

- Supply of water and energy
- Services related to electronic communications and telecommunications
- Accommodation services

In production phase, VAT deduction is also denied in relation to:

- Lease of equipment, except if it arises in the payment of royalties
- Consultancy, legal, tax, financial, accounting, and Information Technology (IT) services
- Security services
- Lease of vehicles

### Output tax

#### Brief description of output tax

Output tax is calculated by applying the applicable VAT rate (14%) to the taxable value.

In Angola, there is a captivation regime (withholding VAT) which consists of VAT being withheld by recipient of goods/services in determined sectors:

- 100% captivation — by the state (except public companies) and oil investing companies, and
- 50% captivation — Angolan National Bank, commercial banks, insurers and reinsurers and telecommunication operators

VAT is withheld by these entities, paying to the supplier only the taxable base.

#### Exempt supplies

Exempt supplies include supplies of the following goods and services:

- Medicinal products intended exclusively for therapeutic and prophylactic purposes
- Wheelchairs and similar mobility aids for the disabled, typewriters and printers for braille characters and articles to be used by the blind
- Books, including in digital form
- Leasing of immovable property for residential purposes, in particular urban buildings, separate parts thereof or building lands, with the exception of the supply of services of accommodation services provided in the course of hotel activity

- Transactions subject to property transfer taxes (SISA), even if exempted
- Games of chance and of social entertainment, as well as the respective commissions and all related transactions, when they are subject to Special Tax on Games
- Collective transport of passengers
- Financial intermediation operations, including financial leasing, except for those where a specific and predetermined fee is charged for the service (Annex III)
- Health insurance, as well as the provision of life insurance and reinsurance
- Petroleum products, in accordance with Annex II of the VAT Code
- Services related to education
- Sanitary medical services realised by hospitals, clinics and similar organisations
- Transport of sick or injured people in ambulances or other appropriated vehicles by duly authorised organisations
- Medical equipment for the exercise of the activity of health establishments

### Zero-rated supplies

Zero-rated supplies in Angola include:

- Basic goods (e.g., milk, beans, rice, flour, cooking oil, sugar, soap), according to Annex I of the VAT Code
- Export of goods outside of Angolan territory
- Passenger transportation with departure or arrival out and into Angolan territory

### International trade

#### Imports

##### Goods

Goods imported into Angola are subject to the payment of VAT by the importer. However, the following are exempt:

- Goods that are exempt if supplied within the country
- Importation of gold, coins or banknotes, produced by the Bank of Angola
- Importation of goods for gifts to mitigate the effects of natural disasters
- Importation of foreign currency performed by the banking financial institutions

- Importation of goods or equipment intended for the exclusive or direct execution of petroleum and mining operations, under the law that establishes the Customs Regime for the Petroleum Sector and the Mining Code respectively
- Importation of goods by entities under projects of international cooperation

### Services

The general rule is that the supply of services is taxable if the service provider's head office, permanent establishment or domicile from which the services are rendered, is in Angola.

However, the following services are always taxable regardless of the place of establishment of the provider of the services (if acquired by an Angola taxpayer):

- Services related to immovable property located in Angola, which includes the preparation or coordination of the execution of building works and the services of estate agents as well as the granting of rights to use immovable property
- Services performed in relation to movable tangible goods if performed totally or mainly in Angola
- Passenger transport services in Angola
- Leasing of motor vehicles, aircraft, pleasure boats or any other transport vehicles, when they are made available to the consignee in Angola
- Artistic, scientific, sporting, recreative and teaching services, including those of the organisers of these activities and accessory supplies

### Exports and services provided in Angola

#### Goods

The following goods, for example, are zero rated:

- Goods shipped or transported abroad by or on behalf of the seller
- Supply of goods 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
- Supply of goods for aircrafts used by airline companies mainly engaged in international traffic and used to carry passengers for reward, or used for the purpose of a commercial or industrial activity

There is a special regime for Cabinda province, where the VAT rate for importation or supply of goods is 2%

- Supply of goods for rescue vessels, maritime assistance, coastal fishing and war vessels, when they leave the country for a foreign port
- Supply, transformation, repair, maintenance, freight and leasing of vessels and aircrafts, as well as the supply of goods and the supply of services made in order to satisfy their direct needs and the respective load and of goods to certain international entities
- Supply of goods under international treaties and agreements to which Angola is a party, when the exemption results from them

### Services

The following services zero rated:

- 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

### Place, time and value of supplies

#### Place of supply

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

In the case of goods, the general rule is that the place of supply is the place where the 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.

Exceptions to the above rules include:

- Services connected with immovable property located outside Angola – the place where the property is located
- Services relating to movable tangible property performed totally or mainly outside of Angola – the place where the service takes place



- Cultural, artistic, sporting, scientific, educational, entertainment or similar activities, performed outside of Angola – the place where the service takes place
- Transport services – distance travelled in Angola

### 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
- 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.

## 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 (this return should not be submitted if the taxpayer performs one single taxable transaction)
- 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
- Termination return – to be submitted within 30 days after the cessation of activities in Angolan territory

### VAT regularisation annexes

- Monthly VAT return and its annexes:
  - *To be submitted until the last day of the following month the transactions took place*
  - *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*
  - *Monthly SAF-T files for purchases and sales*
  - *Interest and penalties*
- In the case of negligent conduct, the non-payment or late payment of the VAT due is subject to a fine of 30% of the missing VAT amount.
- Delay in the return: 5.862 UCF per infraction.
- In the case of fraudulent behaviour (which is presumed), the fine doubles.
- If the taxpayer proceeds with a supply of goods or services with no invoice or equivalent document support, the fine may be:
  - *7% of the value of the invoice not issued*
  - *15% of the value of the invoice not issued, in the case of repeated failure*
- Interest may also be applicable if there is missing VAT

### Tax assessments, objections and appeals

The tax authorities may issue additional 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 Angolan tax authorities to charge the VAT due is ten 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 ten 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.

### VAT refunds

If the amount of deductible VAT exceeds the amount due, the difference will be deductible within the subsequent months. If, after three months, the amount of credit remains outstanding, the taxpayer may apply for the relevant refund, through the submission of the VAT return and its annexes.

The granting of the VAT refund shall be subject to the verification of the following requirements:

- The taxpayer is not in a situation of declaratory failure, relating to VAT, excise taxes, income taxes and property taxes, with reference to previous tax periods
- The taxpayer has reported electronically all the invoices issued and received in the previous period or periods and there are no discrepancies
- The taxpayer has reported electronically the SAF-T file related to the previous period or periods and there are no discrepancies
- Existence of a bank account held by the taxpayer, confirmed by the relevant banking financial institution established in Angola and the banking financial institutions shall indicate the corresponding availability account with the Bank of Angola

- The input tax does not relate to a taxable person with a non-existent or invalid tax identification number, with the exception of transactions where the tax is payable by purchasers, nor to taxable persons who have suspended or ceased their activity in the period to which the tax relates and are not listed in the annex of suppliers

## VAT record keeping

### Tax invoices

For VAT purposes, invoices must be issued no later than the fifth working day following the date of the supply of the good or of the service.

Invoices must be written in the Portuguese language and contain the following references:

- Name, address and tax registration number of the supplier and customer
- Date and unique sequential number
- Description of the goods supplied or services rendered with an indication of their quantity
- Unit and total price in Kwanza
- VAT rate(s) applied and the corresponding VAT amount(s)
- If no VAT has been applied, specific indication of the reason for not charging VAT
- The date and place where the goods were put at the disposal of the purchaser, where the services were provided, and where applicable, the date on which advance payments are made
- Date of issue
- Identification of the IT system used for the issue of the invoice or equivalent document, as well as where applicable, the respective certification number

### 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. Usually, 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
- 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

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.

### Specific VAT rules

#### Bad debts

A taxpayer may deduct VAT previously invoiced to a debtor if the debt has been formally recognised by the court as a bad debt under an enforcement or insolvency process or in case it has been outstanding for more than 18 months. 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 (SISA). Operations subject to SISA are exempt from VAT.

The leasing 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 14% in Angola.

The supply of land and buildings is, in principle, subject to property transfer tax (SISA). Operations subject to SISA are exempt from VAT

### 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 569 fiscal correction units (UCF), and the total amount of supplies of these goods, in a year, does not exceed the amount of 22.727 UCF.

### 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.

### Currency conversion

When invoices are issued in foreign currency, the taxable basis should be determined using the Angolan Central Bank exchange sale rate on the date on which the VAT becomes chargeable.

### Transfer of business

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

### 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 alcohol and sugary beverages, tobacco, fireworks, jewellery, aircraft and recreational craft, firearms, art objects and petroleum products. The tax rates vary from 2% to 19%.



# Botswana



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## 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 and subsequent amendments.

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, value added tax, customs and excise duty, capital transfer tax, payroll taxes, the alcohol levy etc. The VAT system is also used to collect the training levy which is payable by persons registered for VAT in Botswana.

## 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.

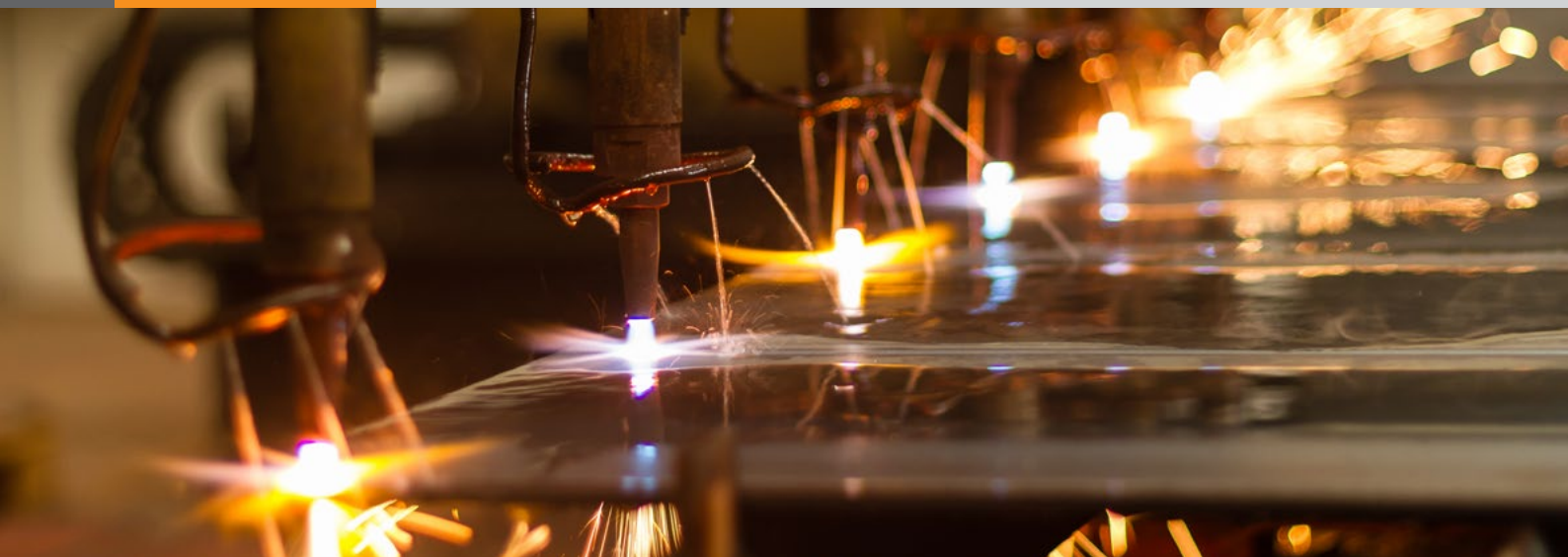
VAT is imposed on taxable supplies by a registered person and the importation of goods or services into Botswana, other than an exempt import. Any supply that is not listed as an exempt supply is a taxable supply, other than the following:

- 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
- 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.

Botswana has a reverse VAT charge mechanism in relation to the supply of imported services. The supply will form part of the service recipient's taxable supplies.



## VAT registration

### Compulsory registration

Any person (including the state, local authorities, boards, partnerships, natural persons, trusts and companies) that 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.

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 through 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 the country. A public officer or director is considered a representative for VAT purposes.

### Application for registration

Before applying for VAT registration, a person should secure a tax identification number (TIN) from BURS.



## 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

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 permit of the non-resident director; 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 liable.

Typically, BURS will require proof of annual taxable supplies to finalise registration. Where a person has access to BURS' online platform eServices and the registering company's tax profile, a VAT registration application may be submitted through this platform.

Failure to apply for registration when required to 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 should the value of their taxable supplies 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.

### Output tax

#### Advertising and prices

Prices quoted or advertised must always be VAT-inclusive. A pre-tax price may be quoted, but the amount of VAT due and the VAT-inclusive cost must then be shown equally 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
- Supply of certain agricultural farming implements and the 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
- 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. BURS is very particular that valid tax invoices must 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
- 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 tax are transferred to the making of non-taxable supplies, output tax 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
- 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 (Eswatini) 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.

There are no specific VAT rules on the supply of electronic services.

## 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, they must obtain and retain documentary proof acceptable to the Commissioner to substantiate their 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
- 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
- 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

### 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  $(12/112 \times \text{VAT-inclusive price})$ .

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

## 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 1.5% 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 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 and the penalty is up to BWP5 000.

### 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 they 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
- Where a person has paid VAT in respect of any imports of goods – in the next tax period

A claim for a refund must be made within three years from the date that the excess arose.

### Assessments

The Commissioner General may make an assessment of the amount of tax payable by the person or of the amount of tax represented by the person as payable in respect of a supply where:

- A person fails to furnish a return
- The Commissioner-General is not satisfied with a return or import declaration furnished by a person
- The Commissioner-General has reason to believe that a person has become liable for the payment of an amount of tax but has not paid such amount

- A person, other than a registered person, supplies goods or services and represents that tax is charged on the supply
- A registered person supplies goods or services and the supply is not a taxable supply or is a taxable supply charged with tax at the rate of zero percent and, in either case, the registered person represents that a positive rate of tax is charged on the supply

The assessment may be issued at any point if the default was due to fraud or willful neglect.

### 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
- 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.

### **Import declaration documents**

Where tax is payable on imported goods, an import declaration shall be furnished to the Commissioner-General, in the format prescribed.

Where the entity has a deferral account, they shall be furnished by BURS with a statement generated by the customs management system (CMS statement).

### **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 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
- 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

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

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 tax. 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.
- 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 ongoing 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 Southern African Customs Union, which includes South Africa, Namibia, Lesotho and Swaziland (Eswatini). 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.

### Training levy

Training levy, although not an indirect tax per se, is a levy collected through the VAT system and is levied on all VAT registered persons at a rate of 0.05% of annual turnover in excess of BWP2bn and 0.2% on annual turnover up to BWP2bn. The rate is applied to the turnover for the tax period.



# Cape Verde



## Contact details

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## 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 include:

- 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
- 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 include:

- 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
- 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 is also levied on the importation of goods.



## Tax registration is done by submitting the application form (form 110) to the competent tax office at the start of activities

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 are 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)
- 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

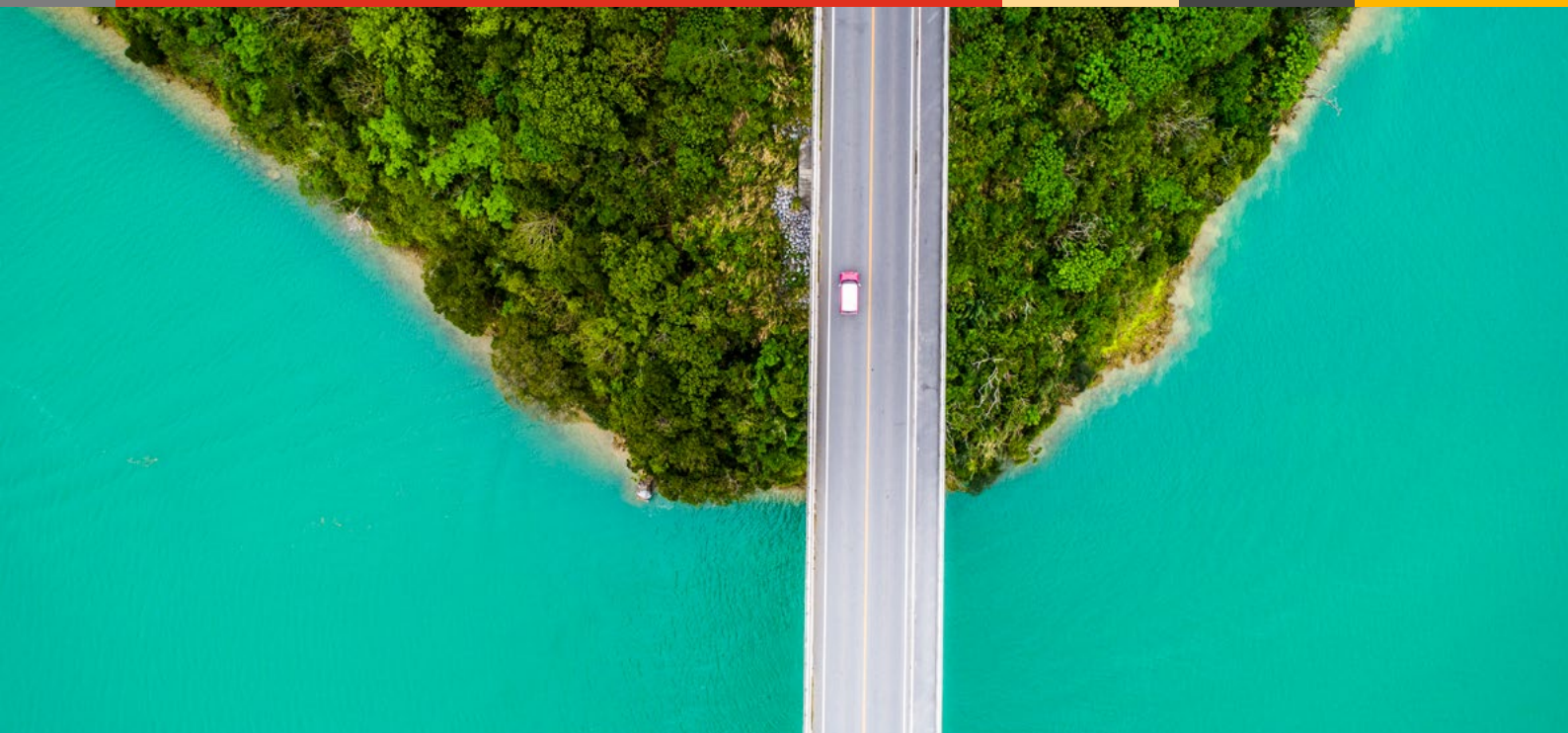
#### Calculation of output tax

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; 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
- Sand and certain equipment, seed, fertilisers and fishing tools

### Zero rated supplies

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
- Medicines and other pharmaceutical products exclusively for therapeutic and prophylactic purposes

## Input tax

### Input tax allowed

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, 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
- 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

- 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 bureau, 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
- 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
- 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
- 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
- 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
- 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
- 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
- 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*
  - *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
- 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 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.

## 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

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)
- If no VAT has been applied, specific indication of the reason for not charging VAT

## 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 and must always make reference to the invoices to which they relate, and 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
- 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.

## 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 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

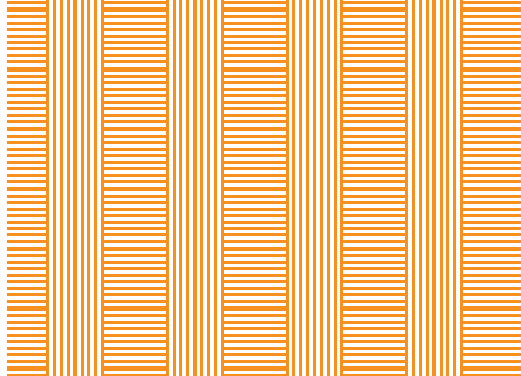
Excise duties are charged on the import, production or introduction to consumption of several goods including beverages, tobacco, perfume, cars, jewellery, clothing, weapons, etc. The tax rates range from 10% to 150%.

### 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.



# Cameroon



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## 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:

- Discounts, rebates and commissions, provided that they appear on an initial invoice or on a rectified bill;
- 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 in 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 of 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

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

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.

The obligations mentioned above are also applicable to operators of e-commerce platforms.

### Deregistration

In the event of an establishment being closed 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 license is due only up to the end of the current month.

## Output tax

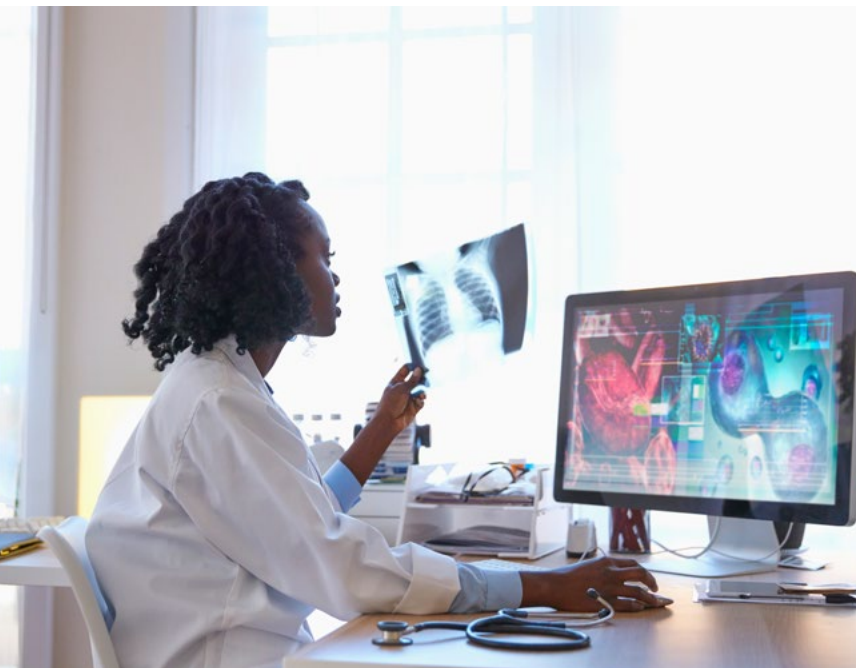
### Transactions subject to VAT

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 affected 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;
- Loan forgiveness and commercial debt write-offs;
- Payment of commissions to travel agencies for the sale of domestic flight tickets;
- Sales of goods and services in Cameroon or through foreign or local e-commerce platforms (since January 2020) and
- Commissions received by e-commerce platform operators for carrying out transactions mentioned in the paragraph above (since January 2020).





### Exempt supplies

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

- Real estate transactions of all kinds carried out by non-professionals;
- Transfer of real estate rights in rem and transfer of business assets subject to the transfer duty or an equivalent tax;
- 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 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:
  - *20 m<sup>3</sup> per month for water and*
  - *220 kw per month for electricity;*
- 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;
- Contracts and commissions on life insurance products with a savings component;
- 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, if 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);

- Materials and equipment specifically designed for persons with disabilities, the list of which shall be established by regulation;
- Urban public transport by bus (subject to option);
- Universal postal service-related services rendered by postal service providers under the terms and conditions laid down by the regulations in force;
- Interest on negotiable debt securities issued by the state and regional and local authorities and
- Interest paid on loans less than CFA francs 2,000,000 (two million) granted by first category microfinance institutions to their members.

### 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 and assessed on the basis of actual earnings.

#### 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.

VAT initially deducted shall be paid in full in the case of goods and services which are not fixed assets, where such goods and services were used for transactions not liable to VAT.

The full repayment of the Value Added Tax initially deducted shall also be required where the goods and services concerned were the subject of

misappropriation or fraud committed directly or indirectly by a partner or a manager of the company.

### 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).

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.

Default in registering for operation of e-commerce platforms shall result in a suspension of access to the platform from Cameroonian territory.

### 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.

For general trade activities which by their nature are not likely to generate a structural credit value added tax, any carry-forward credit on subsequent returns shall not be accepted beyond a period of 3 (three) months after prior approval by the relevant tax administration services.

The General Tax Code stipulates that the refund of VAT is based on the level of risks the company is classified in. The General Tax Code has provided three level of risk, listed below:

- Low-risk companies,
- Medium risk companies, and
- High risk companies

VAT credit refunds shall be made in accordance with the following terms and conditions:

- For low-risk companies, reimbursement shall be automatic without the implementation of a prior validation control procedure;
- For medium-risk companies, reimbursement shall be made after a credit validation control procedure; and
- For high-risk companies, refunds may only occur after a general accounting audit procedure that must be completed within one month after submission of the application for refund.

The criteria of classification of companies within the risks level above are provided in the General Tax Code.

### 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, tax relief is granted as follows:

- The Head of the Regional Taxation Centre or the Director in charge of the Large Tax Unit will grant tax relief up to the sum of XAF30 million in principal and 30 million for penalties and additional charges;
- The Director General of Taxation will grant tax relief up to the sum of XAF100 million in principal and XAF100 million for penalties and additional charges.

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 2 (two) months.

Where the taxpayer's arguments are justified, the Minister in charge of Finance is entitled to grant a tax relief for principal taxes and levies of an amount exceeding XAF100 hundred million as well as for penalties and additional charges of an amount exceeding XAF100 hundred million.

### Time limits

Sums due from taxpayers for taxes and duties assessed by virtue of the General Tax Code are barred after a period of 4 (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 2 (two) years.

According to the Finance Law 2019, request for refund of VAT shall not be introduced after a period of 3 (three) 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 10 (ten) years. Where accounting is conducted 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 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 3 (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 1 (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 rates of the excise duty in Cameroon are presented as follows:

- Super high rate: 50%
- High rate: 30%
- General rate: 25 %
- Average rate: 12.5%
- Reduced rate: 5%
- Extra abated rate: 2%

According to the 2019 Finances Law, in the specific case of alcoholic beverages, the excise duty amounts resulting from the application of the 25% above shall contain another specific tax rate.

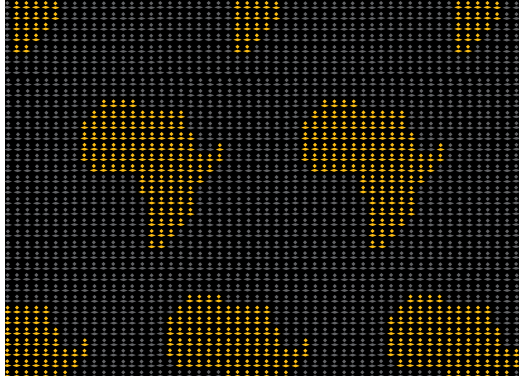
The specific rate is an amount (e.g. XAF 2, XAF 3, XAF 8, etc.) that applies per centilitre, depending on the nature of the concerned alcoholic beverage.

#### 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.





# Chad



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## Introduction

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

## Rates and scope

Since January 2020, there are three rates applicable to transactions subject to VAT:

- The standard rate is 18% on a 'without taxes' basis and applies to all taxable operations
- The medium rate is 9% on the local products: sugar, oil, soap, food and beverage by local industries, except alcohol
- 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 shall be registered in the trade register. A branch shall have a legal representative who has to perform several administrative formalities (administrative authorisation for pursuing a commercial activity, foreign merchant's card, etc.).

Therefore, a branch shall make a declaration of existence and register with the Directorate of Large Companies within the 15 days from the beginning of its activities.

There is no group registration.



### Non-residents

Financial operations carried out between Chad and foreign countries outside of the Central African Economic and Monetary Community (CEMAC) area are subject to either a declaration or an authorisation:

- Foreign direct investments in Chad shall be declared to the Central Bank and the Ministry of Finance at least 30 days before their achievement
- Direct investments in Chad an increase in capital made by a foreign investor resulting from reinvestment of undistributed profits shall be declared to the Central Bank and the Ministry of Finance within 30 days following the completion of the operation
- The transfer out of Chad of the proceeds of liquidation or disposal of foreign direct investments shall be declared to the Central Bank and the Ministry of Finance at least 30 days before their realisation
- The realisation as well as the liquidation of foreign direct investments in Chad shall be declared to the Central Bank and the Ministry of Finance within 30 days following the operation

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.

**Taxpayers subject to the flat-rate tax ‘Impôt Général Libérateur’ are not allowed to deduct VAT, except if they have expressly chosen the simplified tax system**

### Deregistration

Any termination, transfer or modification of taxable activities is subject to a declaration within 15 days following the date of the termination transfer or modification to the Directorate of Large Enterprise.

### Output tax

A taxpayer shall deliver an invoice for every operation entered into with other taxpayers. Since January 2019, VAT is deductible if the following cumulative conditions are fulfilled:

- Tax Identification Number (TIN) of both: customer and supplier, service provider and beneficiary
- Registration details for invoices for construction, repairs, maintenance, all other movable assets likely to be estimated and various services whose amount is greater than or equal to XAF1,000,000
- The quantity, designation and the unit price excluding VAT for each of the goods supplied or services rendered. Quantities shall be expressed in volume, unit, hourly rate or weight according to usage or profession
- The date of delivery or issuance of the invoice
- The invoice number
- The VAT rate and amount
- The total amount excluding tax
- The total amount including VAT

### Exempted supplies

The following supplies, activities and income streams are exempted from VAT:

- 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)

- Leasing transactions
- Sale of super and gasoil by the N'Djamena refining company
- 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 license issued by the Ministry of Education and practicing 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 francs [XAF]) XAF20 million (USD40,700)
- Fuelling of aircraft
- 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 and any other independent producer
- 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
- Farm inputs, 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 and the related services
- Interests of loans for the financing of renewable energies
- 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
- Gambling activities 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
- 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. These include:

- 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
- 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

### Input tax

#### Input tax allowed/Tax allowance

Only registered taxpayers that are subject to the normal tax system and those subject to the simplified tax system are authorized to charge VAT in an apparent manner and to deduct it. They shall be required to submit their returns monthly.

### Partial exemption

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

**Pro rata = Taxable operations + exports of taxable goods**

**Taxable operations + exempted operations + exports**

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

Taxpayers are entitled to recover VAT cancelled and paid on annulled or terminated taxable operations. To this effect, a new invoice which substitutes the former shall be issued and sent to the customer.

Taxpayers are also entitled to recover cancelled and paid VAT relating to operations for which the debt is definitively and truly irrecoverable.

To this effect, the duplicate invoice which substitutes to the original shall be issued and sent to the customer.

### Input tax expressly denied

Taxpayers subject to the flat-rate tax 'Impôt Général Libérateur' are not allowed to deduct VAT, except if they have expressly chosen the simplified tax system.

Since January 2020, input VAT supported by taxpayers who are not mentioned on the list of activities taxpayers provided by the General Directorate of Tax Services is not deductible.

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

The taxpayer may also choose to divide its activities 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
- 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.

### VAT deduction on foreign services

For foreign service providers without professional installation in Chad, VAT charged on taxable transactions may be deducted the month following that in which VAT has been collected and paid.

### Withholding tax on VAT

Introduced by the 2017 Finance Law and modified by the 2017 Amending Finance Law, the withholding VAT was effective since September 1st, (decree N°114/PR/MFB/DGM/DGSI/2019).

The 2020 Finance Law definitively fixed the regime of withholding VAT.

Public companies, public and para-public establishments and private companies shall withhold VAT when paying suppliers of goods and services that are not listed in the list provided by the tax administration. The withheld VAT shall be declared and paid to the Public Treasury no later than the 15th of the month following that of payment. The Public Treasury shall issue a receipt to testify the payment.

The taxable event and the due date for withholding tax on supplies of goods is the invoice. For supplies of services, taxable event is the execution of services and due date is payment of the invoice.

Taxpayers entitled to withhold VAT shall attach to their VAT tax return the list of companies subject to withholding VAT, their tax identification member (TIN) and the withheld amounts.

Public and private companies and public and para-public establishments that are authorised to withhold VAT are exempted from the said withholding tax on invoices for services rendered among themselves.

Any compensation between the amounts of VAT withheld and tax due by the collector is not allowed.

The list may be reviewed.

To this day, only 84 public and private companies and public and para-public establishments are entitled to withhold VAT.

### 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 VAT refunds to foreigners.

## Place, time and value of supply

### VAT territoriality

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
- Travel agencies — if commission is collected exclusively in Chad as soon as the agency is established in the country

### Due date

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)
- 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.

### Taxable base

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
- 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

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
- 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 its activities 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 shall be submitted within 15 days of the month following the carrying out of the taxable operations for the taxpayers whose turnover is more than XAF50 million.

If there are no taxable operations during the month, a blank tax return with the wording 'néant' (none) shall be filed with the tax administration.

Since January 2020, enterprises that are subject to the normal tax system and those subject to the simplified tax system shall pay their tax only by bank transfer.

## Penalties

Penalties concerning declarations:

- 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 acting in 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. It is also defined as when a taxpayer authorised to withhold VAT they didn't collect
- 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 identification number (TIN) 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 TIN are eligible for an administrative tolerance if the total of invoices without the TIN 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.

## Penalties relating to withholding VAT requirements

In case of non-payment of the withheld VAT to the Public Treasury (PT) by the 15th of the following month at the latest, forced recovery, measures shall be immediately implemented against the offenders without prejudice to the suspension of the authorisation to withhold VAT by the General Directorate of Tax Services. These measures include in particular:

- The recovery notice
- The notice to a third-party holder
- Freezing of accounts
- Closing of the company

In the case of non-withholding tax, partial payment or non-payment of the withheld VAT, a penalty shall be applied at the rate of 100% to the amount to be paid.

In the case of non-withholding tax, the public companies, public and para public establishments, which are authorised to withhold VAT, will be prosecuted and sentenced to a fine between XAF5 million and XAF25 million. In addition, the managers of the said authorised entities shall be subject to prison sentence between two and five years.

Penalties and interests for late payment on withholding VAT are excluded from tax remittance (Article 42, 2020 Finance law).

## Refunds

If the amount paid exceeds the VAT payable, the tax credit can be offset against the VAT payable during the 24 months following the tax credit-generating event.

Since 2018, VAT credits of taxpayers, which depend and are managed by the General Directorate of Tax Services, shall be reimbursed at their request.

However, taxpayers who benefited from VAT exemptions are excluded from VAT refunds.

A VAT refund shall normally be made through an account domiciled at the Bank of Central African States (BEAC).

The quarterly VAT credits of traders, which exceed 5 million, shall be approved before being reported.

## 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 1072 of General Tax Code).

If the credit (resulting from excess input tax) is not offset against the VAT payable during the 24 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 shall contain the following information:

- The exact name and address and tax identification number (TIN/NIF) of the taxpayer
- The tax identification number of the customer
- 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 goods/ services free of tax
- The VAT rate applied and the amount of the VAT
- The amount inclusive of all taxes
- The words 'invoice (facture)' or 'avoir'

Finally, partial taxpayers shall make a distinction 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).

Since January 2019, any turnover realised with natural persons or legal entities within the scope of VAT is deemed to be inclusive of all taxes (including VAT), whether or not the VAT appears on the invoice sent by the supplier to his customer.

## 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
- An inventory book

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

- A sales book
- A purchase book
- 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
- Rental of bare premises used for housing

The following transactions 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
- 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

### 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
- 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

### 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

Since January 2020, excise duty applies to consumer goods: tourist vehicles, wines, liquor, beers, cigars, carbonated water, soft drinks, gambling activities and machines, jewellers, precious metals and stones, motorcycles of one-cylinder capacity, perfumes and toilet waters and cosmetics.

Excise duty rates depend on the nature of the goods, ranging from 5% to 30%.

The taxable basis is as follows:

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

Mobile network operators (MNO) shall pay the excise duty at the rate of 18% on the monthly declaration of their turnover.

The excise duty is levied on the turnover of mobile network operators.

Fixed and wireline communications and internet are excluded from the basis of excise duty.

#### 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 might be.

Some amendments (article 557 of GCT, 2016) 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
- 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 XAF5,000
- Any application other than those mentioned above addressed to the tax authorities is subject to a stamp duty of XAF2,000





# Republic of Congo



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## Introduction

The VAT system was introduced in the Republic of Congo by Law n° 12-97 of May 12, 1997, to replace turnover tax. The upstream oil and gas sector is specifically governed by VAT rules in Decree n° 2001-522 of October 19, 2001.

## Scope of VAT

Value Added Tax ("VAT") is a tax on goods and services. VAT is charged on the supply of goods or services made, provided or used in the Republic of Congo and on the importation of taxable goods.

Both legal entities (in the private and public sectors) and individuals can be considered liable for VAT if they carry out taxable operations within the scope of VAT on an independent basis, habitually, within the economic activity for a valuable consideration.

Apart from the general principle of liability, which must be applied to each case, liability is automatic where annual turnover exceeds CFAF 60 million for all activities.

Where annual turnover is less than CFAF 60 million, the taxpayer may opt to be subject to VAT.

## VAT rate

### Taxable supplies – standard rate

The standard rate of VAT in Congo is 18%. The rate applies to all standard rated supplies of goods and services not covered by the zero rate or the reduced rate.

### Taxable supplies – reduced rate

A reduced rate of 5% is applicable to certain listed consumer goods, diesel and lubricants imported from Cameroon by companies in the forestry sector.

The reduced rate is applicable to mineral water and butane gas packaged in Congo.

This reduced rate is also applicable on the sale of cement produced in Congo.

### **Taxable supplies – surtax rate**

A surtax is payable, to the advantage of local communities, at the rate of 5% of the amount of VAT.

### **Zero rated supplies – 0%**

Zero rated VAT applies to exports, international transport and their accessories. For exports, the zero rate applies only to those declared and endorsed by customs and for local sales of lumber.

## **VAT registration**

### **Compulsory registration**

There is no express requirement to register for VAT purposes only. A taxpayer can only be considered as having registered for tax purposes after registration and allocation of a Tax Identification Number (NIU).

Both legal entities (in the private and public sectors) and individuals can be considered liable for VAT if they carry out taxable operations within the scope of VAT, on an independent basis, habitually, within the economic activity for a valuable consideration.

Apart from the general principle of liability, which must be applied to each case, liability is automatic where annual turnover exceeds 60 million for all activities.

### **Voluntary registration**

Voluntary registration is allowed if a business's annual turnover does not exceed the threshold for compulsory registration.

### **Group or branch registration**

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

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

### **Non-residents**

Non-resident businesses cannot register for VAT purposes. Non-residents are required to appoint a solvable tax resident representative in order to register for VAT in the Congo.

### **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 'Unité des Grandes Entreprises' 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 the activity, are the drawing up and filing of 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 receipt of the application, issues a registration certificate making the party liable for VAT and allocates a Tax Identification Number (NIU) to the taxpayer.

New taxpayers undertaking a commercial activity in the Republic of Congo are required to apply for a NIU. Failure to get this ID number results in the company not being entitled to deduct the VAT paid to its suppliers, to proceed with clearance at the customs house or to receive payment from the Tax Administration. In order to obtain this NIU, the company must pay a legal fee amounting to CFAF 10,000.

### **Deregistration**

All taxpayers must inform the Tax Administration about the termination of their businesses. As there is no standard form, this declaration must be made on plain paper by the taxpayer within 15 days from the end of business.

## **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 deduction right is created when the tax becomes payable by the taxpayer.

Taxpayers who have opted for the debit system must specify this option on their invoices so that their customers can exercise their deduction right as soon as they receive the invoice instead of when it is paid.

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

- Generally – invoices issued by suppliers legally authorised to issue them
- For imports – import documents
- For self-deliveries – a special declaration made by the taxpayer itself



- For rental leasing – invoice of purchase of equipment by approved leasing companies

The right of deduction arises when the tax becomes payable by the supplier of the goods and services.

VAT levied for pre-payment on goods or services not expressly excluded from the right of VAT deduction is deductible in the proportion of 2/3 of the expenses incurred if the services or goods are for professional use.

The right of deduction shall be exercised until the end of the first tax year following that in which the VAT became due.

### Input tax expressly denied

Input tax is specifically denied in respect of:

- Housing, accommodation, and 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'
- Purchase of oil products, except oil purchased by importers and wholesalers in order to sell or produce electricity for sale
- Services in respect of goods excluded from the right to deduct
- False invoices and false customs declarations;
- Vehicles and craft designed or fitted out for passenger transport or for mixed use that constitute fixed assets, except:
  - *Expenditure on transport of vehicles rented by tourism professionals for their clients*
  - *Dealer vehicle inventories and test or demonstration vehicles*
- VAT paid following tax audits
- VAT paid in cash, on invoices exceeding or equal to CFAF 500,000
- 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
- Goods transferred without payment or for payment well below the normal price, apart from low-value goods, 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 CFAF 5,000)
- The VAT paid on behalf of foreign suppliers if the related services have not been taxed in Congo

### Partial exemption

Under the allocation rule, taxpayers exercise their deduction right according to the allocation of the goods (depreciable fixed assets) on which the VAT has been paid. In principle, an entrepreneur is entitled to credit the VAT paid on his purchases of goods, equipment and services for use in his business (input VAT) against the total of the tax he charges to his customers for deliveries made and services rendered by him (output VAT).

Taxpayers not exclusively carrying out transactions giving them a right to VAT deduction shall deduct VAT proportionally 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.

### Change-of-use adjustments

The adjustment system consists of payment 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.

### Post-deregistration VAT

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

### Recovery of VAT by non-residents

VAT incurred by foreigners is not refunded.

### Output tax

Output tax is VAT due on taxable supplies. 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. They must add VAT to their net prices. They must record this output VAT for goods on the date their invoices are issued and for services on the date they receive payment.

### Exempt supplies

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

- Financial and banking operations
- Assurance and reinsurance transactions
- Gambling and leisure games
- Sales of extractive products

The exempt supplies include, but are not limited to:

- Raw products obtained in the context of activities carried out in Congo by hunters, stockbreeders and farmers
- Imported or duty-free goods within the CEMAC (UDEAC) rules
- 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
- Services covered by the legal conduct of the medical and paramedical professions
- Certain medicines
- Renting of real property for housing purposes
- Regulated activities of microfinance establishments
- Monies paid by the Treasury to the Central Bank, which has the exclusive issuing right, and income from the Bank's operations, generating the issue of banknotes

### Zero-rated supplies

A zero-rated supply is treated as a taxable supply and no VAT is charged on such supply.

The zero-rated supplies include:

- Exports
- International transport and their accessories

For exports, the zero rate applies only to those declared and endorsed by customs and for local sales of lumber.

### Reduced rate supplies

A reduced rate supply is treated as a taxable supply and VAT is charged on such supply at the rate of 5%.

Reduced rate supplies include:

- Certain listed (annex V tax law) consumer goods
- Diesel and lubricants imported from Cameroon by companies in the forestry sector
- Mineral water
- Butane gas packaged in Congo
- Sale of cement produced in Congo

### International trade

#### Goods

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



- 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.

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.

### Services

Services provided abroad and used in the Republic of 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.

The provision of services by a Congolese company 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.

## Place, time and value of supplies

### 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 considered.

### 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. For self-deliveries and self-provision of services, the time of supply is the first use or first commissioning
- Other cases – collection of the consideration

### 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 considering the elements summarised below:

- Goods deliveries – all sums or benefits, goods or services received by the supplier forming the consideration for the delivery, as well as all expenses, taxes of any nature, excluding VAT itself
- 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
- Swaps – 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
- 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
- Imports outside CEMAC – customs value of the goods plus customs or excise duties

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

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

## VAT compliance

### Accounting basis and tax period

The accounting and tax period is the calendar year. The closing date of the financial year is December 31 of each year. The tax period is based on the results obtained over a period of twelve (12) months corresponding to the accounting period.

Business which start during the 6 months preceding the mandatory closing date can close their first balance sheet at the end of the financial year at the end of the accounting year following that in which they started their activities.

### Returns and payment of VAT

The monthly VAT return is a VAT summary statement for the month concerned showing the taxpayer's debit or credit position with respect to the Treasury. The return for a given month must be completed on a special form by the 20th of the following month, accompanied by the payment instrument. If no operations are carried out during a particular month, the form of the return still must be filed but will be marked 'nil'.

Adjustments concern additional deductions made as a result of errors or omissions in a previous return, refunds requested in the following month (whether or not the refund has been granted by the

tax department) or refunds made for VAT wrongly deducted on a previous return.

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 specific cases, it may be the subject of a refund application.

### Interest and penalties

The 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 CFAF200,000
- 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 CFAF 200,000 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 – arbitrary taxation
- Taxpayer's inability to produce all books, exhibits, documents and supporting items making it possible to determine the business's revenue accurately – arbitrary taxation
- Failure to translate books or other documents into French – CFAF 2 million

- 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 license (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

### Refunds

- Certain categories of professions and certain types of operations are entitled to refunds, such as oil businesses and exporters of goods
- Taxable persons in a situation of structural VAT credits due to withholding tax are entitled to VAT refunds
- Companies in cessation of activity are equally entitled to VAT refunds

### Objections and appeals

Taxpayers' monthly returns are audited by employees at the 'Unité des Grandes Entreprises' or 'Unité des Moyens Entreprises' or Unité de la Fiscalité Pétrolière' with at least the grade of inspector. These audits, conducted on the basis of documents or on site, may lead to an adjustment. Taxpayers may be assisted at these audits by a third party, a tax adviser of their choice, which can be initiated at any time without notice.

The audit of the returns may lead to a notification of an adjustment by the Department which must inform the taxpayer, in addition to the errors discovered, of the amount per tax and per year of the duties, taxes and penalties resulting from the proposed adjustments.

Taxpayers who receive an adjustment following an audit have a period of 30 days to make their comments.

**A zero-rated supply is treated as a taxable supply and no VAT is charged on such supply**

The Department must give its definitive response within 60 days upon receiving these comments and must provide grounds for any elements that it rejects.

### 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.

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, provided that the credit has been carried forward on the return filed with the tax authorities.

## Withholding VAT

### Appointment of withholding VAT agents

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

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

### Withholding VAT exemption

Withholding VAT exemptions would apply where the transaction is VAT exempt.

### Withholding compliance

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

The resident tax representative must, subject to the penalties specified in such matters, both declare the operations performed by the service provider in its favour and ask the service provider about any operations performed in the Congo in favour of one or more third parties. A foreign service provider cannot claim any right to deduct the VAT charged to it.

Reverse charged VAT withheld, remitted by the beneficiary of the services, are deductible.

## VAT refunds

### When are VAT refunds due?

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

Operations carried out with oil companies or between approved sub-contractors are generally exempt from VAT. In return, 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 the oil activity, the foreign contractor must pay VAT to his suppliers but can claim a refund of VAT paid (except in relation to private and domestic use).

If he fails to receive a refund of VAT from the Tax Administration, the foreign contractor (in practice, only oil companies) can deduct the VAT credits from any other tax payment, especially corporate income tax or personal income tax. The foreign contractor must set up a bank account in the Congo.

- Taxable persons in a situation of structural VAT credits due to withholding tax are entitled to VAT refunds
- Companies in cessation of activity are equally entitled to VAT refunds

## 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. The invoice, written in the French language, must have the following information:

- The name, address and single identification number of the taxpayer issuing the invoice
- The name, address and the single tax identification number of the customer
- The trade register number, bank account number
- The date of the invoice and serial number of the invoice
- A description and the quantity of the goods or the extent of the services

- The tax rate and the corresponding tax, the price excluding tax and the total amount with taxes included
- The tax system and the tax department on which it depends for its professional tax obligations

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

### 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, or
- If part of or all the goods are returned to the supplier
- 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, presented in French and made out in CFA Francs. 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, is subject to VAT. In practice, tenancies are subject to VAT if the landlord is already liable for VAT for his/her/its other activities.

VAT applies to rent, rent supplements and advance rent. The deposit is not subject to VAT unless it corresponds to 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.

### Transfer of a business

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

### Leasing

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

### Promotional gifts

Goods transferred without payment or for payment well below the normal price, apart from low-value goods, do 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 CFAF 5,000.

### 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.

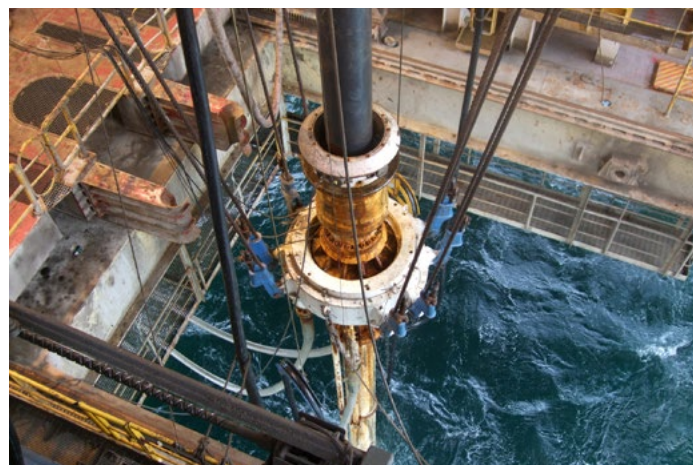
If such goods are sold within three years of their acquisition, the taxpayer must pay an adjustment. As an exception to this rule, all operations carried out by dealers in second-hand goods come within the scope of VAT under ordinary conditions. The exemption for sales of second-hand goods is not applicable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

### Other indirect taxes

#### Import duties

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%
- 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%



Additional entry taxes apply on importation of goods:

- Computer royalty: 2% on the CIF value.
- CEMAC integration tax: 1% on CIF value;
- Statistic tax: 0.20% on CIF value;
- OHADA contribution: 0.05% on CIF value;
- CEEAC Contribution: 0.04% on CIF value
- African integration tax (for imports from outside the African Union): 0.2%

### Excise duties

The following products are subject to excise duties:

- alcoholic beverages (12.5%)
- cigars, cigarettes and other tobacco (15%)
- passenger motor vehicles, motorcycles with a cylinder capacity of more than 250 cm<sup>3</sup> (12.5%)
- Luxury food, perfumes and cosmetic products, arms and ammunition, jewellery (25%)
- Gambling and amusement devices (25%)

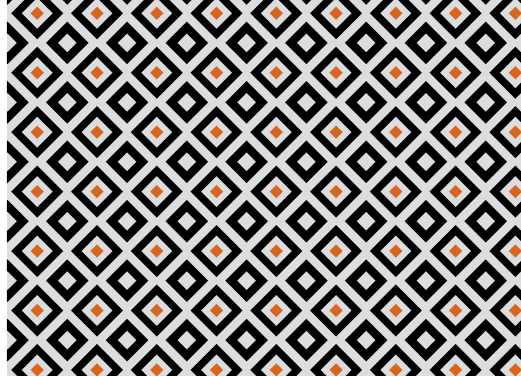
### Stamp duty

The normal stamp duty in the Congo is currently CFAF1.300 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: 3%; real assets: 10%; registration of authorized capital: 3%; and transfer of shares: 5%.

### Transfer duty

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

A digital hub tax at the rate of 1% is due on all financial electronic transactions.



# Côte d'Ivoire



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## 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 operations liable for VAT at a 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 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
- 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 tax.

Input tax 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 tax 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 they export 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
- 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

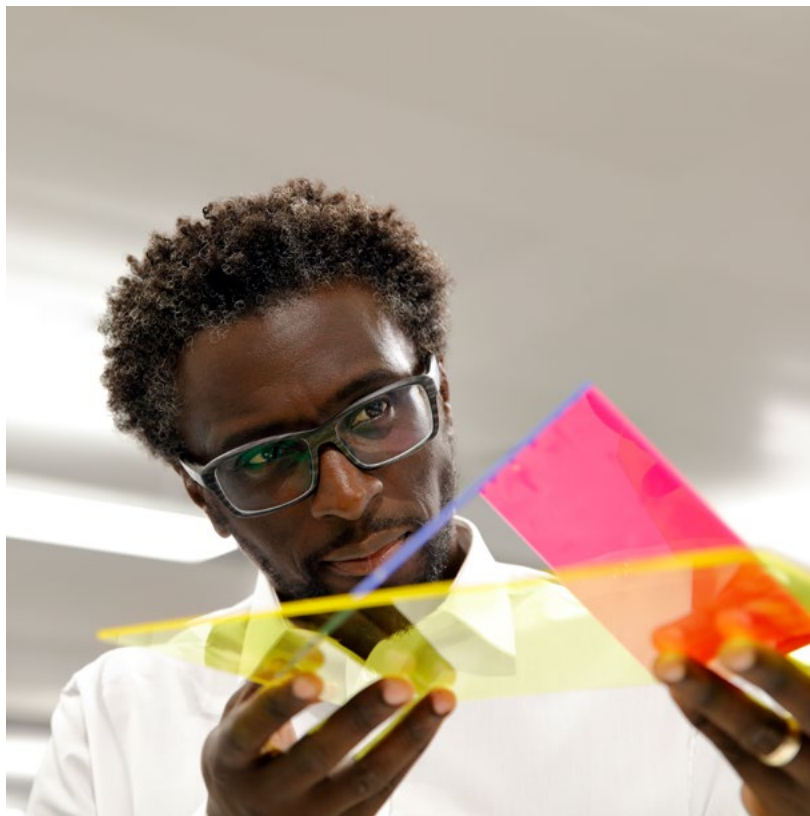
Claims for VAT, like claims for all other taxes, must be submitted to the head of the Tax Administration or their representative.

### 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
- 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 tax 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.

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



## Democratic Republic of the Congo



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### Introduction

The VAT system was introduced in the Democratic Republic of the Congo (DRC) by Ordinance-Law n°10/001 dated 20 August 2010 to replace the local turnover tax.

The VAT authority (Tax Administration) in the DRC is the General Directorate of Taxes (Direction Générale des Impôts), which is divided into three units depending on the annual turnover of the enterprise:

- Direction des Grandes Entreprises (DGE) in charge of large companies — Turnover above CDF3.500.000.000
- Centre des Impôts (CDI) in charge of medium size companies — turnover between CDF80,000,000 and CDF3,500,000,000
- Centre des Impôts Synthétiques (CIS) in charge of small companies — turnover less than CDF80,000,000

### Rates and scope

The standard rate of 16% applies to all taxable operations (except for exportation, which is zero-rated).

VAT applies to:

- Delivery/sale of goods
- Services

- Self-assessed transactions
- Imports

As a general rule, VAT is levied on economic activity carried out for a consideration by a taxable person.

VAT is levied whenever the transaction is carried out in the DRC regardless of the residence status of the parties to the transactions.

## 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 CDF80,000,000 (EUR43.502) for all activities.

However, legal entities and individuals whose annual turnover is below the threshold for liability to VAT may opt for the VAT system.

Furthermore, the Finance Law n°18/025 dated 13 December 2018 relating to fiscal year 2019 provides that VAT payers are now identified by a VAT number. An order issued by the Minister of Finance will specify the conditions for granting the VAT number.

This number will be different from the tax number granted to companies at start of their business.

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

As aforementioned, legal entities and individuals whose annual turnover is below the threshold for liability to VAT may opt for the VAT system. The option is granted upon express request to the tax administration.

### 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 DRC.

Indeed, as for services rendered in DRC, a non-resident having no permanent establishment in DRC but who raises an invoice on a DRC resident is required to appoint a VAT representative who is based in the DRC and who will be accountable for the payments and collections that rest with the supplier non-resident.

Failing to appoint a representative will result in the authorities holding the DRC resident customer liable for the payment of VAT due by application of a reverse charge mechanism.

The resident tax representative could be subject to the penalties specified in matters where operations performed by the service provider are in its favour.

### Application for registration

New taxpayers (exempted or not) undertaking a commercial activity in the DRC are required to apply for a tax number (NIF) within 15 days of the beginning of activities. The tax number must be mentioned on all documents issued by the taxpayers (letters addressed to the tax administration, invoices, receipts and other documents related thereto).

Failure to obtain a tax number within the prescribed time limits is punishable by a fine. Furthermore, a tax number will be automatically assigned to any defaulting taxpayer discovered by the tax administration in the performance of its duties.

### Deregistration

All changes relating to the identity, management, physical or electronic address, telephone number or affecting or terminating a taxable item or operation will be reported to the tax administration within fifteen days of the occurrence of the event.

Therefore, 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.

## Output tax

### Calculation of output tax

The amount of VAT is determined by applying the rates to the net selling price of goods and/



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

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 tax for goods must be recorded on the date of the delivery, and for services on the date the payment is received.

### Exempt supplies

#### Goods

The following items are exempt from VAT:

- Sales of second-hand movable property made by the persons who used it for the purposes of their business where such property was not eligible for deduction of tax at the time of its acquisition
- Sales and imports made by legally constituted non-profit associations when such operations are of a social, sporting, cultural, religious, educational or philanthropic nature in accordance with their purpose, under the conditions provided for by regulation
- Sales and transfers made by the state, provinces, decentralised territorial entities and public bodies not having an industrial and commercial character
- Sales and imports of official stamps or stamped papers
- The import of banknotes, inputs, equipment used to manufacture monetary signs and their spare parts produced exclusively by the issuing institute
- Sales and imports of agricultural inputs intended for agriculture on the basis of a list determined by regulation
- Transactions involving the transfer of real estate by persons other than real estate developers and liable to registration fees
- The import and delivery of human organs and blood by medical institutions or accredited bodies as well as the import and supply of prostheses
- The import and sale of fishing boats and nets
- The import and acquisition of pharmaceutical products intended for the prevention, diagnosis and treatment of diseases, pharmaceutical packaging and pharmaceutical inputs, the list of which is established by regulation, by the pharmaceutical industries, as well as the import and acquisition of medical devices
- The import and sale of mosquito nets
- The import and acquisition of equipment, materials, reagents and other chemicals intended exclusively for prospecting, exploration, research and the construction and development of mining and petroleum projects, before exploitation
- The import of:
  - *Samples without commercial value which are considered by customs to be of negligible value and which are only used to seek orders for goods of the kind they represent*
  - *Movable property, excluding industrial or commercial equipment, for the personal use of a person or family members who are brought to the DRC at the same time as that person or at another time for the purpose of transferring their residence*
  - *Property collected by succession by a person having, on the date of the death of the deceased, his main residence in the DRC, provided that such property was used for the personal use of the deceased*
  - *Rewards granted to persons residing in the DRC, subject to the submission of supporting documents deemed necessary by customs*
  - *Coffins containing the remains and funeral urns containing ashes of the cremated remains, as well as the ornamental objects accompanying them*
  - *Products for testing, provided that the quantities do not exceed those strictly necessary for the testing and that the products are fully consumed during the testing or that the non-consumed products are re-exported or processed, under customs control, so as to remove any commercial value*
  - *Donations, legacies or material provided free of charge to the state, provinces, decentralised territorial entities and bodies governed by public law*

- *Baggage of travellers not liable to the duties and taxes provided for by customs legislation*
- Sales of original works of art by an artist
- The import and sale of coffins
- The import of wheat, maize, wheat flour and maize flour
- The local sale of wheat, bread, maize, wheat flour and maize flour
- Local sale of live animals
- The importation of goods by mining companies, excluding petroleum products, under the conditions laid down by regulation
- The import by new companies of capital goods intended for creative investments, under the conditions determined by regulation

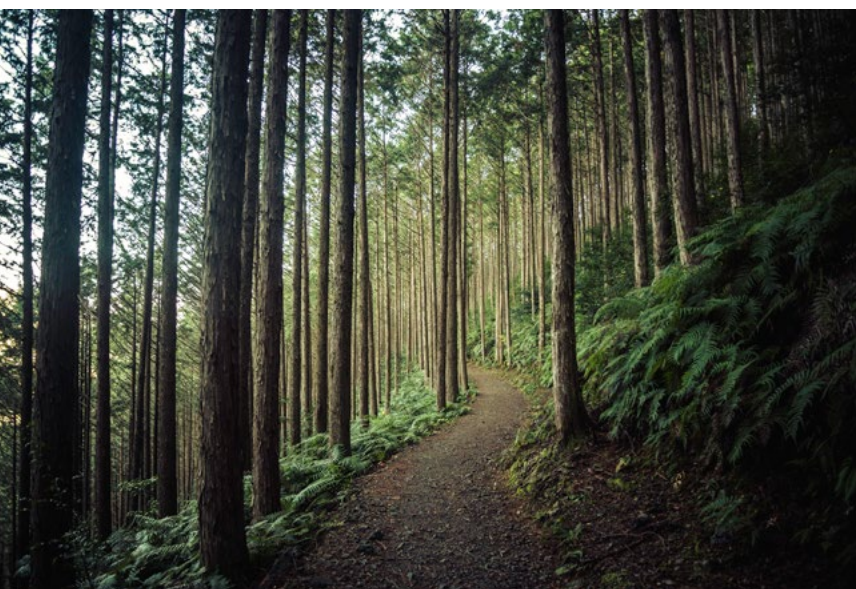
### Services

The following services are exempt from VAT:

- The composition, printing, importation and sale of newspapers, books and periodicals, excluding advertising revenue
- The rental of books, periodicals and other magnetic media containing scientific, educational, cultural or religious information as well as the provision of services to library readers, archives and documentation services
- Revenue from visits to national historic monuments and museums, zoos and botanical parks
- School fees and boarding fees collected in the normal course of business in national educational institutions duly authorised, as the

case may be, by the minister responsible for primary, secondary and vocational education or higher and university education

- Examinations, consultations, care, hospitalisation, analytical and medical biology work for humans
- The transport of the sick and wounded by means of transport specially equipped for these purposes
- Services provided by funeral directors and body transport
- Services provided in the course of their normal activities by legally constituted non-profit associations, where their non-registration does not distort the conditions of competition
- The following services relating to aircraft intended for air navigation companies whose services to or from abroad represent at least 80 % of all the services they operate:
  - *Landing and take-off*
  - *Use of aircraft lighting, parking, mooring and shelter*
  - *Use of facilities provided for the reception of passengers and goods*
  - *Use of aircraft refuelling facilities*
  - *Technical operations relating to the arrival, parking and departure of aircraft*
  - *Use of air navigation assistance devices, the use of mechanical, electrical or pneumatic means to start aircraft engines*
  - *Crew transport on the airport area*
  - *Maintenance and repair operations of aircraft and on-board materials and equipment*
  - *Fire prevention and control service*
  - *Safety visits, technical expertise, aircraft lifting and rescue*
  - *Expertise relating to the assessment of damage to aircraft and insurance indemnities to compensate for the resulting damage*
  - *Operations performed by aircraft consignors and air agents*
- The air transport of persons or goods to or from abroad
- Land, lake, river, sea and rail transport of persons or goods for the part of the journey carried out outside the national territory
- Roadworthiness tests on the weight and quality of goods intended for export carried out by a public body



- The following services, provided for the direct needs of merchant ships, vessels used for industrial activity on the high seas, rescue and assistance at sea:
  - Control
  - Mooring
  - Towing
  - Rental of the gantries
  - Stay of the boats
  - Use of port facilities
  - Assistance and rescue of ships and boats
  - Maintenance of the vessel and on-board equipment
  - Fire prevention and control services
  - Use of the facilities provided for the reception of passengers and goods
  - Use of facilities for ship refuelling
  - Safety visits, hull examination, technical expertise
  - Expert reports relating to the assessment of damage to ships
- Interest on bank investment loans, leases, agricultural loans and bank overdrafts
- Interest on deposits made with credit institutions by non-professionals
- Interest on external loans
- Social or agricultural credit operations carried out by mutual credit unions, savings and credit unions, savings and credit cooperatives and other micro-finance institutions
- Services directly related to oil operations carried out by foreign suppliers for the benefit of oil production companies under the conditions determined by regulation
- The renting of bare premises for residential use by persons subject to value added tax other than real estate developers
- The premium for life insurance, the premium for health insurance, the premium for direct insurance abroad provided that it has been authorised by the minister responsible for the insurance sector, and the reinsurance premium

#### Conditional VAT exemptions

The following activities and services are exempt from VAT, provided that they are subject to specific taxes exclusive of any turnover tax:

- Sales of tickets for access to leisure events in sports facilities
- Admission fees to a cultural event

- The following operations, subject to registration fees:
  - *Transactions involving the transfer of ownership or usufruct of real estate, business or customer goodwill, right to lease, with the exception of sales of new buildings built by real estate developers*
  - Public auctions
- Gamblers' winnings in games of chance
- Subject to reciprocity, goods and services intended for the official use of diplomatic and consular missions and international organisations

#### Zero-rated supplies

The zero rate applies to exports that 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.

#### 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 paid.

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 documents:

- In general, on an invoice or any other document in lieu thereof (except for invoices issued by foreign service providers)
- As for imports, on the declaration of release for consumption issued by customs
- As for supply of goods or services to oneself, on an invoice to oneself

As soon as the right to deduct VAT arises, the taxpayer may claim the VAT deduction on the

monthly return filed on the 15th of the following month.

### Input tax expressly denied

Input tax is specifically denied in respect of:

- Expenditure on housing, accommodation, catering, entertainment, hiring of passenger cars and passenger transport, except for expenditure incurred by tourism, catering and entertainment professionals in respect of their taxable activity
- Goods and services acquired by the company but used by third parties, managers or employees of the company except for work or protective clothing, premises and equipment assigned to the collective satisfaction of the needs of the personnel as well as free accommodation in the workplace for employees specially responsible for the supervision or custody of these premises
- Petroleum products, except those intended for resale by wholesalers or acquired for electricity production to be resold
- Petroleum products, except for fuels used by fixed appliances as fuel in industrial companies under conditions laid down by regulation or in aircraft by air carriers
- Petroleum products, up to a maximum of 50%, for cases other than those aforementioned
- Services of any kind, in particular rental, maintenance, repair, relating to goods, products or merchandise excluded from the right of deduction
- Movable objects other than those used by the taxable person for his operation
- Buildings (except buildings and premises for professional use)
- Goods transferred and services rendered free of charge or at a price lower than the cost price, as commissions, salaries, bonuses, gifts, whatever the quality of the beneficiary, except in the case of advertising objects of low unit value excluding tax
- VAT on vehicles or machinery, whatever their nature, designed or adapted for the transport of persons, constituting fixed assets, as well as VAT on the rental, spare parts and accessories or services related thereto except for:
  - *Road vehicles with ten or more seats, including a driver, used by companies for the exclusive transport of their staff*
  - *Vehicles or equipment acquired by public passenger transport companies and used exclusively for the purpose of carrying out such transport*
  - *Passenger cars acquired by car rental companies*
- Carriage of persons and operations ancillary to such carriage, excluding carriage performed either on behalf of a public passenger transport company or under a permanent contract of carriage concluded by the companies to bring their staff to the workplace
- VAT included on an invoice issued outside electronic tax devices by persons subject to the obligation to use such devices

### 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 tax) against the total of the tax they charge to their customers for deliveries made and services rendered by them (output tax).

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 (pro rata). This deduction applies to fixed assets, goods and services, and is calculated on the turnover pertaining to the taxable transaction.

The pro-rata amount is computed from the share of the turnover pertaining to the taxable transactions eligible to the right to deduct.

The share is the ratio between:

- The yearly amount of the revenue pertaining to the transactions eligible to the right to deduct the VAT, including exportations and assimilated transactions
- And the yearly amount of the revenue of any kind carried out by the taxable person excluding the sales of intangible assets, the subsidies of equipment, the indemnities of insurance which are not qualified as the counterpart of transaction is subject to the VAT and is out-of-pocket

Revenue means any fees, rights and taxes excluding the VAT.



## Adjustments

The adjustment system consists of payments by the taxpayer of a fraction of the tax initially deducted for fixed assets:

- In the event of the removal of the assets from the balance sheet
- Or in the absence of this removal, in case of:
  - *Modification of the situation of this asset with regard to the right to deduct*
  - *Regulatory changes*
  - *Change in use of the asset before the end of the 4th year following the year of acquisition, for personal property, or before the end of the 19th year following the year of acquisition, for real property*

The fraction referred to in the above paragraph shall be equal to the amount of the deduction, less the amount of the deduction, as the case may be, of one fifth or one twentieth per year or fraction of a year since the acquisition of property.

In the event of transfer, if the property constitutes a fixed asset for the buyer, the latter may deduct the corresponding VAT to the amount repaid by the seller in respect of the adjustment, provided that they are subject to VAT themselves.

Furthermore, in order to proceed to this deduction, the buyer needs an attest issued by the seller and mentioning the amount of VAT refunded by the latter.

## International trade

### Imports

VAT is payable on the importation of goods when cleared for home consumption. The tax base for importation is the cost, insurance, and freight (CIF) value plus import duties and, where applicable, consumer duties, for imported products.

To be deductible, the VAT paid on imports must be shown on the import documents (declaration of release for consumption drawn up by the customs authorities).

Services provided abroad and used in the DRC are subject to VAT. When a taxable person established in the DRC 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 DRC are zero-rated and the zero rate applies whether the goods are delivered directly by the exporter, or via an agent.

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 DRC, whereas a service provided in the DRC 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

All transactions carried out in the DRC shall be subject to VAT, even when the domicile, residence of the natural person or the registered office of the taxable legal person is located outside the territorial limits of the DRC.

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

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.

### Time of supply

The time of supply can be summarised as follows:

- Goods — supply of goods or any other transaction having the effect of transferring ownership to a third party, where the said goods are within the national territory at the time of sale or any other transaction
- Real estate works — where they are carried out in the country
- Supply of services — where the service rendered, the right transferred or the object leased is used or exploited in the country
- Commissions — shall be deemed to be received in the DR Congo on the sale of tickets by travel agencies or companies engaged in this type of activity, whatever the destination or mode of transport or the head office of the transport company

All transactions carried out in the DRC shall be subject to VAT, even when the domicile, residence of the natural person or the registered office of the taxable legal person is located outside the territorial limits of the DRC

### Value of supply

The taxable value is all sums, securities, property or assets or services received as consideration for the transaction, including subsidies and any charges, taxes, duties, fees or levies of any kind connected therewith, but excluding VAT itself.

In particular, it is made up of:

- The CIF value increased by the entry duties and, where applicable, the consumption duties, for imported products
- Free on board (FOB) value, for exports of goods
- The value of the products at the time of their exit from the free zone
- All sums or values, all benefits, goods or services received or to be received by the supplier as consideration for the delivery, for supplies of goods
- All sums or values, all benefits, goods or services received or to be received by the service provider in return for the service, and where applicable, the value of consumable goods, for services provided
- The value of the goods received in payment for the goods delivered, plus where applicable, the amount of the balancing payment for exchanges
- The amount of contracts, memorandums or invoices, for construction works
- The cost price of the goods supplied, in the case of supplies of deliveries of goods to oneself
- Expenses incurred for their execution, for services to oneself
- The difference between the sale price and the purchase price of each good, for sales made by dealers in second-hand goods, works of art, collectors' items or antiques
- The amount of rents charged by leasing companies, for leasing operations
- The market price, including all taxes, for public contracts

However, these are excluded from the tax base:

- Cash discounts, rebates, discounts and other reductions of prices granted provided that they actually benefit and for their exact amount to the customer and that they appear on an initial invoice or corrigendum
- Disbursements that are only reimbursements of expenses and that are billed to the client for the exact amount
- Receipts that are not in consideration for a deal
- Indemnities having the character of damages
- Bonuses and capital grants allocated to financing of a specified capital property
- Sums reimbursed to intermediaries, other than travel agents and tour operators, who incur expenses on the orders and for the account of their principals, insofar as these intermediaries report to their principals and justify, to the tax authorities, the nature or exact amount of these expenses
- Interest received in the form of interest on arrears
- Sums received as a deposit on delivery of identifiable, recoverable and reusable packaging. Where such packaging has not been returned at the end of the time limits in use in the profession, VAT shall be due on the consignment price. However, if the latter is lower than the transfer price, it shall be taken into account

### VAT compliance

#### Returns and payment of VAT

Under conditions, a VAT taxable person can deduct in its VAT return, amounts of input tax borne.

VAT returns must be filed by the 15th day of each month in respect of transactions made the previous month.

Payment of the net amount of VAT payable must be remitted to the tax authorities together with the return.



If VAT paid exceeds VAT charged, the resulting VAT credit can be carried forward.

Refund of VAT can only be requested in some very specific circumstances.

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 16%), 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.

### Interest and penalties

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

#### Late filing of the return:

- 25% in case the taxpayer files the return before receiving a formal notice from the tax administration

#### Arbitrary assessment:

- Non-filing of returns — in the event of an arbitrary assessment due to the non-filing of returns, a surcharge equal to:

- 50% of the amount of tax due shall be applied
- 100% (in case of recidivism)
- In other cases of arbitrary assessment, the tax due is increased by:
  - 25% or
  - 50% (in case of recidivism)

#### Assessment

- In the event of a tax assessment, an increase equal to:
  - 20% of the amount of tax evaded is applied
  - 40% (in case of recidivism)

### Refunds

Certain categories of profession and certain types of operation are entitled to refunds, such as:

- Exporters
- Companies making heavy investments
- Mining and petroleum companies in the research or development and construction phase of a mining or petroleum project
- Companies in cessation of activities
- Public establishments and public enterprises in which the state holds the entire share capital and whose invoiced value added tax has been withheld at source

### Objections and appeals

Taxpayers' monthly returns are audited by the DGI (Direction Générale des Impôts) or CDI (Centre des Impôts). These audits are conducted by either reviewing documents or conducting an on-site inspection and may lead to an assessment.

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.

Taxpayers who receive an assessment notice following an audit have a period of 20 days to make comments.

The tax administration must give a definitive response on receiving these comments and must provide grounds for any elements that it rejects.

### Time limits

The deduction right arises when the tax is due by the taxable person.

This right shall be exercised until 31 December of the year following the year in which the tax became payable.

On expiry of that period, the VAT not deducted shall be definitively acquired by the treasury.

This 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 or document in lieu thereof must be in French and must indicate the following:

- The surname, last name, first name or company name, the exact address, the tax number of the seller or provider
- Surname, last name and first name or company name, the exact address of the client and his tax number
- The date and serial number of the invoice
- The description and quantity of goods or services
- The unit price and the total price of each type of goods sold and/or exported, services rendered or real estate works, in distinguishing, where appropriate, between taxable and non-taxable amounts those relating to duly justified non-taxable operations
- Prices exclusive of value added tax of the goods supplied or services rendered
- The rate of VAT applied and the corresponding amount of the tax
- The non-taxable amount of the transaction
- The amount of the transactions including all taxes

A service provider who has opted for payment on a debit 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.

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

### Record-keeping

Taxpayers must keep regular accounts, including the balance sheet, the profit and loss account, the financial table of resources and uses, the annexed statement and the supplementary statistical statement in accordance with the OHADA Uniform Act.

The accounts must be available in the DRC, and presented in French, and made out in Congolese Franc (CDF). Accounting documents and supporting documents for operations performed by the taxpayer must be retained for ten years from being recorded.

## Other indirect taxes

### 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.

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

Goods transferred and services rendered free of charge or at a price lower than the cost price, as commissions, salaries, gratuities, bonuses, gifts, irrespective of the status of the beneficiary, except in the case of advertising objects of low unit value excluding tax does not give an entitlement to deduction.

### Second-hand goods

Sales of second-hand movable property by persons who have used it for the purposes of their business are exempted from VAT, where such property did not give rise to a right to deduct tax at the time of its acquisition.

### Regularisation:

The taxpayer shall be liable for a fraction of the tax previously deducted:

- In the event of the removal of the assets of the business of property which has been the subject of a deduction in respect of fixed assets,
- Or in the absence of this removal, in case of:
  - *Modification of the situation of this property with regard to the right to deduct*
  - *Regulatory changes*
  - *Change in use of the property before the end of the 4th year following the year of acquisition, for personal property, or before the end of the 19th year following the year of acquisition, for real property.*

The fraction referred to in the above paragraph shall be equal to the amount of the deduction, less the amount of the deduction, as the case may be, of one fifth or one twentieth per year or fraction of a year since the acquisition of property.

In the event of transfer, if the property constitutes a fixed asset for the purchaser, the latter may deduct the corresponding VAT to the amount repaid by the vendor in respect of the adjustment, provided that he is subject to VAT himself.

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.

### Import duty

Customs duty on imports is calculated on the cost, insurance, and freight (CIF) value of the goods. The customs tariff in imports is the following:

- 5% (chemical products, machine tools, material and transport of merchandise)
- 10% (floor, aggregate, petrol, diesel, kerosene)
- 20% (clothing, furniture, cigarettes)

Imported goods are also subject to the following levies at the time of border crossing:

- VAT on imports
- For certain goods, consumption and excise duties
- Various para-fiscal taxes

### Excise duty

Some products, such as tobacco, perfume, alcohol are subject to consumption and excise duties.

The rate of excise duties on locally made products and imported products varies between 5% and 80%.

### Transfer duty

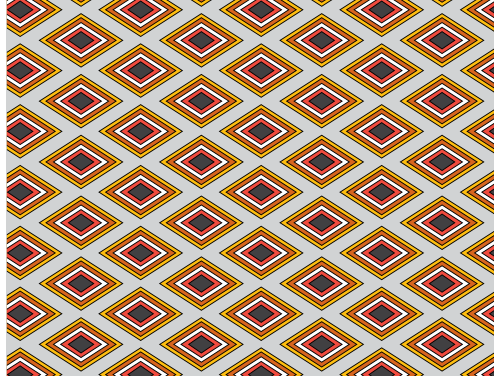
Funds transfer in and out of DRC are subject to exchange control regulations.

As such, payments to the local entity will require the subscription of a type RC return with a licensed bank for transactions equal or exceeding USD10,000.

In addition, the Central Bank of Congo levies an exchange control fee of 0.2% on all transactions subject to its regulation (payments in and out DRC).

### Stamp duty

The Congolese tax legislation does not provide for any stamp duties.



# Egypt



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## Introduction

**VAT law was enacted on 8th of September 2016 replacing the former GST regime to enforce two types of taxes 'VAT' & 'schedule tax'.**

## Scope of VAT

Tax shall be imposed on all commodities and services, whether local or imported, at all stages of trading.

A commodity is any material object, whatever its nature and source. The customs tariff code is used to define the commodity.

A service is any supply other than a commodity.

## VAT rates

The general VAT rate was 13% for the period from the enactment of the law in September 2016 to June 2017, and was raised to 14% thereafter.

In case of export transactions, VAT shall be imposed at the rate of 0% provided the supporting documentation is available.

A reduced rate of 5% is applied on the sale of machines and equipment upon fulfilling of certain criteria and conditions.

Inbound and outbound products from the free zone companies shall be subject to 0% under the oversight of the GAFI (General Authority for Free Zones and Investment) as long as the supply is related to the operations of a free zone company within the free zone.

## VAT registration

### Compulsory registration

Any natural or legal person who has attained the registration threshold shall be required to file a registration request within 30 days after reaching the threshold.

There is no threshold for importers of commodities or services, exporters, or distribution agents.

### Voluntary registration

The law allows for voluntary registration provided that the applicant has a valid tax card and capital of at least EGP50K, or a total amount of EGP150K as a

trading turnover during the last 12 month before the request for registration.

### Group or branch registration

Not applicable.

### Non-residents

There is no requirement for registration for a non-resident who is importing commodities into Egypt.

For a non-resident importer of services, a representative or agent should be appointed to take up all of the compliance obligations on behalf of the non-resident.

Where a representative has not been appointed, the recipient of the services in Egypt shall be responsible for the VAT compliance on the imported services.

### Deregistration

The Tax authority shall automatically deregister the registered person in case that person no longer satisfies the mandatory registration requirements.

In case the voluntarily registered person may request for deregistration following 24 months from the registration. Or in case the registered person ceases to carry on the activity.

## Input tax deduction

### Input tax allowed

All registrants that provide a taxable output, meaning sales of commodities and/or services, are eligible to recover all of the incurred input tax in relation to such sale transactions .

This would be applicable as well in case of exporting commodities or services, and sale to exempted parties.

### Input tax expressly denied

Input VAT recovery is not allowed in the case of:

- Sale subject to schedule tax
- Exempted products and/or services
- Input VAT that was booked as a cost element.

### Partial exemption

Where a registrant makes a supply comprising of both taxable supplies and exempted or schedule tax supplies, they shall be eligible for partial recovery of the input VAT relating to the taxable supplies

### Pre-registration or post-deregistration VAT

Any input VAT that was incurred prior to registration could be recovered as long as it is related to a supply made after the registration, provided the supplies were subject to VAT.

### Recovery of VAT by non-residents

There is no provision made for recovery of VAT by non-residents

## Output Vtax

### Brief description of output VAT

The output tax is the applicable VAT imposed on the sale of commodities or provision of services at any stages of trade.

### Exempt supplies

There is a list of 57 items that are exempt from VAT at all stages of trade.

The exempt supplies include, but not limited to:

- Tea, sugar and coffee
- Crude oil
- Natural gas and butane gas
- Banking operations
- Education, training and scientific research services
- Health care services

In addition the law granting some exemptions to certain parties and activities, upon fulfilling certain criteria for each (e.g. the diplomats, the army, Oil & Gas upstream business).

### Zero-rated supplies

The commodities/products and services provided to a non-resident entity shall be seen as export transaction subject to zero rate upon fulfilling certain conditions.

Sale transactions to free zone entities shall be deemed as exports subject to zero rate on the condition of having approval from the free zone authority.

### Special rated supplies

A reduced VAT rate of 5% shall be applied on sale of machines and equipment to be used in production or provision of services.

A ministerial decree no. 106 for 2017 was issued to list the requirements and conditions to apply the reduced rate.

## International trade

### Imports

#### *Goods*

Goods shall be considered as imported when transferred from one country to the Egyptian territories and entered into the local territories under the oversight of the customs authority which is responsible to apply the import VAT.

#### *Services*

Services shall be considered as imported where they are provided by a non-resident entity to a recipient in Egypt.

### Exports

#### *Goods*

A sale from a local Egyptian company to a non-resident entity shall be seen as export sales with the condition that the transaction is supported by the relevant customs documentation. (i.e. export forms no. 13).

#### *Services*

Providing a service in Egypt to a non-resident service recipient shall be seen as an export service under the condition of fulfilling the criteria listed under the executive regulation.

## Place, time and value of supply

### Place of supply

Generally the place of delivery shall be considered as the place of supply of goods. On the other hand, the place of supply for the services is where the recipient

The VAT return should be filled within two months following the end of the tax period except for the April return where the deadline is 15 June

### Time of supply

Output tax is due 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

In the case of a provision of services of a continuous nature such as telecommunications, and construction works, the time of supply shall be the date of issuing the invoice.

### Value of supply

The taxable value for purposes of VAT assessment shall be the actual paid up value, or the amount payable for the supply.

For related party transactions, the value shall be the market value at arm's length.

The taxable value shall comprise of the amounts collected from the buyer or the service recipient and all incidental expenses such as the cost of commission, wrapping, transportation, insurance, etc.

The value shall be reported as a basis for VAT assessment and private usage shall be determined on basis of the total cost. The value for commodities or services for personal consumption shall be determined according to the market forces and transaction circumstances (i.e. normal sales value).

The taxable value of the installment shall include the installment sale interest, if exceeding the credit and discount rate announced by the Central Bank of Egypt on the sale date.

The value of the imported commodities shall include the applicable customs duties and any other services related to the imported commodities.

The value for the sale of used products shall be 30% of the sale value of the products.

## VAT compliance

### Accounting basis and tax period

The registrant must have regular accounting books and records which could also be in the form of an electronic accounting system.



The ministry of finance may introduce some simplified systems – on a case by case basis – to calculate VAT for those who could not issue regular tax invoices per transaction. POSs can use such simplified systems, which can be linked directly with the ETA for live reporting of tax.

The tax period is represented as one calendar month, while the financial year follows the financial year for each of the registrants.

### Returns and payment of VAT

The VAT return covers a period of one month, and should be filed on the ETA online portal within a period of two months after the end of the month except for the April return which should be filled by 15 June.

The tax shall be payable on the date of submission of the return. Interest and penalties.

Any delay in paying the due VAT shall be subject to an additional tax calculated based on 1.5% of the due tax per month (or part of a month).

In addition to the delay fine, the law imposes a penalty on certain acts of violation of the law ranging from EGP 500 and EGP 5,000. Among these acts are the delay of the return filling and failing to inform the ETA of any changes in the company's information.

Tax evasion attracts penalties ranging from EGP 5,000 and not exceeding EGP 50,000 and/or imprisonment of between 3 to 5 years.

The following are examples of tax evasion acts:

- Failing to register for VAT within the legally due dates
- Failure to declare taxable revenues
- Incorrect input tax deduction
- Failure to issue a tax invoice

### Objections and appeals

In case of receiving unfavourable tax claim, the registrant should have the time frame of 30 days from receiving such claim to submit the appeal request.

The first stage is to present the case to an internal committees to study the appeal request within a time frame of 60 days.

In case a settlement is not reached, the case shall be transferred to the appeal committee within the following 30 days.

The appeal committee opinion shall be considered as a final decision and, in case it is not favorable to the registrant, the case may be escalated to the courts.

### Time limits

The VAT return should be filled within two months following the end of the tax period except for the April return where the deadline is 15 June.

After this period, filing the return shall be subject to a tax violation penalty if filing happens within two month following the end of the normal grace period. Failure to file the return within these periods shall be considered an act of tax evasion.

### Withholding VAT obligation

#### Appointment of withholding VAT agents

Not applicable.

#### Withholding VAT exemption

Not applicable.

#### Withholding Compliance

Not applicable.

### Refunds

The registrant is eligible for a refund of VAT paid in the following cases:

- The input VAT paid on the materials and services that are exported whether in original form or as part of other products
- The input VAT was erroneously calculated
- The input VAT balance has been carried forward for more than 6 continuous periods
- Input VAT paid on machines and equipment used in production or service provision except for cars and buses (unless their usage is the licensed activity of the company)

In December 2019 changes to regulations gave registrants the possibility of obtaining a refund of up to 65% of the VAT credit balance amount against a letter of guarantee from a bank until the formal refund procedures are finalised – which should take a maximum period of 6 months.



## VAT record-keeping

### Tax invoices

All the registrants are obliged to issue a tax invoice for each sale transaction. The tax invoice should include specific information set out by regulation as follows:

- Sequential number & date
- Seller name, address, and registration number
- Purchaser name, address, and registration number or ID number
- The item description and value
- The VAT rate and amount in a separate line

The ministry of finance may introduce some simplified systems – on a case by case basis – to calculate the VAT for those who could not issue regular tax invoices per transaction. POSs can use such simplified systems, which can be linked directly with the ETA for live reporting of tax.

### Credit notes and debit notes

The registrants have the right to issue credit notes and debit notes to reflect adjustments in sale transactions or any corrective actions that have a VAT impact with considerations on the conditions and rules specified in the executive regulations for every different situation.

### Additional export documentation

For each export transaction, the seller should maintain the appropriate supporting documentation.

For the exportation of products, the seller should maintain an archive of the export sales documents i.e. Form no. 13 that is issued for each export

shipment, in addition to the normal sales invoice.

The following documents must be availed in support of an export of services:

- The service agreement with the client (e.g. contract, or engagement)
- A copy of the sales invoices demonstrating the type of service and details of the service recipient outside of Egypt
- A payment confirmation for the service fee received from the service recipient or a confirmation of the fee settlement by any other mean in case the payment is not a direct payment

## Record-keeping

Every registrant must archive records and documentation for 5 years from the end of the financial year. In case the registrant is subject to an evasion case the ETA has the right to extend this period to 6 years.

## Specific VAT rules

### Bad debts

The debts due to the ETA from the registrant may be written off in any of the following cases:

- In case of a final ruling for adjudging a bankruptcy and if the bankruptcy case is closed
- If the registrant leaves the country for a ten year period without leaving funds
- If it is proved that the registrant has no money to seize
- If the registrant dies without leaving legacy

### Digital economy

There are currently no specific rules for the digital economy and the general VAT rules should apply. There are, however, potential changes to the regulation to present clearer guidance on how to apply VAT on the digital economy.

### Land and buildings

The sale and lease of land and buildings are some of the more challenging transactions from a VAT perspective, since they are listed under the exemption list. However, for the sale and lease of non-residential units, the regulations limit the exemption and, subject to certain criteria, impose VAT on such transactions.

### Leasing

Leasing services are subject to the general VAT rate of 14% unless they are provided by a company that operates under the supervision of the Financial Regulatory Authority, in which the transactions would be exempt from VAT.

### Promotional gifts

Promotional gifts in principle should be subject to the normal VAT application with very limited exceptions subject to approval by the ministry of finance, where such gifts may be exempted in case of being provided to the government's administrative departments.

### Second-hand goods

The sale of used products is subject to special treatment where the taxable value is only 30% of the sales value.

In order to apply such special treatment, the following conditions have to be met, otherwise the normal application of VAT on the full sales value should be applied:

- The product has to be originally purchased as a new item by the current seller
- It has to be used for at least two years
- It has to be directly sold by the registrant

### Tourism industry

Normal application of VAT.

### Currency conversion

The currency conversion service is listed as exempted services including the trading of the commemorative coins.

### Transfer of business

Transfer of business assets shall be subject to tax, but the transfer of shares shall not be considered a taxable transaction.

### Warranty repairs

Warranty services are subject to the normal VAT application.

## Other indirect taxes

### Import duties

Import duties are levied under customs law number 66 of 1963.

A new customs law is expected to be introduced in 2020 to replace the current one.

### Excise duties

Under the Egyptian VAT Law no. 67 of 2016, an excise tax was introduced as a special tax rate imposed on certain products and services.

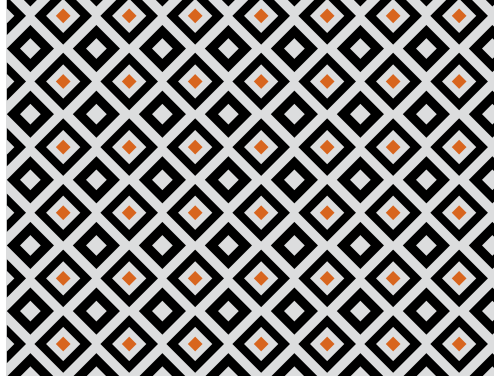
The excise tax (which is also called schedule tax or table tax) should be imposed only once on the listed products and services (e.g. professional services, construction services, processed potatoes). The excise tax is solely applied on specific listed items while it could be applicable in addition to the normal 14% VAT on some other items (e.g. air conditioners).

The excise tax should not be considered as a recoverable input tax, nor should it be deducted against incurred input tax, with very limited exceptions.

### Stamp duty

There are two distinct types of stamp tax, which are imposed on legal documents, deeds, banking transactions, company formation, insurance premiums, and other transactions, as follows:

- The nominal stamp tax is imposed on documents, regardless of their value. The tax rate for items such as contracts is EGP 0.9 for each paper
- Percentage or proportionate stamp tax is levied based on the value of transactions



# Equatorial Guinea



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## Introduction

VAT was introduced in Equatorial Guinea on 28 October 2004 by the Tax Code 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 2005 and is locally referred to as 'Impuesto sobre el Valor Añadido' (or 'IVA', its Spanish acronym).

## 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
- 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
- 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 tax.

### 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
- 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
- Levied on invoices for equipment goods



### Input tax expressly denied

Restrictions apply to the recovery of input tax 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)
- 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
- 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
- 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
- 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
- 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
- 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.

## A branch of a company registered in terms of Equatorial Guinea legislation must also be registered with the tax administration

### 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
- 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
- Total amount of VAT on imported goods

### Other Indirect taxes

#### 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)

- 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.

#### Additional measures

Ministerial Order (MO) n°6/2019 dated November 5, providing Additional Measures on the application of VAT in Equatorial Guinea (EG) published on November 6, 2019 (entered into force on the same date).

MO n°6/2019 has been adopted in consideration of the non-compliance with the provisions of article 370 of the Tax Code that provides the obligation for taxpayers to reflect on the invoices issued prices, with the respective VAT listed separately.

In order to guarantee taxpayers/operators' effective compliance with mandatory obligations related to VAT, the ministry of finance, economy and planning has adopted the additional measures listed below:

- Reminder on the scope of application of VAT (article 271 of the EG Tax Code)
  - *Goods sold or assigned for valuable consideration*
  - *Services provided*
  - *Self-consumed goods and services*
  - *Imports*
  - *Other operations done by individuals or legal entities in the sphere of their professional, individual, or business activities, including extraction industries of all kinds*
- Compulsory statements of invoices (article 315 of the EG Tax Code) — The administration will not accept VAT returns with invoices that do not clearly separate the gross amount, the applicable VAT and the net amount, and do not meet the following mandatory requirements provided by art 315 of the EG Tax Law: Each invoice must reflect:
  - *Correlative number and chronological date*
  - *Name, address and Taxpayer Number of the company*
  - *Prices, with the respective VAT listed separately*
  - *Name, address and Taxpayer Number of taxpayers*



**Payment of VAT by Public Administrations**

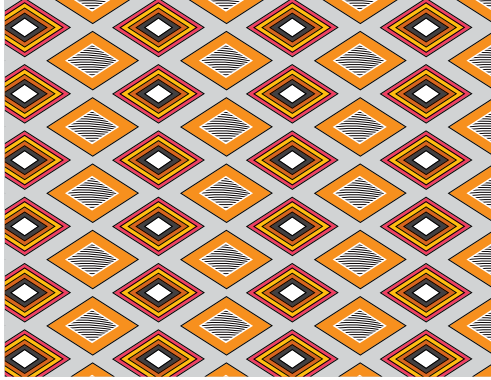
Public Administrations will not pay invoices for operations subject to VAT when such invoices do not comply with the above-mentioned requirements.

The Public Administration will automatically deduct from the total amount of the invoice presented by economic operators, the amount corresponding to VAT when said tax is not listed separately.

**Adjustment period**

The MO provides a three-month period following the date of its publication (i.e., by February 6, 2020) to comply with the above requirements (invoices, supported).

A standard special duty tax of 30% applies to an exhaustive list of products (mainly luxury goods) in the Tax Code



# Gabon



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## 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
  - Raincoats
  - Tomato purée
  - Canned fruits and vegetables
  - Water and power consumed by way of social and standard meters

- Reduced rate of 5%, applicable to sales and services related to cement
- 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) XAF150 million (USD247 991)
- Forestry exploiters with a turnover of at least XAF500 million

### Voluntary registration

Registration is optional for new taxpayers capable of a turnover equal to XAF150 million for the first year of activity.

### 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.

The taxpayer must request the NIF 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.

Registration is optional for new taxpayers capable of a turnover equal to XAF150 million for the first year of activity

### 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
- In case of discontinuance of business, following the day on which it was finally closed down

### 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:

- $18\% \times \text{price (all taxes included except the special solidarity contribution [SSC] and the VAT itself)} = \text{VAT}$

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 SSC and 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
- 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)
- 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
- 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

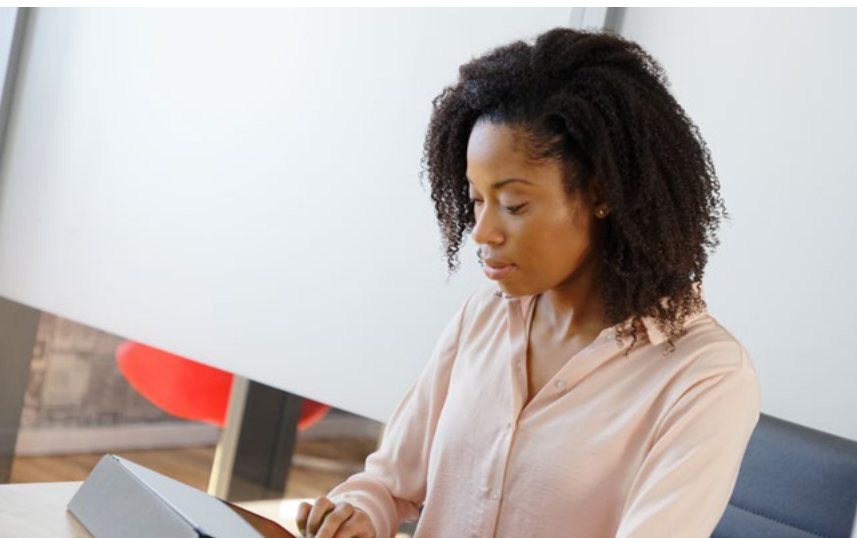
Input tax incurred to perform taxable operations is deductible from output tax collected. The right to a deduction arises when the tax point occurs. To meet the formal deduction conditions, VAT has to be mentioned on one of the following documents:

- Invoices delivered by suppliers legally authorised to mention it
- Documents of importation
- 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





- 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*
  - *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
- As denominator — total turnover performed by the taxable person

### Adjustments

As far as an element of a fixed asset is concerned, the input tax 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 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.

### 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.

There are no specific provisions in relation to refunds to foreigners.

## 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.

## VAT compliance

### 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 12th 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)
- 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 production sharing contracts (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 exploration and production 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 tax 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 contractor 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 tax 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 tax 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 Central African Economic and Monetary Community (CEMAC) region, which means that consideration must be given to the CEMAC regulations. There is a common customs regime, as well as specific customs regimes.

A common CEMAC 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
- 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.

Products	Ad Valorem Rate	Specific Tax
Local beers	22%	XAF20 per litre
Imported beers	25%	XAF180 per litre
Local wine	22%	XAF20 per litre
Imported wine	25%	XAF180 per litre
Champagne	25%	XAF300 per litre
Other local drinks with a volumetric degree of alcohol exceeding 12%	22%	XAF 300 per litre
Other imported drinks with a volumetric degree of alcohol exceeding 12%	25%	XAF500 per litre

Sugary drinks and other drinks with a volumetric degree of alcohol less than 12%	5%	
Cigarettes, cigars, cigarillos and tobacco	25%	XAF300 per litre
Hazard games	5%	XAF100,000 per device operated
Perfumeries and cosmetics	25%	
Caviar, foie gras, salmon	25%	
Mobile phone activities (calls)	5%	

### Registration duties

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

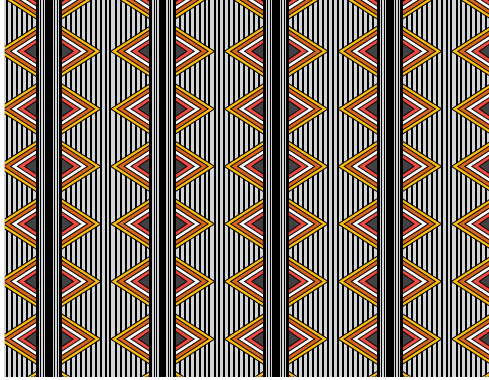
- The transfer of shares is normally subject to the payment of a registration right of 3% of the price, as a burden to the assignee
- The sale of a building is subject to a registration right of 6% (plus 2% for buildings located in Libreville or Port-Gentil)
- The transfer of a leasing right is subject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



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## Introduction

In 2013, the Parliament of Ghana passed the Value Added Tax Act, 2013 (Act 870), as amended (VAT Act) to repeal and replace an older Act. The VAT Act became effective in January 2014. The Value Added Tax Regulations, 2016 (L.I 2243), came into force on 3 August 2016.

The National Health Insurance Levy (NHIL) also introduced on 4 November 2004 as a 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 National Health Insurance Act, 2012 (Act 852) as amended, was gazetted and became effective in November 2012. Prior to 1 August 2018, the NHIL was fully administered alongside VAT by the Domestic Tax Revenue Division of the Ghana Revenue Authority (DTRD of GRA). Effective 1 August 2018, the NHIL is a straight levy not subject to an input tax deduction.

The Ghana Education Trust Fund (GETFund) was introduced on 1 September 2000 under the GETFund Act 2000 (Act 581), to provide finance to supplement the provision of education at all levels by the government. Prior to 1 August 2018, a component of VAT was earmarked for the GETFund. Effective 1 August 2018, like the NHIL, the GETFund Levy (GETFL) is a straight levy not subject to an input tax deduction.

## Rates and scope

The VAT Act provides for a standard rate of 12.5% for VAT, 2.5% for NHIL and 2.5% for GETFL. These rates apply to all supplies of goods and services that do not qualify for an exemption, zero-rating or the VAT Flat Rate Scheme (VFRS). The VFRS is only for wholesalers and retailers of tangible goods and has

a rate of 3%. Taxable persons under the VFRS are not eligible to deduct input taxes.

VAT, NHIL and GETFL (VAT) are charged on the supply of all goods and services in Ghana by a taxable person and also on the imports of goods and services into the country, except when the goods and services are specifically exempt.

## VAT Registration

### Compulsory registration

A person has to register for VAT if they make or expect to make a taxable supply of goods or services that exceeds:

- GHS 200,000 (USD 35,200) over a 12-month period, or
- GHS 50,000 (USD 8,800) 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 GHS 200,000

### 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.

### Application for registration

Anyone who qualifies to register has to apply to the Commissioner-General of the GRA for registration as a taxable person.

Failure to register attracts a penalty of up to 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).

## Deregistration

Businesses which no longer qualify for VAT registration can be deregistered but have to reregister if the qualifying threshold is met again.

## Output tax

### Calculation of output tax

Output tax is calculated by applying the rate of the tax to the taxable value. This is computed by first applying the 2.5% NHIL and 2.5% GETFL to the tax-exclusive amount, and then applying the 12.5% VAT on the NHIL and GETFL inclusive amount. This gives an effective tax rate of 18.125%. Advertised prices are assumed to include VAT, NHIL and GETFL. Therefore, when prices are charged exclusive of such taxes, VAT, NHIL and GETFL at an effective rate of 18.125% (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 state
- Books and domestic newspapers
- Crude oil and hydrocarbon products
- Building and construction, including the right to occupy land or buildings (construction should be civil engineering works of a public nature)
- Financial services
- 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, manufacturing, 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 services
- Electricity supplied to a dwelling up to lifeline units
- Water, excluding bottled and similarly packaged water, and distilled water
- A stake in the National Lotto organised by the National Lottery Authority
- Fishing equipment
- Locally produced textbooks and exercise books

- Locally manufactured agricultural machinery, and other agricultural implements or tools
- 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— reciprocal application
- Emergency relief items approved by parliament
- 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 — reciprocal application
- 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
- Supplies of locally manufactured textiles (from 2019 to 2021) by a local manufacturer with approval from the Ministry of Trade and Industry
- Goods shipped as stores on vessels and aircraft leaving the territory of Ghana
- Services consumed outside Ghana

### 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. The NHIL and GETFL are both not deductible as input tax.

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
- 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 attract VAT, NHIL and GETFL at the rate of 0%. The export of services is zero-rated (a VAT rate of 0%) if all requirements are met.

## Withholding of VAT

The Commissioner-General has appointed some persons as VAT withholding agents. These agents are required to withhold from payments for standard rated VAT supplies, 7% of the taxable output value for VAT purposes, i.e. the taxable value inclusive of NHIL and GETFL, and issue a Withholding VAT Credit Certificate at the time of payment.

## Fiscal Electronic Devices

With the passage of the Taxation (use of Fiscal Electronic Device) Act, 2018 (Act 966), there are plans to implement a Fiscal Electronic Device (FED) system to replace the current manual invoicing system for VAT. The GRA is expected to fully implement the rollout of the FED system over a two-year period.

## 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 general place of supply of a service is the supplier's place of business or the place from which the service is supplied or rendered. For some services, the place of supply is where the recipient uses the service.

### 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
- 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*
  - *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
- 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

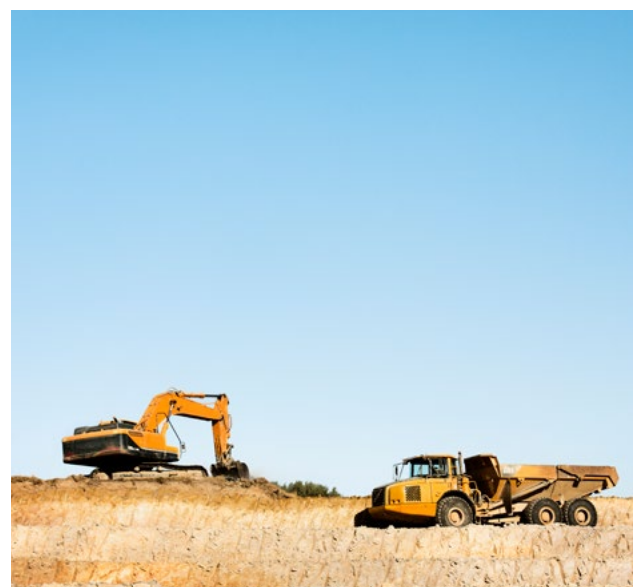
Tax period means one calendar month.

### Returns and payment of VAT

VAT and NHIL/GETFL 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 who makes standard rated Vat supplies can be claimed as an input tax deduction. However, reverse VAT and VAT on some items cannot be claimed as deductible input tax.

Electronic filing is not currently widely available.





### Returns and payment of withheld VAT

Withholding VAT returns must be submitted no later than the 15th day of the month immediately following the month to which the return relates. Payments must be made by the due date for filing.

### Interest and penalties

The following pecuniary penalties/ interest are charged:

- Late submission of a return — penalty of GHS500
- For each additional day the return is not submitted — penalty of GHS10
- Late payment — interest of 125% of Bank of Ghana monetary policy rate compounded monthly and applied on the tax due
- Failure to register — double the tax payable had the taxpayer registered when required
- Failure to issue tax invoice — up to GHS1,200 (USD 210) 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.

Refund claims for overpaid VAT must be submitted within six months after the date on which the excess arose.

### 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
- Total of VAT values and total inclusive of VAT
- 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. Their issuance should be based on a 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

## Refund claims for overpaid VAT must be submitted within six months after the date on which the excess arose

recipient of the supply, whether due to an offer of a discount or for any other reason

- The goods or services, or part thereof, if they have been returned to the supplier

### Additional export documentation

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

### Record-keeping

Records must be kept within Ghana for up to six years, unless the Commissioner-General's approval is obtained to keep the records for a shorter period. Records may be kept in electronic form.

## 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 is typically exempt from VAT under certain conditions.

### 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 imported and locally manufactured products such as tobacco products, plastic products, alcoholic beverages and non-alcoholic beverages. Excise duty typically ranges from 7.5% to 175% for tobacco products.

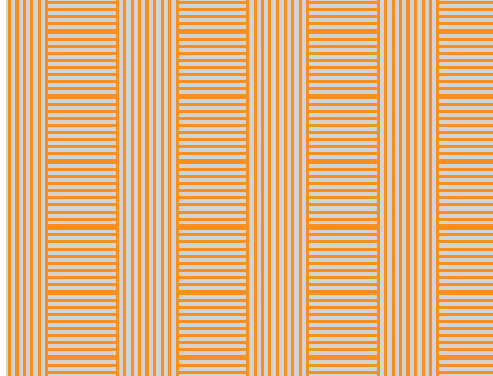
### Excise tax stamps

Excise tax stamps are to be affixed to specific excisable goods which are manufactured in or imported into the country. They apply to tobacco products, alcoholic and non-alcoholic carbonated beverages, bottled water, textiles and other goods specified by the minister responsible for finance, before sale or entry into the market.

### Recent amendments

The Special Import Levy (SIL), which was introduced in 2013 by the SIL Act, 2013 (Act 861) and which was imposed on the importation of specified goods, with expected expiry in December 2019, has been extended to December 2024.

VAT has been exempted on management fees charged by private equity, venture capital and mutual funds to encourage their establishment and improve the ecosystem for startups.



# Guinea



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## Introduction

**The VAT system was introduced in Guinea from April 1st, 1996 to replace the import turnover tax and the tax on production. Guinea's VAT legislation is contained in the General Tax Code.**

**The VAT system is administered by Direction Nationale des Impôts.**

## Rates and scope

### Rates

The standard VAT rate of 18% applies to all supplies that do not qualify for an exemption or that are zero-rated. There is no other higher or lower VAT rate that applies.

### Scope

VAT is imposed on the following transactions:

- 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
- Supply of goods and provision of services to oneself, meaning the levy or the use of goods that gives rise to deduction of VAT for purposes other than those of the company, or the provision of free of charge services by a taxpayer for purposes other than those of the company
- 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
- Rentals of movable and immovable properties
- Transactions on intangible properties
- Leasing transactions
- Transportation of persons and goods, transit and handling
- Water supply, electricity, gas and telephone
- Transactions carried out within the framework of liberal professions, study, research and consulting works
- Sales of consumption on the premises
- Construction works carried out by different trades participating in construction, maintenance and repair of buildings and for real estate works and public works
- Imports of goods or merchandise in Guinea, even where the importer is not itself subject to VAT

## VAT registration

### Compulsory registration

Any natural person or corporate body liable to VAT must file an application for registration to the Direction Nationale des Impôts within 15 days following the start of activities. The Direction Nationale des Impôts will immediately deliver a registration certificate as well as the identification number.

Taxpayers are automatically subject to VAT if their turnover is equal to or exceeds 500 million Guinean francs/GNF (USD 52,113 1).

### Voluntary registration

Taxpayers whose turnover is between 150 million Guinean francs/GNF (USD 15,633.9) and 500 million Guinean Francs/GNF (USD 52,113) are taxed under authorisation of Directeur National des Impôts.

### Non-residents

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

The local client of a non-resident plays the role of solvent representative under the reverse-charge mechanism.

### Application for registration

The application for registration is made to the Directeur National des Impôts and must contain the following documents:

- copy of the articles of association
- copy of the trade and property credit register number
- copy of the lease contract and
- proof of the payment of 100, 000 Guinean francs/GNF (USD 10.4226) registration fees

### Deregistration

A statement of assignment, termination or amendment must be subscribed with the Direction Nationale des Impôts within 30 days following these events.

## Output tax

### Advertising and prices

Prices must be advertised inclusive of VAT.

### Calculation of output tax

The tax is calculated based on the whole price received by the provider from the client, excluding

Public bodies, mixed companies, mine and oil & gas operators and telephonic companies must deduct 50% of VAT payable as advance payment

the charged VAT itself, cash discounts, remittances, reductions or other reductions in price.

### Exempt supplies

The followings are exempt from VAT:

- Sales of tax stamps for the benefit of the state and import of such goods and
- The following operations, where they are already subject to specific duties, exclusive of tax on turnover:
  - *Interest, bank charges and other profits made by banks and credit institutions and*
  - *Operations intended to transfer real estate or movable property subject to registration fees, excluding such operations carried out by estate agents or lessors*

The following operations related to the rental of undeveloped land and unfurnished premises:

- The sale, import, printing and composition of periodical publications, whatever their denomination (journal, review) mainly composed of text, relating to news and information of general interest, excluding registry receipts
- Services or activities of a social, educational, sporting, cultural, philanthropic or religious nature, carried out by not-for-profit organisations run by disinterested and benevolent parties. However, the activities of these organisations are taxable when they are carried out in a competitive sector
- The sale of certain goods: rice, flour and additives for its production, wheat, bread, food oils, palm oils, fish, pharmaceutical products, fertiliser and sanitary products, books and school equipment, gas used for domestic purpose
- Sale of second-hand goods made by the previous owners, who used them for business purposes



- Mooring and towing operations, port piloting of vessels for lading of goods for export, as well as transit operations, lading and transshipment of goods destined for export
- Imports of new vehicles intended for the transport of merchandises

### Zero-rated supplies

The zero rates shall apply to the exports of taxable goods and international transportation.

## Input tax

### Input tax allowed

VAT levied for pre-payment on a taxable transaction shall be deductible from the final tax paid on such transaction.

To be deductible, VAT should appear:

- On a bill duly issued by a supplier who is registered to VAT. Such a bill should also bear the supplier's single identification number, the business or company name and its exact address, the client's name, address and its single identification number, the amount exclusive of taxes of the transaction, the relevant VAT amount and rate as well as the total amount inclusive of all taxes of the transaction
- In the case of imports, on the import documentation (such as home use entry statement)
- In the case of supplies to oneself, on a special return filed by the taxpayer himself

The deduction shall concern VAT levied on the purchase of goods, merchandise and services used for business purposes.

The right to deduction shall arise once the supplier's tax payments fall due.

### Input tax expressly denied

VAT incurred on the following expenses is expressly denied as input tax deductions:

- Expenses for housing, lodging, catering, receptions, shows and costs of hiring a private car or passenger transport vehicle. This exclusion does not concern expenses borne by professionals of catering, receptions and shows
- Importation of goods which are unused and re-exported as-is
- Assets transferred without compensation or with payment far below their normal price

- Services relating to goods exempted from the right to deduction
- Petrol products. However, in the case of industrial concerns, VAT on petrol products used by immobile machinery such as combustible fuels or agents for production, are deductible by up to 100% as of 2001
- Telephone and internet expenses, except for enterprise and companies whose purpose is directly related to the telephone or internet services
- Vehicles for carriage of people or of mixed usage, as well as their spare parts, components and accessories. This exclusion does not cover transport vehicles with more than eight seats besides the driver's seat, used by companies exclusively for staff transport, as well as the assets of vehicle hire companies or public transport

### Partial exemption

For taxpayers not exclusively carrying out transactions giving a right to deduction, the deduction must be made proportionately (pro rata). It shall be calculated from the fraction of turnover pertaining to taxable transactions, as follows:

- As the numerator, the combined transactions subjected to VAT and all exports (taxable at 0%)
- As the denominator, the combined turnover (numerator plus exempted transactions)

The deduction is:

- 100% if the ratio is greater than 0.9
- 80% if the ratio is between 0.7 and 0.9
- 60% if the ratio is between 0.5 and 0.7
- 40% if the ratio is between 0.3 and 0.5
- 0% if the ratio is less than 0.3

The following do not figure in the part used to calculate the pro rata: supply of goods to oneself, subsidies on tax-exempt equipment, disbursements which are merely refunds of the exact amount of costs, indemnities not constituting compensation for taxable transaction.

### Adjustments

A taxpayer shall be liable for part of the previous deduction where property which had been subject to deduction under fixed assets ceases to be part of the assets of the enterprise before the end of the third year following the date of acquisition. Such part shall be equal to the amount of deduction, less one-fifth for each year or part thereof from its time of acquisition.

### Pre-registration or post-deregistration VAT

Taxpayers are not allowed to make any deduction of VAT before the registration and the issuing of a tax identification number.

## Imports

### Goods

VAT is payable on the importation of goods.

VAT received on imports by the customs service is calculated according to the customs value. To this is added the sum of the other customs taxes and duties apart from VAT.

### Services

VAT related to services rendered by non-residents is collected through the reverse charge mechanism in practice.

The VAT due is declared and paid by the local client beneficiary of the service.

## Exports

### Goods

Exportations of products are taxed at zero rate and entail a right to a tax credit where VAT on such products was pre-paid.

### Services

Transactions carried out in Guinea and not listed among the exemptions shall be liable to VAT even when the residence or head office of the real taxpayer is situated outside Guinea. In the case of services, they are taxable if carried out or rendered in Guinea.

### Refunds to foreigners

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

## Place, time and value of supply

### Place of supply

Transactions carried out in Guinean and not listed among the exemptions shall be liable to VAT even when the residence or head office of the real taxpayer is situated outside Guinea. A transaction shall be deemed to have been carried out in Guinea:

- where, in the case of a sale, goods are delivered in Guinea
- where, in the case of other transactions, the service is carried out or rendered in Guinea

### Time of supply

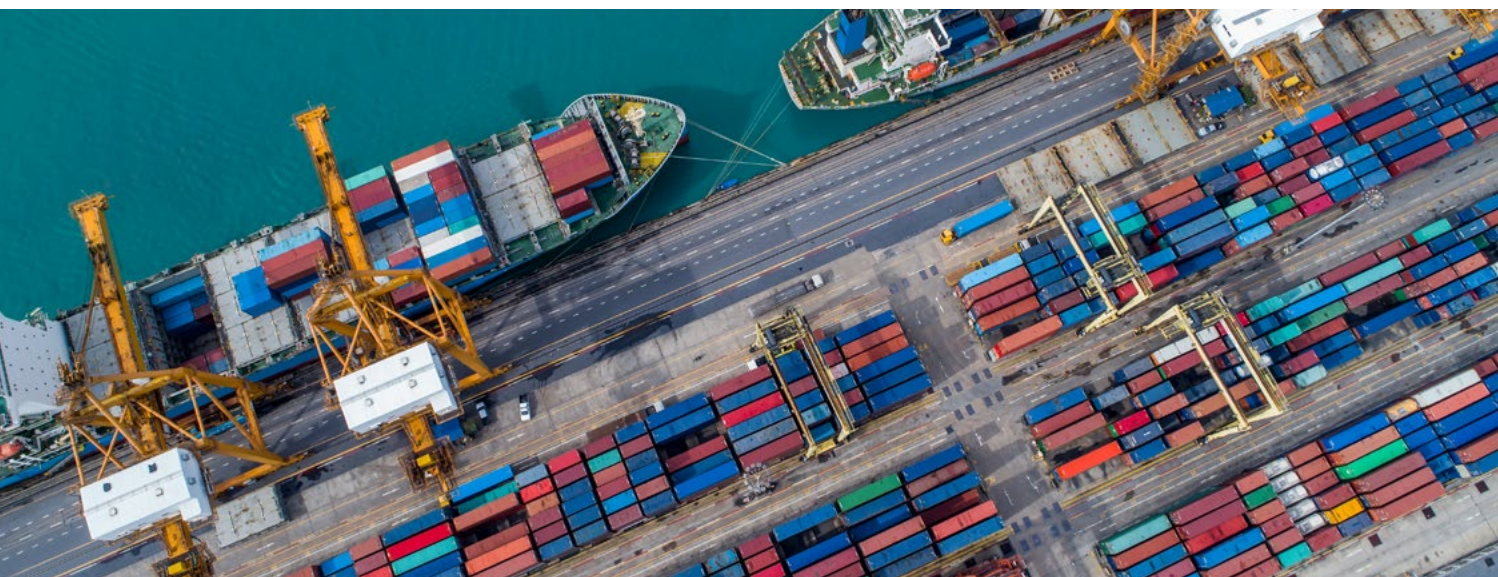
The tax shall be due as follows:

- for goods, the moment of delivery
- for imports, the crossing of the customs post
- for the exchange of goods and services, the delivery of these goods and merchandise
- in the case of property work and services, the carrying-out of these services
- for other business, the receipt of payment

### Value of supply

The basis of assessment of VAT on supplies of goods and provision of services within the national territory shall be as follows:

- For construction work performed: the value of the contracts or bills



- For the supply of goods: all sums or valuables, all profits, goods or services received or receivable in return for supply of the goods (excluding the charged VAT itself, cash discounts, remittances, reductions, or other reductions in price)
- For the exchange of goods: the value of the products received in return for payment for the goods plus, where applicable, the value of the additional payment
- For the provision of services: all sums and benefits received and, where applicable, the value of material consumed during the execution of the services
- For the supply of goods and provision of services to oneself, the cost price of the goods and services

## VAT compliance

### Accounting basis and tax period

Any taxpayer or legal entity carrying out economic activities must run their accounts according to the SYSCOA (West African Accounting System) law. The tax period is linked to the calendar year.

### Returns and payment of VAT

A monthly tax return must be filed (before the 15th of each month) on the form specified by the tax authorities named Déclaration Unique – DMU (Unique Declaration).

The tax return submitted to the receiver of taxes before the 15th of each month must be accompanied by the appropriate payment and a table summarising the input tax.

### VAT advance payment (deduction)

Public bodies, mixed companies, mine and oil & gas operators and telephonic companies must deduct 50% of VAT payable to their suppliers and remit the related amount to tax administration during the filing of unique declaration (before the 15th of each month).

## Interest and penalties

### Late payment

In case of late payment, a 2% interest on arrears per month is due, calculated based on the amount which the payment was deferred. The interest in arrears is calculated with effect from the first day of the month following that during which the tax had to be paid up to the last day of the month of the payment.

### Failure to submit monthly tax returns

The failure to submit monthly tax returns gives rise to the interests on arrears mentioned above and an increase of 10% of the amount of tax charged to the taxpayer or resulting from the tax return, with a minimum of 100,000 Guinean francs/GNF (approx. USD 10. 4226).

The supplement is increased to 50% when the tax return is not filed within 10 days following receipt of a notice to file the return.

### Inadequacies or inaccuracies

Inadequacies or inaccuracies affecting the tax base or data give rise to the interests on arrears mentioned above if good faith is found, plus an increase of 50% where the lack of good faith is found. The supplement is increased to 100% in cases of fraudulent practices or opposition to a tax audit.

### Refunds

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

### Objections and appeals

Petitions seeking to obtain tax remission or reduction must be addressed to the Directeur National des Impôts. They must contain all information necessary for the identification of the tax in question and include a copy of the notice of issue for collection.

### Time limits

Sums due from the taxpayers for taxes and duties assessed by virtue of the General Tax Code are barred after a period of three years following the due date, where no instrument has been issued to end the limitation. The time limit is also three years in the case of taxes deducted at source.

## VAT records

### Tax invoices

Taxpayers liable to VAT are required to issue an invoice showing the VAT ID number of the taxpayer, the amount exclusive of taxes of the transaction, the relevant VAT amount and rate, as well as the total amount inclusive of all taxes of the transaction.

These invoices should also carry the taxpayer and the client's single identification numbers, the businesses or companies' names and their exact addresses.

Excise duty is levied on imported liqueurs and whiskies at the rate of 45%, payable within the custom duties

#### **Credit notes and debit notes**

Credit notes and debit notes are not ruled under the tax legislation but result from accounting practice. They are tolerated by the Tax authorities and must meet the same conditions that apply for an invoice.

#### **Additional export documentation**

The followings documents are requested:

- The invoice and
- The application for exportation

#### **Record-keeping**

Taxpayers are required to keep the following accounting books:

- Journal ledger
- Sales ledger
- Purchases ledger
- Annual accounts ledger

The accounting entries must be available in the Republic of Guinea.

#### **Specific VAT rules**

##### **Bad debts**

For taxes which cannot be collected due to a change in the situation of the taxpayer at the time of assessment, the collector of taxes will provide the tax authorities with the lists of irrecoverable taxes 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.

##### **Land and buildings**

Transactions emanating from the transfer of property are exempt from VAT when subject to specific taxes exclusive of tax on turnover (i.e., registration duties). However, rentals of buildings are expressly subject to VAT as provisions of services.

Input VAT on assets is refundable over the course of each trimester of the calendar year.

##### **Leasing**

Leasing is a taxable transaction, and interests paid in the frame of the leasing are subject to VAT.

##### **Promotional gifts**

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

##### **Second-hand goods**

Sales of second-hand goods made by taxpayers who used them for the purposes of their exploitation are exempt.

##### **Tourism industry**

Tourism activities are supported by tourism's tax promotion (TPT) payable by any person staying in a hotel or an assimilated establishment.

##### **Currency conversion**

VAT is not applicable to exchange gains arising from the currency conversion.

##### **Transfer of a business**

The transfer of a business is subject to registration fees, exempt from VAT.

##### **Warranty repairs**

Warranty repairs are considered as accessory services to sales of goods which are taxable.

#### **Other indirect taxes**

##### **Import duties**

The tax base of customs duties corresponds with the customs valuation, namely the selling price of the goods plus cost of delivery to Guinea (i.e., costs of insurance, transportation).

The rates of customs duties depend on the nature of the imported goods, ranging from 2.75% to 97.81%.

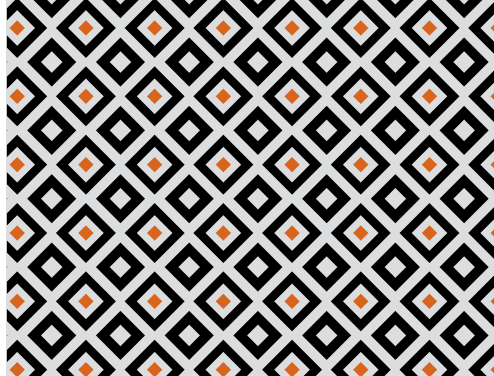
##### **Excise duties**

Excise duty is levied on imported liqueurs and whiskies at the rate of 45%, payable within the custom duties.

An alcoholic beverages tax is also provided on the assignment of alcoholic beverages after their manufacturing in Guinea. The tax is equal to 15% of the net selling price.

Imports of cigarettes and tobacco are subject to excise duty of 30% of the CIF (cost, insurance, and freight) value.





## Horn of Africa



### Contact details

PwC does not have an office in Ethiopia, Eritrea or Djibouti. PwC Kenya has a Horn of Africa Tax Desk based in Nairobi that offers market entry tax advice to foreign investors.

**Physical address:** PwC Tower, Waiyaki Way/Chiromo Road, Westlands, Nairobi, Kenya

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### PwC contact

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## Ethiopia

### Introduction

VAT was introduced in Ethiopia in the year 2003 (January), replacing the Sales Tax initially governed by the Sales and Excise Tax Proclamation No. 68/193 and its subsequent amendments.

Presently VAT in Ethiopia is administered by the Value Added Tax Proclamation No. 285/2002 and its subsequent amendments read together with the VAT Regulations No. 79/2002. VAT is collected by the Ethiopian Ministry of Revenues which is in charge of administration of customs and domestic taxes.

### Scope of VAT and rates applicable

Goods and services, where services have been defined as work done for others which does not result in the transfer of goods, are collectively termed as supplies.

Transactions are either taxable or exempt.

The major difference between taxable supplies and exempt supplies is that where the supplies are taxable, the registered person is obliged to charge VAT but is also eligible to recover VAT incurred on such supplies as input tax whereas VAT incurred on making exempt supplies is not recoverable as input tax.

VAT in Ethiopia is chargeable on:

- A taxable supply of goods or services made by

a registered person in Ethiopia;

- The importation of taxable goods; and
- The importation taxable services.

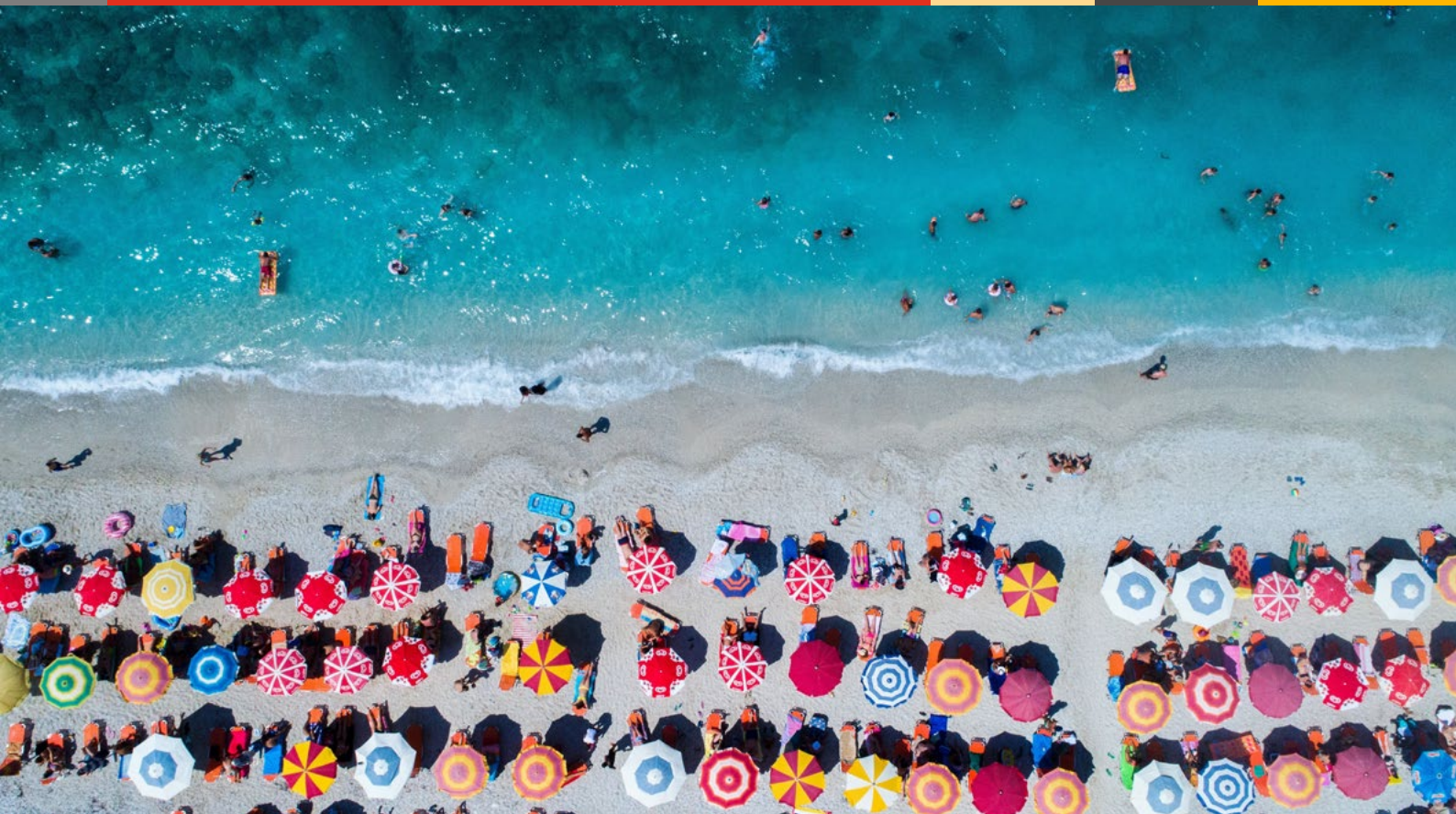
There are two VAT rates applicable in Ethiopia:

- Zero rate (0%) and
- Standard rate (15%).

Certain goods are also exempt in Ethiopia.

### Registration threshold

In relation to taxable transactions in Ethiopia, a person who, at the end or beginning of any period of 12 calendar months makes or expects to make taxable transaction whose total value exceeds ETB 1,000,000 (approximately USD 30,000).



## Djibouti

### Introduction

**VAT was introduced in Djibouti by the Finance Law of 2009. VAT is levied on transactions carried out in Djibouti by individuals and legal entities who independently carry on taxable transactions, such as purchasing goods for resale, industrial, commercial or handicraft-making activities, including services.**

### Scope of VAT and applicable rates

VAT applies on the taxable supply of goods and services supplied or imported in Djibouti.

There are three VAT classes applicable in Djibouti:

- Zero rate – applicable on exports;
- Standard rate – applicable on certain goods identified as taxable goods; and
- Exempt – applicable on certain goods identified as exempt goods.

### Registration threshold

All companies with a turnover of DJF 50 million or more are required to register for VAT.

### Taxation mechanism

A supplier of taxable goods or services is allowed to claim / deduct VAT paid (input tax) on the importation or purchase of goods and services. The claim is made through the monthly returns by reducing the output VAT payable.

Where a taxpayer deals with exempt supplies and taxable supplies, input VAT can only be partially recovered.

There are a number of supplies that are exempt from VAT such as banking operations, insurance operations, transfer of assets, private rents, medical operations and medicines and food.

VAT incurred on expenses related to staff, hotel fees, restaurant, entertainment and touristic cars is not deductible as input VAT.



## Eritrea

### Introduction: Sales and Services Taxes

Eritrea does not have a VAT system but rather Sales Tax. Sales Tax was formally introduced through a Proclamation in 1994 even though the Eritrean Government had enacted a special decree in 1990.

Presently Sales Tax in Eritrea is governed by the Sales and Excise Tax Regulation 64/1994, its subsequent amendments and its regulations.

The Sales Tax applicable to services is referred to as Services Tax.

### Scope and applicable rates

Sales Tax is applicable on the supply of taxable goods and services and upon the importation of taxable goods and services.

The applicable rates are as follows:

- 5% - on certain locally produced and imported goods such as dairy products, sugar, petroleum oils, certain pharmaceuticals and other items listed in the relevant legislation;
- 5% - on services provided in Eritrea such as construction services, internet services and other services listed in the relevant legislation;
- 10% - on services provided in Eritrea such as telecommunication, legal services, consultancy services and other services listed in the relevant legislation;
- 12% - other goods not included under exempt or 5% or 10% schedules.

### Registration

There is no registration threshold for Sales Tax in Eritrea.

### Basis of computation

The basis of computing Sales Tax and Services Tax is:

- Goods produced locally – the wholesale price including excise tax paid on the goods;
- Goods imported – CIF + customs duty and excise duty; and
- Locally rendered services – service fee charged locally.

### Offsets/refunds

Sales Tax is a final tax and setting off payables/receivables is not possible.





# Kenya



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## 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, Chapter 476 of the Laws of Kenya read together with the regulations stemming from the Act. The VAT Act, Cap. 476 was repealed, and a new VAT Act came into effect on 1 September 2013.

Presently VAT in Kenya is governed by the VAT Act, No. 35 of 2013 and the VAT Regulations, 2017. The Kenya Revenue Authority (KRA), which was established under an Act of Parliament in 1995, is mandated to administer and enforce the VAT legislation.

## Scope of VAT and applicable rates

Supplies are either taxable or exempt. The major difference between taxable supplies and exempt supplies is that where the supplies are taxable, the registered person is obliged to charge VAT, but is also eligible to recover VAT incurred in making such supplies as input tax whereas VAT incurred on making exempt supplies is not recoverable as input tax.

VAT in Kenya is chargeable on:

- Taxable supplies of goods or services made by a registered person in Kenya
- The importation of taxable goods
- The importation of taxable services

There are three VAT rates applicable in Kenya:

1. Zero rate
2. A special rate of 8% applicable to the supply of petroleum products effective 2 September 2018
3. Standard rate of 14%\*

*\*Standard rate VAT reduced to 14% from 16% effective 1 April 2020 as per Government Legal Notice 35 of 26 March 2020.*

Some of the supplies that fall outside the scope of the VAT system include *inter alia*:

- Supply of goods in a bonded warehouse in Kenya
- Employment services rendered by an employee to an employer in consideration for a wage or salary



- Supply of capital assets
- 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

A person who makes taxable supplies totalling KES 5 million (approximately USD 50,000) or more in any period of 12 months is required to register for VAT. The value of supply of capital assets or supplies made solely as a consequence of selling the whole or part of the business or permanently ceasing to carry on the business are excluded when determining whether the registration threshold has been attained.

A 'person' is defined in the VAT Act to mean an individual, company, partnership, association of persons, trust, estate, the government, a foreign government or a political subdivision of the government or foreign government.

## VAT registration

### Compulsory VAT registration

The following persons are liable for mandatory VAT registration:

- A person who has made taxable supplies or expects to make taxable supplies, whose value is KES 5 million (approximately USD 50,000) or more in any period of 12 months, or
- A person who is about to commence making taxable supplies the value of which is reasonably expected to exceed KES 5 million in any period of 12 months

Failure to register for VAT by a person who is legally required to register will lead to retrospective compulsory registration by the Kenya Revenue Authority from the date the person became liable for registration. Furthermore, the person may be liable, on conviction, to a fine not exceeding KES 200,000 or imprisonment for a term not exceeding two years or both.

### Voluntary registration

The VAT legislation provides for voluntary VAT registration where a person makes or intends to make taxable supplies. The voluntary registration is at the discretion of the commissioner for the Kenya Revenue Authority. The legislation provides that the commissioner shall register a person if he/she is satisfied that:

- the person is making or shall make taxable supplies
- the person has a fixed place from which their business is being conducted
- if the person has commenced carrying on a business, the person has kept records of his business and has complied with obligations under the revenue laws
- there are reasonable grounds that the person will keep proper records and file regular and reliable tax returns

### Group or brand registration

The VAT Act provides that the commissioner may, in regulations, provide for the registration of a group of companies as one registered person. However, such regulations have never been applied since VAT was introduced in Kenya.

## Standard rate VAT reduced to 14% effective 1 April 2020 as per Government Legal Notice 35 of 26 March 2020

### VAT compliance by non-residents

In instances where a non-resident person with no fixed place of business in Kenya is required to register for VAT, the non-resident person is required to appoint a tax representative in Kenya to meet VAT obligations including submitting of returns and payment of tax in Kenya.

The tax legislation provides that a tax representative will be registered in the name of the non-resident supplier and the commissioner will issue a personal identification number (PIN) to the tax representative. However, despite the tax legislation providing for the requirement for non-residents with VAT obligations in Kenya to appoint a tax representative, currently this provision of the law is yet to be operationalised.

### Application for VAT registration

VAT registration in Kenya is through an online application made via the KRA's iTax online platform. Once a taxpayer makes an application for registration, they are issued with a tax registration certificate and a taxpayer's PIN. A PIN certificate is issued within a few hours of making a successful registration application.

The following documents are required for VAT registration of a company incorporated in Kenya:

- Certificate of incorporation or a certificate of compliance in the case of a branch
- PIN details of at least one director of the company. In the case of non-resident directors, the PIN details of the company secretary would suffice

### 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 KES 5 million, and he does not expect any increase in such supplies in the next 12 months, such person may also apply to the commissioner for deregistration.

In addition, the VAT legislation provides for instances where the commissioner may, by notice in writing, cancel the registration of a person who is no longer required to be registered if the commissioner is satisfied that the person has not:

- Kept proper tax records
- Furnished regular and reliable returns, or
- Complied with obligations under other revenue laws, and there are reasonable grounds to believe that the person will not keep proper records or furnish regular and reliable returns

The cancellation of a person's registration takes effect from the date specified in the cancellation notification from KRA. Where the person's registration is cancelled, the person shall immediately cease to hold out that the person is a registered person and the person shall also be required to submit a final return and pay all tax due within 15 days after the date of cancellation of the registration.

### Post-registration VAT

A person whose registration is cancelled (de-registered) is deemed to have made a taxable supply of any trading stock on hand at the time that 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.

These taxable supplies shall be deemed to have been made by the person immediately before the person's deregistration and the person shall be liable for an amount of output tax in respect of the supply equal to the amount of input tax credit allowed to the person on acquisition or import of the stock.

### Claim for relief on pre-registration VAT and change in status

The VAT legislation provides that a person may claim input tax relief within three months from the date he/she becomes eligible 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, provided such supplies were purchased, within the period of 24 months immediately preceding registration or the exempt supplies becoming taxable.

The claim for relief is required to be made on a form prescribed by the commissioner. Where the commissioner is satisfied that the claim for relief is justified, he/she shall authorise the registered person to make the appropriate deduction of the relief from the tax payable.

### Taxable value, place of supply and time of supply

#### Taxable value

The 'taxable value' of a supply is the consideration paid/payable for the supply. However, where the supplier and purchaser are related parties, the VAT legislation provides that the taxable value of supplies between such related parties is the open market value of the supply. The VAT regulations define 'open market value' to be the consideration that a supply can reasonably fetch in an arm's length transactions at the time of supply.

#### Place of supply

A supply of goods occurs in Kenya if:

- The goods are delivered or made available in Kenya
- The supply of goods involves their installation/assembly in Kenya
- Where the goods are delivered outside Kenya, the goods were in Kenya when their transportation commenced

A supply of services is made in Kenya if:

- The supplier's place of business from which the services are supplied is in Kenya
- The place of business of the supplier is not in Kenya, a supply of services shall be deemed to be made in Kenya if the recipient of the supply



is not a VAT registered person in the following instances:

- *physically performed in Kenya by a person who is in Kenya at the time of supply*
- *directly related to immovable property in Kenya*
- *radio or television broadcasting services received at an address in Kenya*
- *electronic services\* delivered to a person in Kenya at the time of supply*
- *the supply is a transfer or assignment of, or grant of a right to use, a copyright, patent, trademark, or similar right in Kenya*

*\*Websites and webhosting, or remote maintenance of programmes and equipment, software and updating of software, images, text, and information; access to databases, self-education packages, music, films, and games and political, cultural, artistic, sporting, scientific and other broadcasts and events including broadcast television.*

### Time of supply

Generally, the time of supply is the earlier of:

- The date the goods are delivered, or services performed
- For construction works, the date a certificate is issued
- The date an invoice for the supply is issued
- The date payment for the supply is received (in whole or in part)

However, for supplies through machines operated by use of coins, notes or token, the time of supply shall be the date of withdrawal of the coins, notes

or tokens from the relevant machine. In cases of successive supplies, the time of supply shall be the earlier of the date when payment for each successive supply is due or received.

### The time of supply of imported goods is:

- For goods cleared for home use - the time of customs clearance
- For goods cleared to a licensed warehouse - the time of final clearance from the warehouse for home use
- For goods cleared to an export processing zone (EPZ) or a special economic zone (SEZ) - the time of clearance for home use
- In any other case, the time the goods are brought into Kenya

### Taxable supplies by a registered person for use outside the person's business

The VAT regulations provide that an application of taxable goods or services by a registered person for use outside their business shall not be treated as a taxable supply unless the registered person has been allowed a deduction for input tax in respect of the taxable supply.

### Output tax

Output tax means the 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 reduced rate (8%), standard rate (14%) or at the zero rate.



### Exempt supplies

Persons that deal exclusively in making exempt supplies are not required to register for VAT. By extension, such persons are not allowed to claim relief for input tax in relation to the goods and services that they consume.

Exempt supplies (goods and services) include, but are not limited to:

- Supply of financial services,
- Supply of insurance and reinsurance services,
- Supply of education services,
- Supply of agricultural, animal husbandry and horticultural services,
- Supply of medical, veterinary, dental and nursing services,
- Transportation of passengers by any means of conveyance excluding international air transport or where the means of conveyance is hired or chartered,
- Supply by way of sale, leasing, renting, letting of land or residential premises,
- Tractors, excluding road tractors for semi-trailers
- Solar equipment and accessories,
- Goods and services for direct and exclusive use in official aid funded projects,
- Plant and machinery used for construction of plastics recycling plant,
- Goods imported or purchased locally for the direct and exclusive use in the construction of houses under an affordable housing scheme,

- Betting, gaming and lottery services,
- Postal services, and
- Personal Protective Equipment (PPE), including facemasks, for use by medical personnel in registered hospitals and clinics, or by members of the public in the case of a pandemic or a notifiable infectious disease.

### Zero rated supplies

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

- Export of goods and taxable services,
- Supplies of goods or taxable services to EPZ and SEZ enterprise,
- Transportation of passengers by air carriers on international flights,
- Tea and coffee supplied for export to coffee and tea auction centres,
- Goods purchased from duty free shops by passengers departing to places outside Kenya,
- Taxable services in respect of goods in transit,
- Inputs or raw materials supplied to pharmaceutical manufacturers in Kenya for manufacturing medicaments,
- Supply of liquefied petroleum gas including propane,
- Supply of inputs or raw materials to manufacturers of agricultural pest control,
- Supply of inputs or raw materials for electric accumulators and separators, and
- Supply to the Commonwealth and other governments, diplomats or first arrivals persons, donor agencies, international and regional organisations, war graves commission, national Red Cross Society and St. John Ambulance.

### Input tax

#### Input tax deductible

The VAT legislation provides for deduction of VAT incurred in making taxable supplies as input tax credits against VAT charged (output tax) within a period of six months from the date when VAT is incurred subject to availability of the following supporting documents:





- An original tax invoice issued for the supply or a certified copy of the tax invoice; or
- A customs entry duly certified by the proper officer and a receipt for payment of tax; or
- A credit note or a debit note as defined in the VAT legislation.

Where output tax exceeds input tax in any tax period (calendar month), the registered person is required to pay the difference to the KRA as VAT payable.

Conversely, where input tax exceeds output tax, the registered person can claim a VAT refund where excess input tax arises from making zero rated supplies. In any other case, the taxpayer is required to carry forward the excess input tax balance for offset against output tax in subsequent tax periods.

### Time limits

If, at the time when a deduction for input tax would be allowed, the person does not hold the aforementioned documentation, the deduction for input tax shall not be allowed until the first tax period in which the person holds the documentation, provided that the input tax shall be allowable for deduction within six months after the end of the tax period in which the supply or importation occurred.

### Apportionment of input tax

In instances where a registered person makes both taxable supplies and non-taxable supplies (exempt and out of scope supplies), the following criteria 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 determined by the following formula:

*Total amount of input tax payable on qualifying supplies X value of all taxable supplies made during the tax period*

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*Value of all supplies made during the period*

Input tax subject to apportionment 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.

We have summarized the above rules in the table below:

Taxable Supplies (%)	Other Supplies (exempt)	Input VAT deductible
100	0	Full deduction of input VAT
>90	<10	Full deduction of input VAT
11-89	11-89	Apportion input VAT
<10	>90	No input VAT deductible

VAT apportionment is to be determined on a period-by-period basis. A 'tax period' is defined to mean one calendar month. In addition, the Kenyan VAT legislation does not provide for annual input tax adjustment or special methods of apportionment of input VAT other than the turnover method.

### Restriction on input tax deduction

The deduction of input tax incurred on the following supplies is specifically restricted by legislation:

- Entertainment, restaurant and accommodation services unless the services are provided in the ordinary course of the business carried on by the person to provide the services and the services are not supplied to an associate or employee; or the services are provided while the recipient is away from home for the purposes of the business of the recipient; 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.

### VAT refunds

#### How do VAT refunds arise?

- Where a registered person makes zero rated supplies
- Where the VAT credit arises from tax withheld by appointed withholding tax agents
- Bad debt relief where a registered person has made a supply and has accounted for and paid tax but has not received payment from the recipient of the supply
- Where VAT has been paid in error

A registered person who makes taxable supplies at both the standard rate and zero rate shall only be entitled to a refund arising from making zero rated supplies. The refund shall be apportioned based on the proportion of the total value of zero-rated supplies to the total value of taxable supplies made in the month using the formula below:

$$\frac{\text{Total value of zero-rated supplies} \times \text{deductible input tax for the month of supply}}{\text{Total value of taxable supplies}}$$

### Timelines for VAT refund claims

- VAT refund claims are to be lodged within 24 months from the date when the tax became due and payable
- For VAT credits arising from withholding VAT, taxpayers can claim refunds for any credits arising 36 months prior to 23 July 2019 provided such refund applications are lodged within 12 months from this date. Further, the VAT Act, effective 23 July 2019, allows a taxpayer to offset any excess VAT credits arising from withholding VAT against any taxes due and payable subject to verification by the KRA
- The VAT legislation is not prescriptive about the timelines within which the National Treasury is obliged to pay out VAT refunds following an application by a taxpayer. However, the Tax Procedures Act, 2015 (the TPA) provides that the commissioner shall repay overpaid taxes within a period of two years from the date of refund application, failure to which the amount due shall attract interest of 1% per month or part thereof

### Withholding VAT obligations

The commissioner for KRA may appoint a person to withhold VAT (WH VAT) equivalent to 2% of the taxable value on purchasing taxable supplies (excluding zero rated supplies) at the time of paying for the supplies and remit the same directly to the commissioner.

WH VAT in Kenya was introduced as an enforcement measure by the government to ensure additional visibility and accountability in relation to VAT charged. The Finance Act, 2014 amended the VAT Act, 2013 and re-introduced WH VAT at the rate

of 6% of the taxable value on purchasing taxable supplies. Subsequently, the Finance Act, 2019 in a move to address taxpayers' cash flow burden as a result of WH VAT, reduced the WH VAT rate to 2% of the taxable value and excluded zero rated supplies from the application of WH VAT.

The VAT withheld should be remitted to the commissioner on or before the 20th day of the subsequent month in which the withholding is effected. A person who fails to pay the withheld VAT to the KRA on the due date shall be liable on conviction to a penalty of 10% of the amount involved. Further, a person who fails to withhold VAT and remit the same to KRA is liable to recovery measures by the KRA of the tax due, penalties and interests arising thereon from the date on which the amount of tax should have been remitted to the commissioner.

The above said, the legislation provides for instances when a supplier can seek exemption from WH VAT obligations. A supplier seeking exemption has to demonstrate to the commissioner that due to the nature of his/her business, the provisions of the law may cause a taxpayer to be in a continuous credit position for a period of not less than 24 months.

### International trade

#### VAT on imported goods

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

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

- An original 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;

The Kenyan VAT legislation does not provide for annual input tax adjustment or special methods of apportionment of input VAT other than the turnover method

- A credit note, or
- A debit note

The taxable value of imported goods is the sum of:

- Customs value and including any customs duty/levy paid in accordance with the East Africa Community Custom Management Act (EACCMA);
- Freight and insurance costs; and
- Cost of incidental or ancillary services associated with their importation.

The tax legislation gives the commissioner of customs powers to:

- Collect VAT payable on imported goods at the time of importation
- Make arrangements for such functions to be performed on his behalf in respect of imported goods through the postal service

### VAT on imported services

The Finance Act, 2019 amended the definition of supply of imported services to include supplies made to persons not registered for VAT effective 7 November 2019. Previously, a supply qualified as an imported service if it was made by a non-resident person who is not registered for VAT to a VAT registered person.

Pursuant to this amendment, VAT on imported services from non-resident persons shall be the liability of both registered and non-registered persons.

If a supply of imported taxable services is made to any person (registered or non-registered), the person shall be deemed to have made a taxable supply to him/herself. This said, where a person makes fully taxable supplies and is entitled to a full credit of input tax, the taxable value of imported service is reduced to zero, hence no VAT payable.

Where a person supplies fully exempt supplies or where the proportion of exempt supplies is more than 90% of the total supplies, VAT at the standard rate is due on the full value of the imported services and should be accounted for as output VAT by the importer of the services.

Where the imported services are used in making both taxable and exempt supplies and cannot be directly attributed to either taxable or exempt supplies, the person will be required to pay VAT at the standard rate on imported services on the value of such services attributable to the exempt supply.

The inverse of the partial attribution formula discussed under the input tax deduction section above is used to determine the amount of VAT payable.

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

- The services are performed
- 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

### VAT on export of goods

The VAT Act defines an export to mean to take or cause to be taken from Kenya to a foreign country, a SEZ enterprise or to an EPZ. Export of goods is subject to VAT at the rate of 0%. A registered person is required to hold the following documents as proof/evidence of exportation and to qualify to charge VAT at the zero rate:

- A copy of the invoice showing the recipient of the goods to be a person outside Kenya
- Proof of payment for the supply
- A copy of:
  - *The bill of lading, road manifest, or airway bill*
  - *The export or transfer entry certified by a proper officer of customs at the port of exit*
  - *Certificate of export issued by customs*

Where the commissioner for the KRA has reasonable grounds to believe that goods alleged to have been exported have not been exported, the commissioner may require evidence from a competent authority outside Kenya confirming that the goods were duly landed and entered for home consumption at a place outside Kenya.

### VAT on export of services

The VAT Act, 2013 defines a service exported out of Kenya to mean a service provided for use or consumption outside Kenya.

Further, the VAT regulations, 2017, provide that a service qualifies as an 'export of service' where the taxable supply involves the services being provided to a recipient outside Kenya for use, consumption, or enjoyment outside Kenya irrespective of where the payment is made from.

It is notable that the terms ‘use’ and ‘consumption’ are not defined in the VAT Act, 2013. As such determination of ‘use’ and/or ‘consumption’ has been the subject of numerous disputes between the Kenya Revenue Authority and taxpayers which have been arbitrated at the Tax Appeals Tribunal and the High Court.

Documentation required as proof of exportation of services includes:

- A copy of the invoice to the recipient;
- Proof of payment; and
- Other documents to proof that services were used/consumed outside Kenya.

## VAT compliance

### Returns and payment of VAT

VAT returns are to be filed through the revenue authority’s online platform, iTax, on or before the 20th day after the end of a tax period. The VAT returns are to be filed through the VAT 3 return form, which is an iTax generated form. No manual filing of VAT returns is accepted by the KRA effective 1 August 2015 when iTax filing became compulsory for all taxpayers.

The VAT legislation provides that a person may apply to the commissioner in writing for an extension of time to submit a VAT return, provided that the application shall be made at least 15 days before the due date for the tax period.

Upon request for extension, the commissioner is required to respond at least five days before the due date otherwise the request by the taxpayer is deemed accepted. The penalty for late submission is not applicable where an extension to file a return is granted. However, the grant of an extension of time to submit a VAT return does not alter the date for payment of any tax due (‘original due date’) under the VAT return.

### Interest and penalties applicable for late filing and late payment of VAT

- Late submission of VAT return attracts a penalty of 5% of the amount of tax payable under the return or KES 10,000, whichever is higher.
- Late payment of VAT will result in a late payment penalty of 5% of the tax due and payable plus late payment interest on interest on the outstanding tax balance at a rate of 1% simple interest per month.

## Tax decisions, objections and appeals

### Tax decisions, objection to tax decisions and issuance of objection decisions by the commissioner

A ‘tax decision’ is defined in the Tax Procedures Act, 2015 as 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.

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 tax decision. For the notice of objection to be considered as validly lodged, the taxpayer should state precisely the grounds of objection, the amendments required to be made to correct the decision, and the reasons for the amendments. In addition, the taxpayer is required to have paid the entire amount of tax due under the assessment that is not in dispute or has applied for extension of time to pay the tax not in dispute.

The above said, a taxpayer may apply for an extension of time to file the objection notice if the taxpayer was prevented from lodging the notice of objection 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 is legally required to give an objection decision within 60 days from the date of receipt of the notice of objection or from the date the commissioner requests any further information from the taxpayer failure to which the objection shall be deemed to be allowed. An objection decision shall include a statement of findings on the material facts and the reasons for the decision.

### Appeals to the tax appeals tribunal

Where a person disputes an appealable decision of the commissioner on any matter subsequent to an objection, he/she may give notice in writing to the tax appeals tribunal, which is the next course of redress available for any aggrieved taxpayer.

The taxpayer is required to file the notice of intention to appeal to the tribunal within 30 days of being notified of the decision provided that before appealing the person shall be required to pay a non-refundable fee of KES 20,000 shillings (USD 200). In addition, the tax legislation provides that the notice





of appeal to the tribunal relating to an assessment shall be valid if the taxpayer has paid the tax not in dispute or entered into an arrangement with the commissioner to pay the tax not in dispute under the assessment at the time of lodging the notice.

Proceedings before the tribunal are of a judicial nature. For the hearing of proceedings before the tribunal, the taxpayer may appear in person or be represented by a tax agent or by an advocate.

The legislation also allows the parties in a dispute, at any stage during the proceedings, to apply to have the dispute settled out of the tribunal. This may be achieved through having negotiations with the KRA on a without prejudice basis under the alternative dispute resolution (ADR) framework. Where the tribunal allows the parties to settle the dispute outside the tribunal, the parties are required to reach a settlement within 90 days failing which the dispute is referred back to the tribunal for adjudication.

### Appeals to the High Court

A party to an appeal who is dissatisfied with the decision of the tribunal on the appeal (the appellant) may appeal to the high court within 30 days of being notified of the decision. Thereafter, the appellant is required to file the substantive appeal documents with the court within 30 days. Further, a party to an appeal who is dissatisfied with the decision of the high court may appeal to the court of appeal within 30 days of being notified of the decision.

Similar to the tribunal, a party to a dispute at the high court may at any stage during the proceedings, apply to the court to be allowed to settle the matter out of the court. Where the court allows the parties to settle the dispute outside the court, the parties are required to reach a settlement within 90 days from the date the court permits the matter to be heard

outside the court. Where parties fail to settle the dispute within the 90 days, the dispute is referred back to the court for hearing and adjudication.

## VAT records and documentation

### VAT record keeping

All persons doing business in Kenya are required to keep in the course of their business a full and true written record, whether in electronic form or otherwise in the official languages (English or Kiswahili), of every transaction made for a period of five years from the date of the last entry made.

The records to be maintained include the following:

- Tax invoices or simplified tax invoice (cash sale receipt)
- Credit notes and debit notes
- Purchase invoices, customs entries, receipts for the payment of customs duty or tax
- Details of the amounts of tax charged on each supply made or received
- Tax account showing the totals of the output tax and the input tax of each period
- Stock records
- Details of each supply of goods and services from the business premises

The unit of currency for tax invoices shall be KES. Where an invoice is issued in another currency, the KES equivalent should be at least added to the face of the invoice.

Failure to retain or maintain a document as required under a tax law without reasonable cause attracts a penalty equal to the higher of 10% of the amount of tax payable under the tax law to which the document relates or KES 100,000 where no tax is payable.

### Requirements of a valid tax invoice

The VAT regulations provide that a valid tax invoice should contain the following:

- The words "TAX INVOICE" in a prominent place
- The name, address, and PIN of the supplier
- The name, address, and PIN, if any, of the recipient
- The individualised serial number of the tax invoice
- The date on which the tax invoice is issued and the date on which the supply was made, if different from the date of issue of the tax invoice
- The description of the goods supplied including quantity or volume or services provided

- The details of any discount allowed at the time of supply
- The consideration for the supply and the amount of tax charged

The VAT (electronic tax registers [ETR]) regulations, 2004 which came into operation on 1 January 2005 introduced a requirement for all VAT registered persons to issue invoices and/ cash receipts which must be ETR generated or supported by ETR receipts. These regulations were subsequently repealed by the VAT regulations, 2017. The VAT regulations, 2017 do not prescribe for compulsory generation for tax invoices however in practice the KRA and various business enterprises demand for ETR compliant invoices.

Further, the regulations provide that a registered person who makes cash sales from retail premises may provide an electronically generated fiscal receipt as a simplified tax invoice containing the following:

- The name, address, and PIN of the supplier
- The serial number of the receipt
- The date and time of issue of the receipt
- A brief description of the goods supplied (including quantity or volume)
- The tax payable
- The total amount payable for the supply inclusive of tax

### **Tax invoice for supplies of imported services**

The VAT regulations require a registered person who imports services and is entitled to a credit for part of the amount of input tax payable to prepare a tax invoice, in respect of the supply of imported services, containing the following:

- The name, address, and PIN of the recipient
- The name and address of the supplier
- The individualised serial number of the tax invoice and the date on which the tax invoice is prepared
- A description of the services supplied and the date of the supply
- The extent to which the supply has been applied other than to make taxable supplies
- The consideration for the supply and the amount of tax charged

### **Credit notes**

The VAT legislation provides for instances where a taxpayer may issue a credit note. Specifically, a credit note is issued:

- For the amount of reduction where goods are returned to a registered person
- Where for a good and valid reason, the registered person decides for business reasons, to reduce the value of supply after the issue of a tax invoice

The VAT legislation provides that such a credit note may only be issued within six months after the issuance of the relevant tax invoice and within 30 days where there was a commercial dispute in court with regard to the price payable after the matter has been determined.

In addition, a registered person who issues a credit note is required to reduce the amount of output tax in the tax period in which the credit note was issued by an amount that bears the same proportion to the tax originally charged. The amount of tax so credited shall be specified in the credit note.

Further, a registered person who receives a credit note for a supply in respect of which he had claimed deductible input tax is required to reduce the amount of deductible input tax by the amount of tax credited in the month of which the credit note is received.

A valid credit note should contain the following:

- The words “CREDIT NOTE” in a prominent place
- The name, address, and PIN of the supplier
- The name, address, and PIN of the recipient
- The individualised serial number of the credit note and the date on which the credit note is issued
- A brief description of the circumstances giving rise to the issuing of the credit note, including the invoice details to which the credit notes relates
- The consideration shown on the tax invoice for the supply, the correct amount of the consideration, the difference between those two amounts, and the amount of tax that relates to the difference

### **Debit notes**

A debit note is issued where a registered person has issued a tax invoice in respect of a taxable supply and subsequently makes a further charge in respect of that supply or any transaction associated with that supply. The debit note should display details of the tax invoice issued at the time of the original supply.

A registered person who receives a debit note is eligible to claim a deductible input tax for the

## The sale, renting, leasing, hiring, or letting of land and residential buildings is exempt from VAT

further charge in the month the further charge was made or in the subsequent month provided that the deduction had not been previously claimed.

A valid debit note should contain the following:

- The words “DEBIT NOTE” in a prominent place
- The name, address, and PIN of the supplier
- The name, address, and PIN of the recipient
- The individualised serial number of the debit note and the date on which the debit note is issued
- A brief description of the circumstances giving rise to the issuing of the debit note, including the invoice details to which the debit note relates
- The consideration shown on the tax invoice for the supply, the correct amount of the consideration, the difference between those two amounts, and the amount of tax that relates to the difference

### Specific VAT rules

#### VAT in the digital economy

The Finance Act, 2019 published in November 2019, introduced amendments to the VAT legislation to reiterate applicability of VAT on supplies made through a digital marketplace. A ‘digital marketplace’ is defined as a platform that enables the direct interaction between buyers and sellers of goods and services through electronic means.

The VAT legislation provides that the cabinet secretary for the national treasury (CS) shall make regulations to provide the mechanisms for implementing the provisions of this amendment. The regulations to be published by the CS are expected to provide details on the specific transactions this amendment seeks to bring into the ambit of VAT.

#### VAT treatment of bad debts

A VAT registered person who has made a supply and paid tax on that supply can apply for 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 four years old
- 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 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.

In a recent ruling by the high court, improvements on a piece of land, whether for commercial or residential purposes at the point of disposal, were considered as part and parcel of the land hence exempt from 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 be entitled to an input deduction under the normal rules.

#### 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
- Remissions already granted under the repealed Act remained in force for a period of five years which period ended on 1 September 2018

### Other indirect taxes

#### Excise duty

Excise duty is a tax imposed on excisable services or excisable goods manufactured in or imported into Kenya. Excise duty is governed by the Excise Duty Act, 2015.



## Excise duty is applicable to Internet data services at 15%

Excise duty must be accounted for on certain manufactured goods, including alcoholic and non-alcoholic beverages, luxury goods, soft drinks, bottled water, juices, sugar confectionary (including white chocolate), tobacco products, petroleum products, imported gas cylinders, cosmetics and vehicles.

Excise duty is also applicable to excisable services such as telephone and Internet data services at 15%; fees charged for money transfer services by banks, money transfer agencies and other financial services providers at 20%; fees charged for money transfer services by cellular phone service providers at 12%; other fees charged by financial institutions and on betting services at 20%.

### Import duty

Import duty is imposed on goods imported into Kenya. The rate will depend on the East African Community Common External Tariff (EACET) in respect of the goods. The import duty rates range from 0% to 35%. The import duty rates and their application are governed by the East African Community Customs Management Act (EACCOMA).

### Import declaration fee

Import declaration fee (IDF) is charged at the rate of 3.5% of the customs value of the goods imported into Kenya for home use. However, there is a

reduced IDF rate of 1.5% on the customs value on raw materials and intermediate products imported by approved manufacturers and also inputs for construction of houses under the affordable housing scheme approved by the cabinet secretaries responsible for industry and housing respectively.

### Railway development levy

Railway development levy (RDL) is levied at the rate of 2% on the customs value of the goods imported into the country for home use. However, the law provides for a lower RDL rate of 1.5% on raw material and intermediate products imported by manufacturers approved by the CS for industry and on inputs for the construction of houses under an affordable housing scheme approved by the CS for finance on the recommendation of the CS responsible for matters relating to housing.

### Export levy

Export levy is levied on goods specified in the tax legislation at the time of entering the goods for export. The tax legislation also prescribes the applicable rates for the specific goods subject to an export levy which rates are adjusted annually by the commissioner to take into account inflation.

### Anti-adulteration levy

Anti-adulteration levy is imposed on all illuminating kerosene imported into Kenya for home use. The levy is imposed at the rate of 18 shillings per litre of the customs value of the illuminating kerosene. This levy is paid by the importer at the time of bringing in the illuminating kerosene into Kenya.

The legislation further provides that the commissioner shall refund the levy upon written application by an importer where the commissioner is satisfied that the levy was paid in respect of illuminating kerosene that has subsequently been used by a licensed or registered manufacturer to manufacture paint, resin or shoe polish.

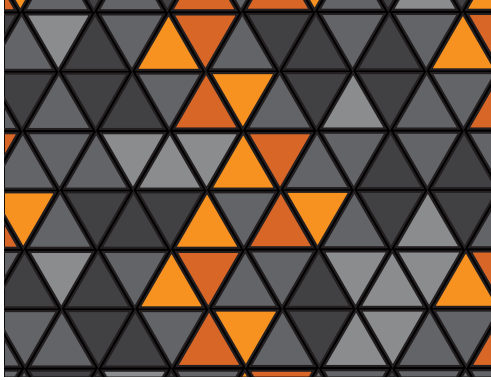
### Stamp duty

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
- Grant of security over assets







# Lesotho



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## 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
- 8% on the supply of electricity and 12% on the supply of telecommunication services
- As of 1 April 2020, the VAT rate on the supply of electricity and telecommunications increases to 9% and 15% respectively
- 15% on all other taxable supplies of goods and services (the standard rate)

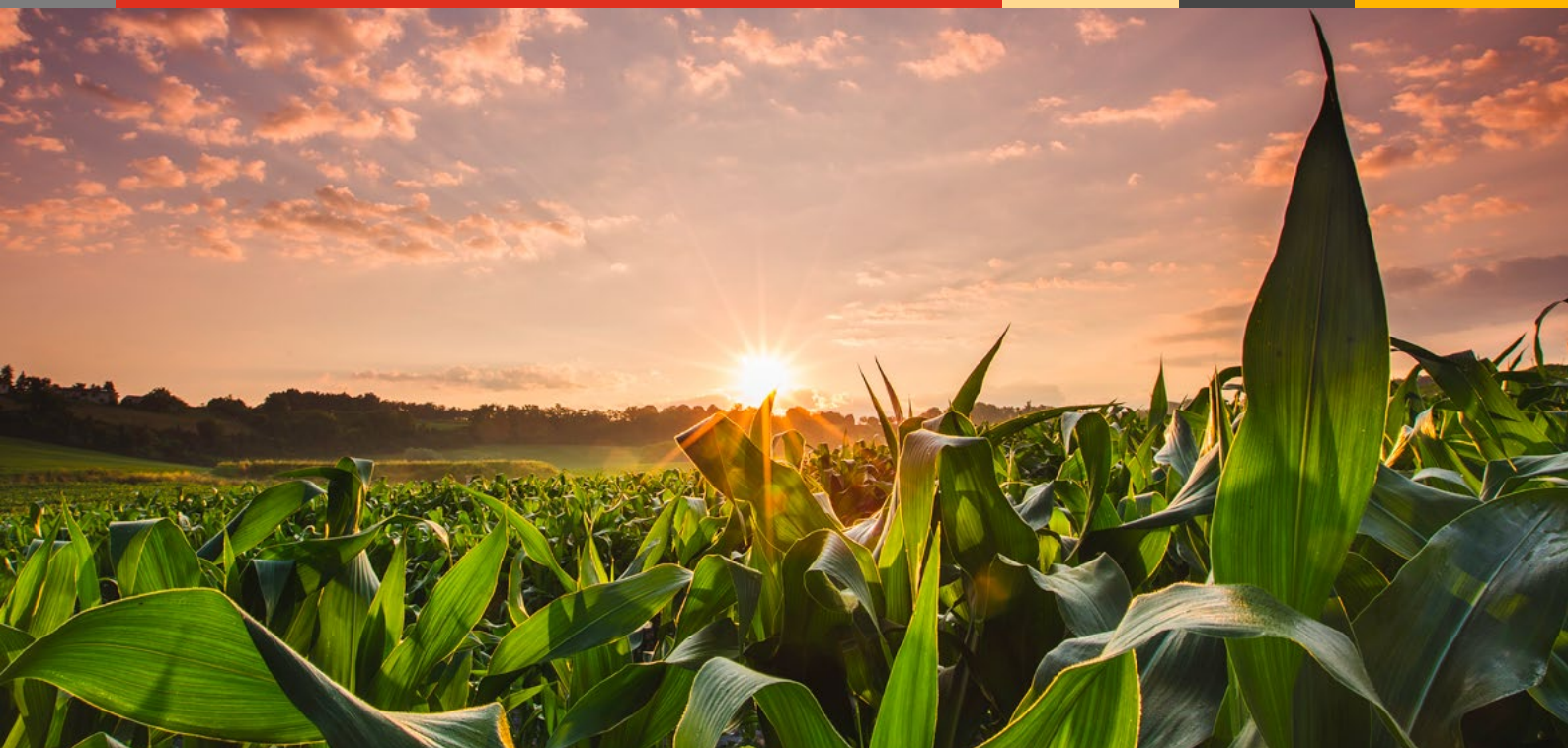
All goods and services that are subject to VAT, including zero-rated supplies, are referred to as 'taxable supplies'. The total value of these supplies is referred to as 'taxable turnover' for VAT registration purposes.

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 (± USD60,000) 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
- 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
- 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
- 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. 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.

### Input tax expressly denied

There are specific items on which VAT cannot be reclaimed:

- Telephone and electricity bills not exceeding LSL5,000 (± 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
- 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 an 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
- 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 a pre-registration VAT credit must be submitted within four years of registration and the vendor must provide details of the stock on hand, copy of 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 of 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.

Where VAT is paid on exported goods, 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
- 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
- In the case of the supply of radio, television, telephone or other communication services, if the signal or service originates outside Lesotho,



## 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

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
- 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
- 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
- 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 the input tax credit is claimed after payment has been made.

Where an invoice VAT accounting system is adopted, the 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 in 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
- The selling price, excluding VAT and any discount, the total amount of VAT charged, and the selling price including VAT
- 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



- 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
- 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

### 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
- 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

## A vendor must keep record of all supplies made and received, including zero-rated supplies, and a summary of VAT for each month

- Business purchases on which input tax is denied
- Customs documents showing the import entry and the VAT receipt
- 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
- 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.



# Liberia



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## Scope of GST

### Imposition of goods and services tax (GST)

Goods and services tax (GST) is imposed on:

- Every taxable supply of goods by a registered manufacturer
- Every taxable import of goods
- Every supply of taxable services in Liberia by a registered services provider

### Person liable for GST

- Goods tax payable on taxable supply of goods is to be accounted for by the registered manufacturer
- Goods tax payable on taxable importation of goods is to be paid by the importer, unless the importer is a registered manufacturer and the import is used to produce the registered person's manufactured goods
- Service tax payable on a supply of taxable services is to be accounted for by the registered service provider making the supply

### Recoverability of GST

Goods and services tax payable by a registered manufacturer and service provider is recoverable by them from the recipient.

## Taxable supply

### Definition of taxable supply

Liberia's GST regime has a narrow base.

### Goods tax

Taxable supply means any supply (other than an exempt supply) of goods by a manufacturer where the manufacture of goods is in Liberia and the supply is made in connection with the carrying on of a business.

### Services tax

Taxable services include:

- Electricity services
- Telecommunications services
- Provision of water for a fee
- Hotel services (including board, lodging, restaurant meals, beverages)
- Restaurant services (including supply of meals and beverages) and take-away meals supplied by a café, supermarket or similar facility
- Gambling services
- Sale of tickets by an international transport service



- Services of a travel agent or travel arranger, including issuing tickets

### GST rates

Aside from telecommunications services, the general GST rate for all taxable goods and services and on taxable imports is 10%.

Telecommunications services attract a surcharge of 5% making the total GST 15%.

Goods exported attract 0% GST.

### GST registration

#### Compulsory registration

Any person who carries on any business of manufacturing or business of providing taxable services has an obligation to register as follows:

- At the end of any 12-month period where taxable supplies or services totalling LIB\$3m was made, or
- At the beginning of any twelve months period where there are reasonable grounds to expect that taxable supplies or services totalling LIB\$3m or more will be made

Any person having an obligation to register per the above qualification shall apply to be registered within 21 days of becoming obliged to register.

#### Voluntary registration

Persons supplying taxable goods and services who do not meet the above registration threshold may apply for voluntary GST registration.

#### Group registration

Not applicable.

### Deregistration

#### Goods tax

A registered manufacturer shall apply in writing to the Commissioner-General for cancellation of the person's registration if they cease to make taxable supplies or if the value of their taxable supplies during the last 12-months does not exceed LIB\$3m.

Application for deregistration can only be made after the expiration of two years from the date of registration.

#### Services tax

A registered services provider shall apply in writing to the Commissioner-General for cancellation of their registration if they cease to be required to be registered under subsection

### Input GST deduction

#### Input tax allowed

Not applicable.

#### Input tax expressly denied

Not applicable.

#### Partial exemption

Not applicable.

#### Change-of-use adjustments

Not applicable.

#### Pre-registration or post-deregistration GST

Not applicable.

#### Non-residents

Not applicable.

### Output GST

#### Brief description of output GST

The GST rate is applied on the taxable amount of the taxable supply. The taxable amount is generally the consideration paid/payable for the supply.

Output GST charged is fully remitted to the tax authority by the due date. An input deduction is not allowed.

#### Exempt supplies

Exempt supplies are as follows:

- Supply of foodstuffs for human consumption (but not when served as a meal or as cooked or prepared food), for the general use of educational, and philanthropic institutions



- A supply of goods for the relief of distressed persons in the case of natural disasters or other humanitarian emergencies
- A supply of a pharmaceutical or medicinal preparation shall be specified by regulation to be issued by the minister
- A supply of medical aids or appliances specifically designed for persons with an illness or disability shall be specified by regulation by the minister
- A supply of textbooks or other instructional materials designed for use in schools or adult education programmes, including items specified in regulations
- Supply of raw materials to a registered manufacturer, a renewable resource producer, a mining project producer or a petroleum project producer
- Supply of goods as part of the transfer of a manufacturing business as a going concern by a registered manufacturer to another registered manufacturer
- Supply of medical and educational equipment and supplies purchased for use directly in or in connection with a renewable resource contract, mining project production and petroleum project production and intended to be placed in service within one year of purchase

### Zero-rated supplies

Taxable goods exported attract 0% GST.

### Special rated supplies

Telecommunications services attract a surcharge of 5%, making the total GST of 15%.

### Advertising prices

Not applicable.

## International trade

### Imports

#### Goods

GST applies at a rate of 10% on all imported goods to the extent that the goods will be subject to GST if they were supplied in Liberia, i.e. manufactured in Liberia.

#### Services

There is no GST on imported services.

## Exports

### Goods

Export of goods attract 0% GST.

Export of goods means the delivery of goods to, or the making available of the goods at, an address outside Liberia for use or consumption outside Liberia as evidenced by documentary proof.

### Services

Services attracts 10% GST except electricity and telecommunications services. Electricity and telecommunications services attract GST if they are received in Liberia.

## Place, time and value of supplies

### Place of supply

#### Goods tax

The place of supply for goods:

- Occurs at the place where the goods are delivered or made available by the supplier
- If the delivery or making available involves transportation, the place where the goods are when the transportation commences

#### Services tax

The general provision is that a supply of taxable services occurs at the place of business from which the services are provided.

For electricity or telecommunications services, a supply of electricity or telecommunications services occurs at the location where the services are received.

### Time of supply

#### Goods tax

Generally time of supply occurs at the earlier of:

- The date on which the goods tax invoice for the supply is issued, or
- The date on which the goods tax invoice is required to be issued (earlier of date of payment, date of delivery or date of shipment)

#### Services tax

Generally time of supply occurs at the earlier of:

- The date on which the services tax invoice for the supply is issued, or
- The date on which the services tax invoice for the supply is required to be issued (i.e. within ten days of performing the services)

## Value of supply

### Goods tax

In general the value of the supply of goods is the consideration payable for the supply.

The value of supply for hire purchase agreement, finance lease, application of goods for own use, and related-party transactions is the fair market value.

### No consideration

Where the supply is made for no consideration the value of supply is zero except in a related-party transaction.

### Imported goods

The value of the supply for imported goods is the sum of the following:

- The CIF (cost, insurance and freight), Liberian Port or Customs entry value, whichever is applicable
- The value of incidental services
- The customs duty, customs service fee, Economic Community of West African States (ECOWAS) Trade Levy, and excise tax (if any) on import

### Services tax

In general the value of the supply of services is the consideration payable for the supply.

The value of supply for related-party transactions is the fair market value.

### No consideration

- Where the supply is made for no consideration the value of supply is zero except in a related-party transaction.

## GST compliance

### Accounting basis and tax period

The tax period is the calendar month.

### Returns and payment of GST

#### Goods tax

Every registered manufacturer shall file a goods tax return for each tax period within 21 days after the end of the period, whether or not any goods tax is due for the period. Goods tax payable is due on the date that the goods tax return for that period is due.

In respect of taxable imports, the goods tax payable by an importer in respect of a taxable import is due

GST applies at a rate of 10% on all imported goods to the extent that the goods will be subject to GST if they were supplied in Liberia

on the date of arrival of the import at the port of entry, and is collected at the same time and subject to the same conditions as collection of customs duties under the External Tariff Law.

#### Services tax

Every registered services provider shall file a services tax return for each tax period within 21 days after the end of the period, whether or not any services tax is due for such period.

### Interest and penalties

There is a comprehensive system of penalties and interest payable for:

- Failure to register
- Late filing
- Failure to file
- Failure to pay on time
- Failure to pay correct amount

### Refunds

Not applicable

### Objections and appeals

A taxpayer has a right to object a determination (or assessment) made by the tax authority.

If the objection is unsuccessful, then the taxpayer may appeal the determination to the Board of Tax Appeals (BoTA).

In order to make an appeal to the BoTA, the taxpayer must submit a written request for a hearing stating briefly the basis of the appeal. Within 30 days of making the request, the taxpayer must submit a written protest (objection) containing an explanation of the issues to be heard. The hearing by BoTA must be made within six months after the date of the taxpayer's request for hearing.

If the taxpayer is not satisfied with the decision of the BoTA, they may appeal the decision to the court.

### Time limits

An appeal to the Board of Tax Appeals must be made within 30 days after the date of the notice of determination.

Appeals to the courts must be made within 30 days after the decision of the Board of Tax Appeals.

### Withholding GST

#### Appointment of withholding GST agents

Not applicable

#### Withholding GST exemption

Not applicable.

#### Withholding compliance

Not applicable

### GST refunds

There is no cash refund allowable to a registered manufacturer in Liberia. Credit may be allowed for GST overpaid in error under certain circumstances.

### GST records

#### Tax invoices

Every registered manufacturer or service provider making a taxable supply shall provide the customer with a tax invoice for the supply.

The tax invoice shall have the following particulars:

- The words 'goods tax invoice' or 'services tax invoice' in a prominent place
- The name, address, and taxpayer identification number of the registered manufacturer/service provider making the supply
- The individualised serial number and the date on which the goods/services tax invoice is issued
- The description of the goods/services supplied (including quantity or volume) and the date on which the goods were delivered
- The consideration for the supply and the amount of the GST charged

Tax invoices are self-generated by the registered manufacturer or service provider.

#### Credit notes and debit notes

The law allows for debit notes and credit notes to be issued to the recipient in respect of goods tax in the event the goods are seized by the tax authority if the tax revenue is at risk.

In addition to the above, in practice, credit and debit notes may be issued in the following events:

- A taxable supply is cancelled
- The nature of a taxable supply has been fundamentally varied or altered
- The consideration for a taxable supply by a registered manufacturer is altered
- The goods (or part thereof) that are the subject of a taxable supply by a registered manufacturer are returned to the manufacture

#### Additional export documentation

Not applicable

#### Record-keeping

There are no record keeping rules for GST compliance.

However, a taxpayer is generally required to maintain in Liberia, in the English language, books and records adequate to substantiate the tax due and is required to produce them upon request.

Records to be kept generally include GST invoices, bank statements, credit notes, debit notes, customs documentation relating to imports or exports, accounting and other financial information etc.

### Specific GST rules

#### Bad debts

There are no specific provisions on bad debts.

However, if a taxable supply is cancelled (which may occur in the event of bad debts), the taxable person is granted a credit for the GST on the taxable supply cancelled. The credit is allowed in the tax period in which the cancellation occurred.

#### Digital economy

Not applicable

#### Land and buildings

Not applicable

#### Leasing

Leases are treated as the supply of goods.

Finance leases are valued for GST purposes at the fair market value at the time of the supply. Time of supply is the date on which the lease agreement commences.

#### Promotional gifts

Generally promotional gifts are valued at no consideration.



**Second-hand goods**

Not applicable. Goods tax applies only on goods manufactured in Liberia.

**Tourism industry**

Certain services in the tourism industry are subject to GST. These are:

- Services supplied in carrying on the business of a hotel or similar facility (including board, lodging, and incidental services), and restaurant meals, beverages, and other services supplied on the premises of a hotel
- Services supplied in carrying on the business of a restaurant or café (including supplies of meals or beverages), and supplies of take-away meals by a restaurant, café, supermarket or similar supplier

**Currency conversion**

Not applicable

**Transfer of business**

A supply of goods as part of the transfer of a manufacturing business as a going concern by a registered manufacturer to another registered manufacturer is exempt from GST.

A registered manufacturer means any person who is registered or required to be registered for GST in Liberia.

**Warranty repairs**

Not applicable unless it involves a supply of goods by a registered manufacturer.

**Other indirect taxes****Import duties**

Import duty is imposed on all imported goods into the country. Import duty on goods are calculated with reference to the country's Harmonised Systems Code.

**Excise duties**

Excise duty is imposed on the production of excisable goods in Liberia, importation of excisable goods into Liberia and the provision of excisable services in Liberia.

**Specific rates**

There is a fixed amount based on a specific unit of measurement in the excisable good.

## A registered manufacturer means any person who is registered or required to be registered for GST in Liberia

**Ad valorem**

Ad valorem is expressed as a percentage of the taxable value. The taxable base for domestic excisable goods is determined as the greater of the ex-factory price or the normal selling price excluding GST.

For imported excisable products, the taxable base is determined as the sum of the CIF, import duty, customs service charge, ECOWAS Levy and any other duties except GST.

Exports of excisable products are taxed at a zero rate.

Excisable goods generally include:

- Alcoholic and non-alcoholic beverages
- Tobacco and tobacco products
- Luxury goods
- Cosmetics
- Sugar
- Gambling equipment

**Returns**

Every person required to pay excise tax shall file an excise tax return for each tax period within 21 days after the end of the period, whether or not any excise tax is due for the period, except that no additional return need be made for excise duties paid on imported excisable goods.

**Payment of tax****Domestic goods**

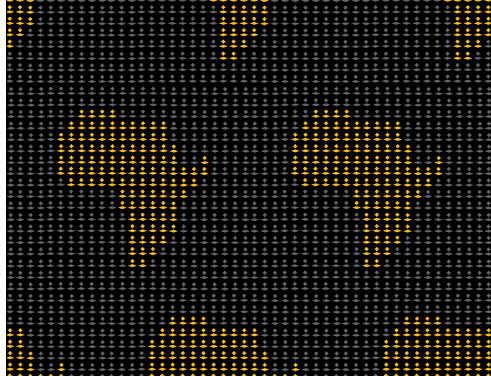
The payment date is same as the date of the return.

**Imported goods**

The excise duty is paid at the customs point together with the custom duties.

**Stamp duty**

There is no specific law on stamp duty. However, certain documents need to be notarised at the Notary Public to give them legal backing.



# Madagascar



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## 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 2020.

## 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 USD50 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
- 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. 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 must be subject to VAT.

### Voluntary registration

Any tax payer having an annual turnover exceeding 200 millions Ariary is automatically registered as VAT vendor. If the annual turnover is below the annual statutory threshold, tax payers may ask the status of being VAT registered.

However, at any time, the tax authority is able to deregister them in the event of downgrading of the tax regime for insufficient turnover.

### Group and branch registration

Each independent legal entity has to get its own tax identification number and 'Carte Fiscale' and perform

its own VAT compliances and obligations. VAT grouping is not permitted.

A branch of a company registered under Malagasy law has the same tax identification number as the main company. A branch of a foreign company has to get a tax identification number and 'Carte 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:

- Cost, insurance and freight (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
- Amount of invoices or partial payment for civil works

### Exempt supplies

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

- Scholarships for technical, professional and general studies, educational, brochures and scholarly books
- Interest paid to the Public Treasury ('Trésor'), banks and financial institutions
- Medicines and health services
- Delivery to foreign diplomatic representatives, on condition of reciprocity
- Newsprint, newspaper
- Corrective lens
  - *Training costs borne by the Ministry of Technical Education and Professional Training*
  - *The training costs incurred by the National Agency for Industry Development for its learning development operations*
  - *The training costs organized by the chambers of commerce to their members*

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

- Salaries and any income received by majority managing partners of SARL as remuneration;
- Operations of the Central Bank of Madagascar
- Operations of the 'Caisse d'Epargne'
- Contributions in kind to the share capital of a Malagasy company
- Interbank transactions in Malagasy Ariary (MGA) on the money market

### Zero-rated supplies

The zero rate is applicable only to the exportation of goods and 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 operations are supported by regular invoice
- 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, fixtures and fittings other than for industrial, artisan, trading, hotel, restaurant, agriculture and mining activities
- Personal motor vehicles, unless they are used exclusively for renting or transporting for a fee
- Energy costs not linked to exploitation
- Food expenses for the consumption of the company
- Petroleum products: Gasoline tourism, super fuel, gas oil, fuel oil

### Partial exemption

Input tax 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 tax attributable to the taxable supplies is fully recoverable. Where the input tax 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

All new businesses must get a tax identification number and a tax card, or 'Carte fiscale', at the time of incorporation

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.

In practice, the tax administration accepts that services are considered as exported if payment





of related invoice is made within one month from the date of issuance. Exported services include also those services eligible under the free zone company regime, which are mainly quality control, data-processing, call centre and cinematographic services.

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 output tax and input tax 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 output tax is not sufficient to offset input tax, 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 (online or physical deposit), no later than the 15th day of the following month. VAT must be paid via bank transfer.

#### Interest and penalties

The penalties range depending on the nature of the default:

- 10% of the tax due for any sale without invoice but regularly recorded in the account
- 40% of the tax due for any abusive deduction; for false declaration of taxable transactions

- 80% of the tax due for incorrect VAT deduction or unjustified VAT refund claim; for unjustified or incorrect VAT credits carried forward; for VAT deducted that does not appear on an invoice; for fictive invoice
- 150% of the tax due, in addition to penal sanctions for any sale without regular invoice, or in the case of opposition to a tax
- 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 MGA 20 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.

The parties have 5 days to hold a contradictory debate. Tax inspector issues a second tax notification (the notice of adjustment). The taxpayer has the option to appeal the Tax Commission for an opinion within 15 days from receipt of the notice of adjustment. Tax administration may consider or not the opinion of the Tax Commission and issues a final notification.

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 three months.

## 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
- 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')
- 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. 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 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, juices, beer, other fermented drinks, alcohol, whiskies and rum, tobacco, cigarettes and cigars, tourism vehicles, quad, motorcycles, internet and phone communication. The rates vary from 5% to 275%.

### Tax on transfer

A withholding tax (income tax for non-residents), at a rate of 10%, applies to any transfer of dividends from Madagascar to non-resident entity or individual or transfer of revenue from Madagascar to other countries in remuneration of services performed by non resident entity or individual or to any transfer of dividends.

### Stamp duty

Since August 2008, no stamp duty is applicable.

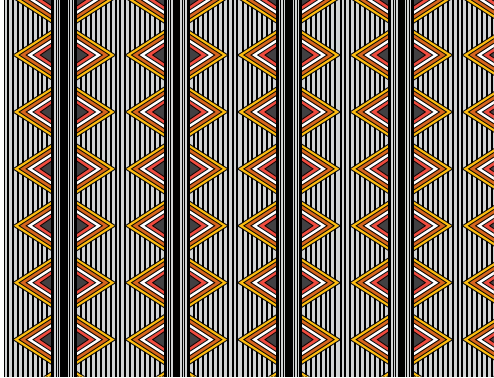
### Royalties

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



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## Introduction

**VAT was introduced in Malawi on 1 October 2002 to replace surtax and its imposition is the Value Added Tax Act.**

**The Malawi Revenue Authority administers VAT and the head of VAT administration is the Commissioner-General.**

## Rates and scope

VAT is levied at the standard rate of 16.5%. zero-rated supplies are charged at 0%. Exempt supplies are not subject to VAT.

VAT is levied on:

- Every supply of goods and services made in Malawi
- Every importation of goods
- Supply of imported service, other than exempt goods and services

VAT will be paid:

- in the case of a taxable supply, by the taxable person making the supply
- in the case of imported goods, by the importer
- in the case of imported services, by the receiver of the services

There are a few exempt and relief supplies that fall outside the scope of the VAT system.

## VAT registration

### Compulsory registration

A person is registrable if:

- He makes a taxable supply of goods or services or conducts a mining project and whose business turnover is or exceeds Malawian Kwacha (MWK) 10,000,000 per annum ( $\pm$  USD 13500), or
- He is a recipient of imported services whose value is, or exceed, MWK 10,000,000 per annum ( $\pm$  USD 13500)

A person who is not registered, but is liable to be registered, is a taxable person from the beginning of the tax period immediately following the period in which the duty to apply for registration arose.



A person must apply for registration within thirty days of becoming qualified or having reason to believe that he will so qualify and upon the acquisition of an Electronic Tax Register.

The Commissioner General notifies a taxable person when registered and issues a certificate of registration which is exhibited at the principal place of business.

### Voluntary registration

Any business with a turnover below the registration threshold amount may apply for voluntary registration to the Commissioner-General who shall notify the person when registered and issue a certificate of registration.

### 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.

### Withholding agents

The Commissioner General shall register any person appointed as a withholding agent for Value Added Tax purposes.

### Non-residents

Non-residents do not qualify for VAT registration.

### 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 was made.

The registration of a taxable person will be cancelled where the Commissioner-General is satisfied that the registered person no longer carries on business. A registered person may also apply for deregistration when it no longer meets the requirements for registration.

Any deregistration will take effect from the end of the tax period in which the registration is cancelled.

## Output tax

### Standard rated supplies

The standard rate for VAT is 16.5 per cent, calculated on the value of taxable supplies or imported services.

Prices are normally quoted exclusive of VAT. However, in certain circumstances prices may be quoted inclusive of VAT.



### Exempt supplies

Supply of exempt goods and services is an exempt supply and therefore not subject to VAT. Exempt supplies are classified in conformity with the harmonised commodity description and coding system also known as 'The Harmonised System'.

Exempt supplies include specific items such as:

- Live animals
- Certain animal products
- Vegetable products in a raw state
- Petroleum products
- Printed matter – books and newspapers
- Other coins
- Vehicles, other than railways, train way rolling stock
- Mechanical appliances (whether hand operated or not) for projecting, dispersing or spraying liquids or powders
- Aircraft and spacecraft
- 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
- Cycles and carnage for disabled persons
- Machines for cleaning, sorting

## 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 (condoms)
- Exercise books
- Salt
- Certain agricultural, horticultural, forestry and harvesting machinery
- Goods for use in the tourism industry
- Motor vehicles for transport of goods
- Other furnishing articles
- Buses with a seating capacity of 45 or more persons, including the driver
- Military equipment
- Building materials for factories and adjoining warehouses
- Pharmaceuticals products
- Miscellaneous chemical products
- Poultry or chicken feed
- Solar panels, solar batteries, solar accumulators, solar inverters, solar chargers, solar lamps, energy efficient bulbs and other accessories
- Liquefied petroleum gas, gas cylinders, and wood cook stoves
- Laundry soap

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

At the end of the tax period, a taxable person may deduct from the output deductible due for the period, Value Added Tax on goods and services purchased in Malawi or goods and services imported by him or her and used wholly, exclusively and necessarily in the course of his or her business. The maximum period for claiming input tax is 12 months from the date the deduction accrued.

## Input tax expressly denied

Input VAT is not claimable in the following situations:

- Where it relates to exempt supplies by the taxable person
- After the expiration of 12 months from the date 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
- 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 VAT claimed on transactions such as residential property expenses incurred by employers and security costs at residential properties is sometimes disallowed and penalties charged. The claiming of such input tax is not excluded by the VAT Act and no order for such 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)
- 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 input tax

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 credit or refund of the VAT, provided that:

- The supply or input occurred not more than four months prior to the date of registration
- In the case of capital goods, the goods have been held for a period not exceeding six months from the date of registration

### Post-registration input tax

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 he or she 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 and 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.

The Commissioner General shall register any person appointed as a withholding agent for Value Added Tax purposes

## Place, time and value of supply

### Supply

Supply of goods or service is any arrangement under which the owner of the goods parts with or will part with possession of the goods, including provision of goods by sale, barter, lease, transfer, exchange, gift, or similar disposition, and appropriation to own use.

### 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

Supply of goods or services occurs:

- Where goods are appropriated to own use, the date on which the goods or services are first applied to own use; or
- Where the goods or services are supplied by way of gift, the date on which ownership of the goods passes or performance of the services is completed.

In any other case, 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
- Services are supplied or rendered
- Payment is received
- The tax invoice is issued

Where supplies are made on a continuous basis or by metered supplies, the time of supply shall be the determination of the supply or the first meter reading following the introduction of VAT and subsequently at the time of each determination or meter reading.

Supply of goods under a hire purchase agreement or financial lease occurs on the date the goods are made available under the hire purchase agreement or lease finance.

Where goods are supplied under a rental agreement or goods or services are supplied under an agreement or written law which provides for periodic payment, the goods or services shall be treated as successively supplied for successive parts of the period of the agreement or as determined by that law, and each successive supply occurs on the earlier of the date on which payment is due or received.

Where two or more payments are made or are to be made for a supply of goods or services, other than a supply to which each payment shall be regarded as made for a separate supply to the extent of the amount of the payment on the earlier of the date the payment is due or received.

Where the supply of goods or services is ancillary to another supply, time of supply of the ancillary supply shall be deemed to be the same as the time of supply for the main goods or services.

### 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

### Supply of goods or services by an agent

Supply of goods or services made by a person as agent for another person who is the principal is a supply by the principal.

However, it is provided that where a supply of goods or services is made by an agent, on behalf of the principal who is resident outside Malawi, the supply of goods or services shall be deemed to be made by the agent.

### Withholding agents

The Commissioner General may appoint a person being a purchaser of taxable goods or services; or responsible for the payment of the taxable goods or services to be a withholding agent for value added tax for the protection of revenue.

The appointed agent may be registered as a withholding agent for value added tax and shall, on purchasing or making payment for taxable goods or services, withhold the value added tax payable thereon and remit it to the Commissioner General.

The agent shall issue a withholding value added tax certificate, in a form as prescribed in the regulations, to the supplier at the time of making the payment for the supplies.

This arrangement shall not relieve the supplier of taxable goods or services of the obligation to

account for value added tax in accordance with the Vat Act and regulations.

## 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.

### Penalties and interest

A taxable person who fails to submit to the Commissioner General a return on the due date is liable to a penalty of MK300, 000 (± USD 400) for companies and MK75, 000 (± USD 100) for individuals for the first month and a further penalty of MK50, 000 (± USD 65) for companies and MK20, 000 (± USD 25) for individuals for each month or part thereof during which the failure continues.

A taxable person or withholding agent who fails to pay any value added tax payable by the due date shall be charged interest at the prevailing bank rate plus one-quarter of that rate for a month after the date on which it is payable.

Properly charged penalty and interest not paid by the due date shall attract further interest in the same manner as interest charged on the unpaid value added tax.

Any penalty and interest charged and remaining unpaid by the due date shall be recoverable as a debt.

There is no interest on delayed refunds by the authority.

Penalty and interest can be waived at the discretion of the Commissioner General on application and in the event of voluntary disclosure.

### 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 lodge an 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 unless all returns due have been submitted and all VAT assessed or due has been paid.

After hearing the appeal, and if the appellant is found to be entitled to any refund of value added tax, the interest shall be paid on the refund at the prevailing bank rate from the date of the judgment.

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 taxable person shall issue to customers an electronic tax register generated invoice or tax invoice in such form as prescribed and shall upon issuing an electronic tax register invoice, retain a copy of the tax invoice in a serial number order.

A proper tax invoice should include:

- Name and address of supplier
- Name and address of customer
- Tax registration number
- Description of supply
- The rate of VAT

There are no specific rules regarding the language on tax invoices, however, 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 when:

- 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 registered person is required to keep the following records:

- Value added tax account showing total output tax, total input tax and the amount of value added tax due or refundable for each month
- Relevant business and accounting records, including sales and purchase journals, cash books, ledgers and other subsidiary books of accounts
- Copies of all tax invoices issued
- All tax invoices received
- Documentation relating to the importation and exportation of goods and services
- All debit and credit notes or other documents providing evidence of any increase or decrease in the value of goods and services purchased or sold by him
- Such other records as the Commissioner-General may specify

These records and books of account must be produced at such place and time as the



Commissioner-General may require and 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 and the entitlement to claim and 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 judgement 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.

### 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 authority must be notified within 30 days of cessation, sale, change of location, material change in the business or material change in ownership.

### Use of banks

The Commissioner-General has entered into an agreement with several commercial banks in Malawi to receive value added tax payments on its behalf.

### 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.

## Other indirect taxes

### 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

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## 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.

Regarding 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 either be 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 regarding 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 therein in order to handle their VAT obligations (VAT return filing and payments).

As from 1 January 2014, a Moroccan taxpayer can report their foreign suppliers' VAT on their own VAT returns (reverse-charge mechanism).

### Application for registration

A 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
- 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 36 months of company activity
- Goods and services rendered to industrial acceleration zones
- Activities related to hydrocarbon operations, etc

### Input tax

#### Input tax allowed

Individuals and companies that are subject to VAT may deduct the input tax 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.
- VAT levied on purchases, services and benefits paid in cash if the amount exceeds MAD5 000 per day and per supplier, limited to MAD50 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 input tax incurred must be apportioned.

The standard method for calculating the apportionment is the turnover-based method.



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

### **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 immovable assets**

In case immovable assets are not retained for a ten-year period, the beneficiary of VAT deductions must repay the VAT to the Moroccan tax administration at the rate of one tenth per year remaining until the end of the five-year period.

Where immovable assets are acquired more than ten years before the transfer, no VAT is due by the seller to the Moroccan tax administration.

### **Pre-registration or post- deregistration VAT**

Not applicable.

## **International trade**

### **Imports**

#### ***Goods***

VAT is payable on the importation of goods, 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 (value exceeding MAD 2000 including VAT).

## **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 (VAT must be recovered within one year). 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. upon 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**

VAT is levied on the invoiced amounts.

### **Accounting basis and tax period**

VAT is normally accounted 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
- 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 year 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 (on the digital platform SIMPL no later than the end of the concerned month).

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 e-filed with the tax authorities no later than the end of the following month. The same rule applies to non-resident taxpayers.

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
- 20% penalty in case of automatic taxation due to non-filing 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
- 0.5% interest for the following months

## Refunds

Input tax may be carried forward to offset output VAT for a limited period of one year.

However, a VAT refund is limited to some operations provided by law only, such as exports.

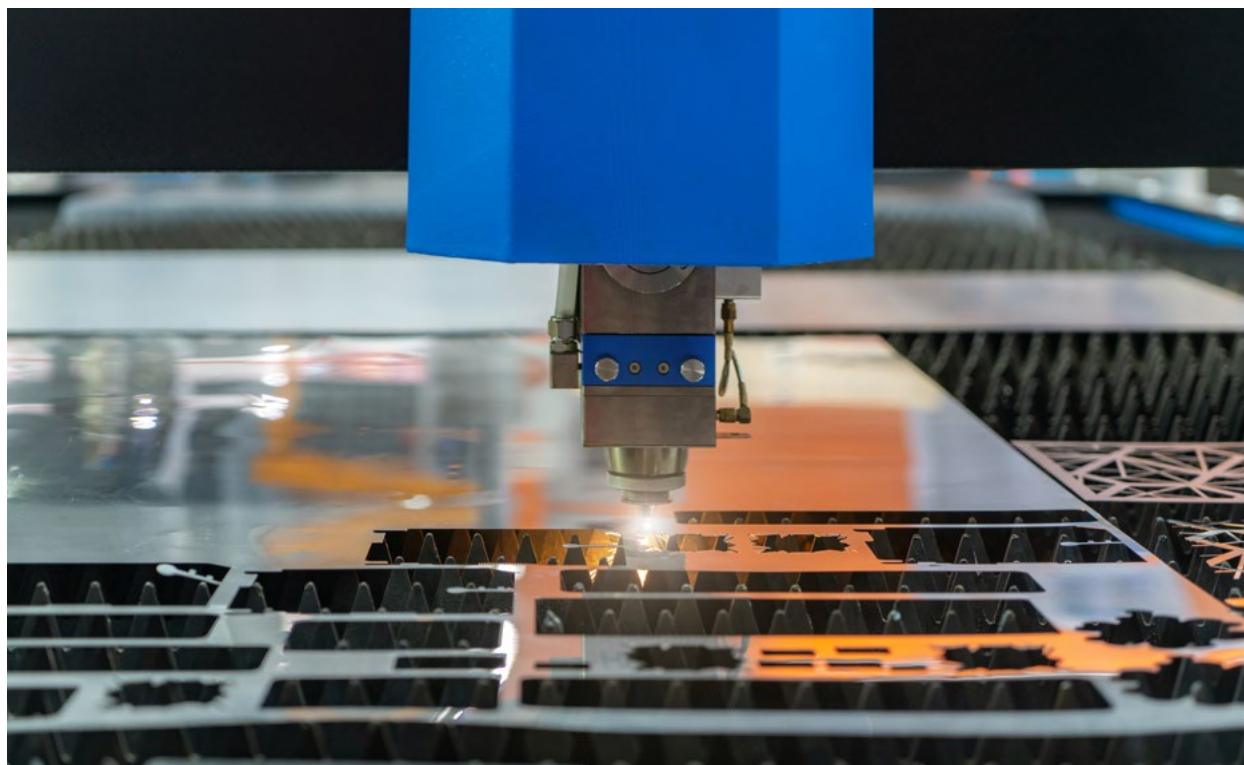
To obtain a reimbursement for input tax in qualifying cases, a request must be submitted before the expiration of the one-year debarment deadline.

The Moroccan tax code provides also for refund of VAT on equipment (excluding cars and office furniture).

## 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.

In case of VAT credit imputed on VAT of the first year not time barred, the corrections may go back to four additional years. However, the correction cannot exceed the amount of VAT credit.



## 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
- 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

Output tax on bad debts could be claimed by the tax authorities unless a court judgment decides that the debts are irrecoverable.

### 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 tax 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 or movable asset 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 Taxe Parafiscale à l'Importation (TPI) (para-fiscal import tax).

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, the 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.



# Mauritius



## Contact details

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## Introduction

**VAT was introduced in Mauritius in September 1998 as a comprehensive tax on goods and services. The VAT system has been designed as a simplified model with the aim of eliminating undue reliance on the government's budget revenue derived from import taxation. Mauritius' VAT mechanism is governed by the Value Added Tax Act 1998 and the Value Added Tax Regulations 1998.**

## Scope of VAT

Value added tax (VAT) is a tax on goods and services. VAT is charged on the supply of goods or services made or provided in Mauritius; and on importation of taxable goods.

A taxable supply is made when a taxable person, in the course or furtherance of his business, makes:

- A supply of goods in Mauritius
- A supply of services that is performed or utilised in Mauritius

A taxable person relates to any person who is required to be registered compulsorily and includes a registered person.

A person means an individual, company, société, trust, economic entity or similar organisation, club or association, Ministry or Government department and any local authority.

A registered person means a person who is registered compulsorily or voluntarily for VAT purposes.

VAT on any taxable supply is a liability to the taxable person making the supply and is due at the time of the supply.

The time of the supply is the earlier of:

- The time an invoice or a VAT invoice is issued by the supplier



- At the time payment for that supply is received by the supplier

## VAT rates

### Taxable supplies – 15%

The standard rate of VAT in Mauritius is 15%. The rate applies to all standard rated supplies of goods and services.

A taxable supply includes a supply which is zero-rated, but it does not include an exempt supply.

### Zero rated supplies – 0%

Items of zero rated supplies are listed under the Fifth Schedule to the VAT Act. A zero rated supply of services is a service rendered to a person who belongs in a country other than Mauritius and who is outside of Mauritius at the time the service is performed.

Some examples of such supplies include, among others:

- Exports of goods and services from Mauritius
- Certain goods and services which are supplied on the local market (see section on zero-rated supplies)

No VAT is charged on zero rated supplies but they are considered as part of taxable supplies.

## VAT registration

### Compulsory registration

The VAT Act states that a company is required to register for VAT if the annual turnover of its taxable supplies exceeds or is likely to exceed Rs 6 million (approx. USD 172k).

Some persons are also required to compulsorily register for VAT irrespective of their turnover such as among others:

- Accountant and/or auditor
- Advertising agent
- Adviser including investment advisor and tax advisor
- Architect
- Attorney and/or solicitor
- Consultant including legal consultant, tax consultant, management consultant and management company
- Engineer
- Estate agent

- Land surveyor
- Notary
- Quality surveyor
- Agent in the importation of second-hand cars or other motor vehicles
- Banks

However, where the turnover of a company is made up exclusively of zero rated supplies or zero rated and exempt supplies, the company is not compulsorily required to register for VAT.

Any taxable person who does not apply for compulsory registration shall be liable to pay a penalty of Rs 5,000 for every month or part of the month from the taxable period in respect of which he is liable to be registered as a registered person up to the month immediately preceding the month in which the application for registration is submitted, capped at Rs 50,000.

### Voluntary registration

Any person who makes taxable supplies not exceeding Rs 6 million (approx. USD 172K) in the course and furtherance of his business, may apply to the Mauritius Revenue Authority (“MRA”) for voluntary registration as a registered person.

### Certificate of registration

Upon registration (compulsory or voluntary), the MRA will allocate to the person a VAT registration number and issue to him a certificate of registration.

### Group or branch registration

No such regulations have been issued to date in Mauritius.

### Non-residents

A non-resident person means a person whose permanent place of residence is outside Mauritius and who is outside Mauritius at the time the services are supplied.

### Application for registration

A non-resident person will be required to be registered for VAT if the income it derives from activities being conducted in Mauritius exceeds the VAT threshold for registration.

### Deregistration

A VAT registered person may deregister upon cessation of business or if his turnover becomes less than Rs 6 million.



## Input VAT

### Input tax allowed

Any taxable person may take as a credit against its output tax in any taxable period, the amount of input tax allowable to him during that period.

Input tax is deductible where:

- A valid original VAT invoice or a certified copy has not been obtained, or valid customs entry and receipt have been obtained
- The input tax is a Mauritian VAT
- The time period for claiming input tax has not yet expired (within 36 months)

### Input tax expressly denied

No input tax is allowed as a credit in respect of items such as:

- Goods or services used to make an exempt supply
- Motor cars and other motor vehicles for the transport of not more than 9 persons including the driver, motorcycles and mopeds, for own use or consumption, and their spare parts and accessories
- Accommodation or lodging, catering services, receptions, entertainment, and the rental or lease of motor cars and other specified vehicles for own use or consumption
- Maintenance or repairs of motor cars and other specified vehicles
- Goods and services used by banks holding a banking licence under the Banking Act 2004 for providing banking services other than to non-residents and corporations holding a global business licence under the Financial Services Development Act 2001

- Banking services provided by banks holding a banking licence under the Banking Act 2004 other than to non-residents and corporations holding a global business licence under the Financial Services Development Act 2001

### Partial exemption

Where a registered person makes fully taxable supplies (standard and zero-rated supplies), it should be able to recover the full amount of input VAT according to the VAT Act.

Also, where goods or services are used to make both taxable supplies and exempt supplies, the credit in respect of those goods or services shall be allowed in the proportion of the value of taxable supplies to total turnover.

### Pre-registration or post-deregistration VAT

#### *Pre registration*

A person may take a credit for input tax on the goods forming part of his trading stocks and capital goods, provided these were acquired within a period not exceeding 3 months immediately preceding the date of his registration.

#### *Post registration*

Where the registration of a registered person is cancelled the person must:

- Cease to hold himself out to be a registered person
- Submit a return and pay the tax due, including tax on any capital goods exceeding 100,000; rupees forming part of the assets of the business, other than tax in respect of specified goods in section
- Immediately return to the MRA his certificate of registration and all its copies

Where the registration of a person is cancelled and the return for the last taxable period of that person shows an excess of input tax over output tax, the excess of input tax over output tax will not be refundable.

### Is there recovery of VAT by non-residents

Where VAT paid supplies of taxable goods are made to a visitor, an approved person or the MRA, will refund to the visitor the VAT paid on the goods, after deducting administrative charges.

A visitor means a person holding a foreign passport a valid ticket for travel by air or sea to a foreign airport or port.

## Output tax

### Brief description of 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:

- Goods such as breakfast cereals, common salt other than common salt produced in Mauritius, unprocessed agricultural and horticultural produce, journals and periodicals, among others
- Medical, hospital and dental services including clinical laboratory services, services provided in a health institution, veterinary services and a residential care home
- Educational services and training services approved by the Mauritius Qualifications Authority (MQA)
- Financial services such as banking services, services provided by foreign exchange dealers and money changers, the management of investment funds and of pension funds, among others

### Zero-rated supplies

A zero-rated supply is treated as a taxable supply and no VAT is charged on such supply.

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

- Goods exported from Mauritius under Customs control
- Goods such as rice, wheat flour and wheat bran, bread, edible oils, margarine and butter, sugar, sugar cane, molasses and bagasse, tea, honey, spices, fertilisers, common salt, fish, among others
- The supply of goods or services provided that they are meant wholly and exclusively for the freeport activities of the licensee whose business premises are located in a freeport zone
- The supply of services to a person who belongs in a country other than Mauritius and who is outside Mauritius at the time the services are performed

- Chilled deep sea water used for the provision of air conditioning services
- CCTV camera systems, including CCTV digital video recorders

### Advertising prices

Where goods are advertised or promoted, the retail price should be inclusive of VAT, together with the words "VAT INCLUSIVE". In the case where VAT is not chargeable on the goods, the selling price of the goods should indicate the words "VAT NIL".

## International trade

### Goods

The term "import" under the Mauritius VAT Act means to bring or to cause to be brought in Mauritius.

A person who imports goods, other than goods which are exempt from VAT under the First Schedule to the VAT Act or which are zero rated, has to pay VAT on those goods.

VAT is charged at the rate of 15% on the value of goods imported. The value of goods imported includes:

- the customs value of the goods
- the customs duty and excise duty payable on the goods
- the MID levy
- the CO2 levy
- the levy on energy consumption

Note that no VAT is payable on goods imported into a freeport zone. Where a company in the freeport zone makes a taxable supply to a person operating outside the freeport zone, such supply is considered as an import of goods and is subject to VAT.

Goods exported from Mauritius under Customs control are considered zero-rated supplies.

### Services

There is no specific legislation governing VAT on import of services. However, Section 14 of the VAT Act governs the reverse charge mechanism on the supply of services received from abroad.

Where a person who does not belong in Mauritius makes a taxable supply of services which are performed or utilised in Mauritius, to a registered person, then all the same consequences shall follow under this Act as if the registered person had himself supplied the services in Mauritius and that supply were a taxable supply.

An export of services includes a supply of services to a person that belongs in a country other than Mauritius and who is outside Mauritius at the time the services are performed.

A person is considered as belonging in a country other than Mauritius if they:

- Have no permanent establishment in Mauritius for conducting their business, or
- Have their place of abode outside Mauritius

## Place, time and value of supply

### Place of supply

There is no specific legislation in the VAT Act governing place of supply. However, the place of supply would be determined by reference to the place where the goods or services are being used or consumed.

Where goods or services are being used or consumed in Mauritius, the place of supply would be Mauritius.

### Time of supply

A supply of goods or services shall be deemed to take place:

- At the time an invoice or a VAT invoice in respect of that supply is issued by the supplier, or
- At the time payment for that supply is received by the supplier, whichever happens first

### Value of supply

If the supply is for a consideration in money, the value is taken to be such amount, including the VAT chargeable.

Where a supply does not consist of money, the value of the supply is taken to be the open market value of the supply. The open market value of the supply would be the value of the supply had it been made under normal commercial terms.

The value of any taxable supply is required to be expressed in Mauritian currency.

## VAT compliance

### Accounting basis and tax period

Accounting year is defined under the VAT Act as follows:

- In the case of a company, a period of 12 months ending on the date of the end of its accounting period
- In any other case, a period of 12 months ending on 30 June

A taxable period, in relation to a taxable person, means:

- In the case where his annual turnover exceeds Rs 6 million, a month or part of the month
- In any other case, a quarter or part of the quarter

### Returns and payment of VAT

At the end of its taxable period (either monthly or quarterly), a VAT registered person must submit a VAT return to the MRA specifying the following:

- The amount of output tax payable
- The amount of input tax allowable
- The value of all taxable supplies made by him
- The value of goods imported and the value of all taxable supplies made to him
- Any amount of solidarity levy payable

Where a registered person is required to submit monthly VAT returns, he must also submit electronically a list of taxable supplies made to any person, other than supplies by retail, showing the invoice number and value of supply.

### Interest and penalties

If a VAT registered person does not submit his VAT return by deadline, a penalty of Rs 2,000 per month (or part of the month) is payable until the return is submitted to the MRA. The penalty for late submission is capped at Rs 20,000. Where the

Where a person is not agreeable to an assessment made by the tax authorities, he may lodge an objection within 28 days of the date of the notice



company is a small enterprise, the penalty is capped at Rs 5,000.

Late payment of tax carries a penalty of 10% of the tax liability. Where the company is a small enterprise, the penalty for late payment of tax is reduced to 2% of the tax liability.

Interest on tax unpaid is at the rate of 1% per month from the date the tax remained unpaid up to the date of payment. Where an amount has been refunded in excess, the interest shall be at the rate of 1% per month from the date of the repayment up to the date of payment of the amount claimed.

Where the tax authorities find out that a registered person has carried forward an excess amount of input tax, a penalty of 20% of the amount over-claimed is applicable (capped at Rs 200,000) and the penalty is deemed to be output tax and is included in the person's next VAT return.

### Refunds

VAT credits are usually carried forward to offset future VAT liabilities.

However, where a registered person is mainly engaged in making zero-rated supplies and his return shows an excess amount, he may make a claim for repayment of the whole excess amount. A person is considered as mainly engaged in making zero-rated supplies where at least 80% of his annual turnover relates to zero-rated supplies.

### Repayments

A repayment of tax is also available where input tax exceeds Rs 100,000 on:

- Capital goods such as buildings or structures, including extensions and renovations, plant and machinery or equipment, of a capital nature
- Intangible assets of a capital nature being —
  - *Goodwill on the acquisition of a business or part of a business*
  - *Computer software, patents or franchise agreements*

A repayment is required to be processed within 45 days where:

- A person has made a claim for repayment in respect of capital goods, or
- A person claiming a repayment has submitted all invoices, documents and information requested relating to the claim

## Assessments, objections and review of assessments

### Objections and appeals

Tax authorities may make an assessment (by way of written notice) of the tax due and payable or the excess amount to be carried forward in situations where:

- A taxable person fails to register for VAT
- A person fails to submit his VAT return
- A person fails to keep proper records
- A person wrongly benefits from a repayment of tax
- A person fails to remit to the tax authorities any VAT charged on any supply made by him
- A person fails to furnish information, or to produce books and records or to provide access to computers and other electronic devices to the tax authorities

Where a person is not agreeable to an assessment made by the tax authorities, he may lodge an objection within 28 days of the date of the notice. The notice of objection must specify clearly the grounds of objection, the amendments to be made to correct the decision and the reason for the amendments.

After considering the objection, the tax authorities will:

- Disallow or allow it, in whole or in part
- Determine the objection, or
- Where appropriate, amend the assessment accordingly

The tax authorities will then give a notice of determination to the person under assessment.

If the person is aggrieved by the decision of the tax authorities, he may lodge an appeal to the Assessment Review Committee (ARC). At the ARC level, the person may reach an agreement with the tax authorities by conducting informal meetings. Otherwise, the case is heard before the Chairman of the ARC.

Where a person is still not satisfied by the decision of the ARC, he may reach out to the Supreme Court or to the Privy Council of the United Kingdom, which is the final court of appeal in Mauritius.

The tax authorities in Mauritius have equally set up an Alternative Tax Dispute Resolution (ATDR) Panel

to resolve tax disputes. The ATDR acts as third party to determine the dispute. The following conditions are applicable for review under ATDR:

- The amount of tax payable under dispute should exceed Rs 10m
- The applicant must have —
  - *Objected to the assessment*
  - *Lodged representations at the arc, or*
  - *Appealed to the Supreme Court/Judicial Committee of the Privy Council.*
- The grounds of dissatisfaction should be the same as those in the notice of objection/notice of appeal

Where a case is referred to the ATDR, it is dealt with within one month of receipt of the application. The decision of the ATDR is finalised in less than six months from the date the application is referred to the panel.

Except in cases of willful neglect, evasion or fraud, a person is not required to furnish information or to produce any books or records after 5 years immediately following the last day of the taxable period in which any related transaction took place.

## Withholding VAT

### Appointment of withholding VAT agents

There is no withholding VAT agents concept in Mauritius.

### Withholding VAT exemption

There is no withholding VAT exemption concept in Mauritius.

### Withholding compliance

There is no withholding VAT in Mauritius.

### Refunds

There is a time limit for refunds due to persons other than registered persons, diplomatic missions and agents and on residential building, house or apartment.

Where the tax authorities are satisfied that a person above is entitled to a refund, the MRA will process the refund within 3 months of the date of receipt of the application. Where the refund is processed after 3 months of the application, the refund should carry interest, free of income tax, at the rate determined by the Bank of Mauritius.

## VAT record keeping

### Tax invoices

A VAT invoice must be issued by any registered person who makes a taxable supply. A VAT invoice should specify all of the following:

- The words “VAT INVOICE” in a prominent place
- Their name, business address, VAT Registration Number and business registration number
- Its serial number and date of issue
- The quantity and description of the goods or the description of the services
- The value of the supply, indicating whether the value is subject to VAT or not
- Where the value of the supply is subject to VAT —
  - *The value of the supply; and*
  - *The amount of VAT chargeable and the rate applied*
- Where the purchaser is a registered person, the name, business address, business registration number and the VAT Registration Number of the purchaser
- Where the purchaser is a person in business, the name, business address and business registration number of the person

Where a person issues a VAT invoice, they must keep legible copies of the invoice, electronically or otherwise, for a period of at least five years after the transaction is completed.

### Record keeping

A registered person must keep a full and true written record in French or in English (electronically or otherwise) of every transaction he makes in the course of his business. The record should be kept for a period of at least five years after the completion of the transaction to which it relates.

## Specific VAT rules

### Banking industry

Banks holding a banking license under the Mauritius Banking Act 2004 in respect of their banking transactions other than with non-residents and corporations holding a Global Business Licence (GBL) are compulsorily required to be registered for VAT.

No input tax is allowed on goods and services used by banks for providing banking services as well as



on banking services provided by banks other than to non-residents and corporations holding a GBL.

The special levy applicable on banks is now governed by the VAT Act, instead of the Income Tax Act. Effective for the accounting period ending on or after 1 January 2019 and every subsequent accounting period, banks are subject to a special levy on their leviable income\* at the following rates:

- 5.5 per cent in the case of a bank having a leviable income of not more than Rs 1.2 billion
- 4.5 per cent in the case of a bank having a leviable income of more than Rs 1.2 billion

The special levy is payable to the MRA within 5 months from the end of the bank's accounting period. A penalty of 5% is applicable on late payment of levy, together with interest at the rate of 0.5% per month or part of the month during which the levy remains unpaid.

*\*leviable income is the sum of net interest income and other income before deduction of expenses, arising from transaction with residents other than companies holding a GBL.*

### **Sale or transfer of immovable property & land**

The sale or transfer of an immovable property, a building or part of a building, apartment, flat or tenement:

- For residential purposes
- For any other purposes except land with any building, building or part of a building, apartment, flat or tenement together with any interest in or right over land, sold or transferred by a VAT registered property developer to a VAT registered person, is exempt for VAT purposes

### **Deferred payment of VAT at importation**

The payment of VAT at importation on capital goods, being plant and machinery, imported by a VAT

registered person, can be deferred under Section 9A of the VAT Act.

Effective as from 1 October 2018, a VAT registered person is not required to pay VAT on importation of capital goods at Customs if:

- The VAT payable on the capital goods is Rs 150,000 or more
- The capital goods are to be used solely in the course of, or for the furtherance of, the VAT registered person's business

Where the payment at importation has been deferred, the VAT registered person must declare the deferred VAT as being output tax in his VAT return for the taxable period in which VAT is deferred. The deferred output tax is deemed to have been paid.

## **Other indirect taxes**

### **Import duties**

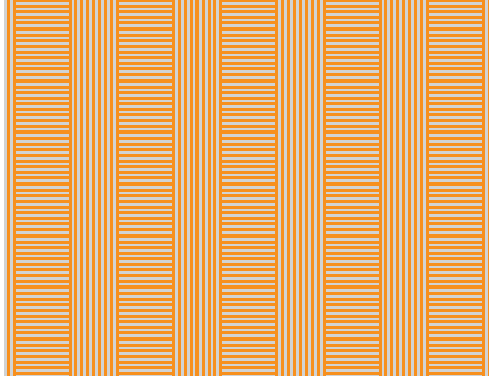
Import duty is imposed on goods imported into Mauritius. The rate will depend on the type of good as set out under the Integrated Tariff schedule to the Customs Act 1988. The import duty rates range from 0% to 30%.

### **Excise duties**

Excise duties are governed by the Excise Act 1994 and are imposed on excisable goods, as defined under the First Schedule to the Act. Excise duty must be accounted on certain manufactured goods, including alcoholic and non-alcoholic beverages, soft drinks, water and juices, milk, tobacco, firecrackers and motor vehicles.

### **Stamp duty**

Stamp duty is levied and paid to the Registrar General on every document at the time of registration, transcription, inscription, or erasure of inscription. Stamp duty varies from Rs 100 to Rs 1,000.



# Mozambique



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## 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 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 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 and by Law no. 13/2016, of 30 December 2016, together with its regulations approved by Decree no. 7/2008 of 16 April 2008 (RCVAT) and further amended by Decree no. 4/2012, of 24 February 2012 and Decree no. 8/2017, of 30 March 2017.

## Rates and scope

The Mozambique standard VAT rate is 17%. Certain goods or services are charged at 0%. However, there are cases where 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%
- Services of which the price is determined based on aeronautic excises — 85%.
- Water (price is established by authorities) — 75%



## 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 or an importation, 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
- 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)
- Any person who unduly charges VAT on an invoice
- 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 tax representative to comply with the respective VAT obligations.

The appointment of the tax representative is made through a Power of Attorney in which the non-resident company grants the tax representative power to comply, on its behalf, with VAT obligations in Mozambique.

The tax representative should then obtain a Tax Representative Number (NUIT) for the non-resident company and declare the commencement of activities by completing the following tax forms M/01C and M/02 respectively.

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

## Application for registration

Tax registration is done by completing and submitting to the tax authorities form M/01C — 'Declaration of registration of companies' to obtain a NUIT and form M/02 — 'Declaration of commencement of activity for tax purposes'. The forms must be submitted 15 days prior to the commencement of tax activities.

The Tax Registration Number normally comprises nine or ten numerals and is called NUIT (Número Único de Identificação Tributária). It is also the tax number for all taxes (direct and indirect).

## Deregistration

Deregistration is done by submitting the completed form M/04 — ‘Declaration of cessation of activity’, to the tax authorities.

## Output tax

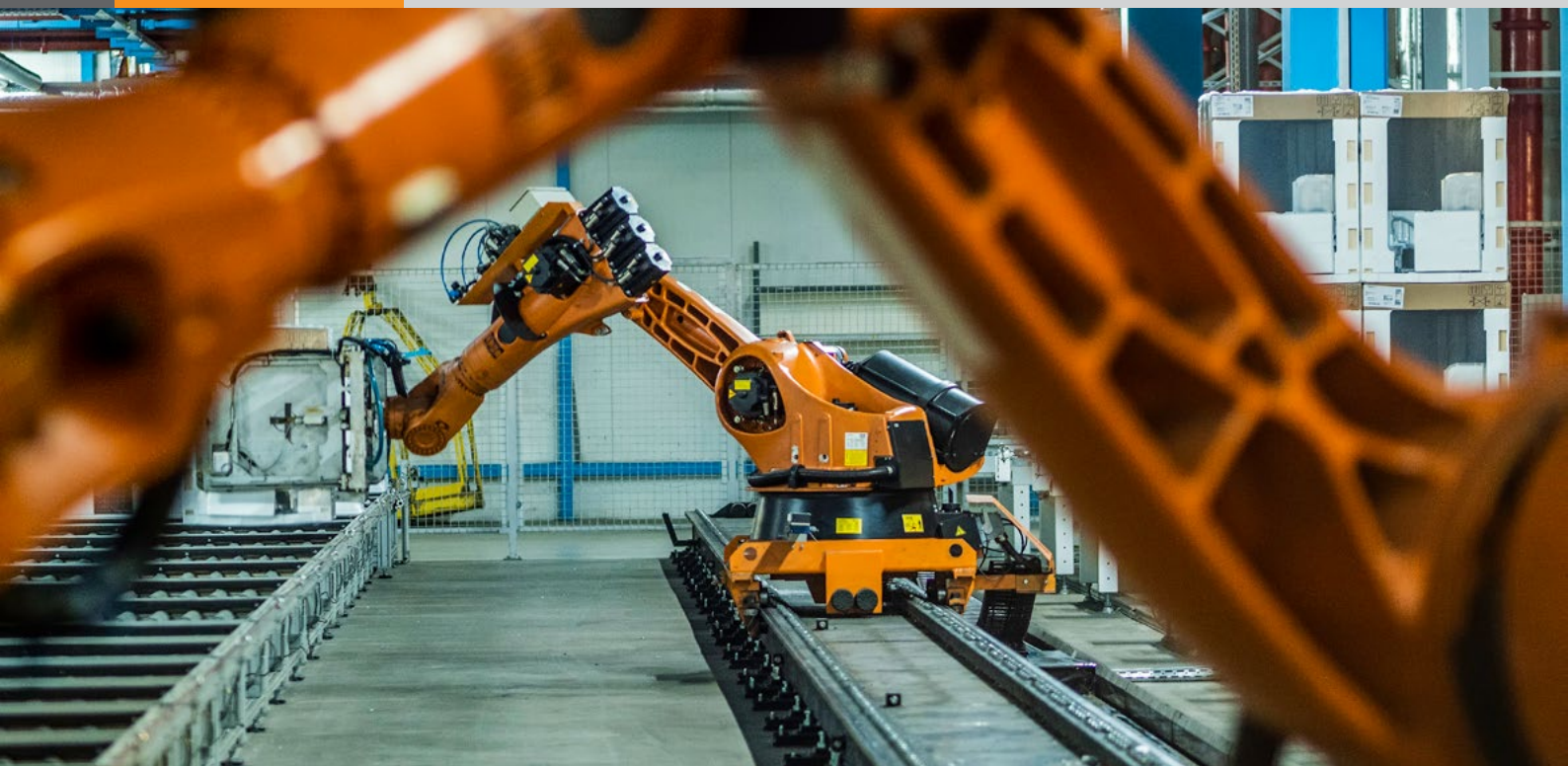
Output tax is calculated by applying the VAT rate of 17% to the selling price.

## Single exemptions

In these types of exemptions, the taxpayer, when carrying on operations, does not charge VAT to the purchaser. This taxpayer is also not allowed to deduct input tax.

Single exemptions 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 mobility aids 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 human/breast milk
- Transport of sick or wounded people in ambulances by duly authorised entities
- Mosquito nets
- Medicines, including those intended for veterinary purposes, pharmaceutical specialties 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 forestry, cattle and fishing activities
- Certain equipment, seeds, fertilisers and fungicides, as well as fishing nets, hooks and other tools for fishing

The following exemptions are valid until 31 December 2019:

- Alimentary oil and soaps
- Acquisition of sugar
- Acquisition of raw material, intermediary products, spares, equipment and components made by the national sugar industry
- Acquisition of goods to be used as raw material in the alimentary oil and soap industries
- Acquisition of goods and supply of services, related to agricultural activity of production of sugar cane and destined for the industry

At the moment, no proposal has been submitted to parliament to extend the exemption period.

### Complete exemptions (zero-rated supplies)

In these type of exemptions, the taxpayer does not charge VAT to the purchaser but is allowed to deduct input tax.

The following transactions are fully exempt from VAT:

- Exports (international transport)
- Supply of goods and services pertaining to agricultural (including poultry and beekeeping services)
- Supplies of maize, maize flour, rice, bread, iodised salt, powdered milk for infants up to one year, wheat, wheat flour, fresh or refrigerated tomatoes, onions, 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
- 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 (single exemptions) are not entitled to claim any input tax. 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
- 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 fueling thereof
- Importation of art objects by the respective artists, authors, heirs or legatees
- Certain other exemptions and reductions recognised by the minister of economy and finance
- Goods in category 'K' of 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
- 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
- Leasing and renting (including financial leasing) of movable assets
- Services supplied electronically:
  - *Supply of websites, web-hosting and distance maintenance of programmes and equipment*
  - *Supply of software and respective updates*
  - *Supply of images, text and information and provision of databases*
  - *Supply of music, films and games, including games of chance and gambling games, and of political, cultural, artistic, sporting, scientific and entertainment broadcastings and events*
  - *Supply of distance teaching*
  - *Other ancillary services.*

In case of the aforementioned services, should the service provider not have appointed a tax representative in Mozambique, the VAT obligations must be complied with by the recipient of the services by the application of the VAT self-assessment rules. VAT self-assessment bears no cash flow impact.

## 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
- 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 exempt from VAT:

- 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
- 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 subject to VAT exemption:

- Supply of services related to transformation, repair, maintenance, freight and lease of vessels relating to certain activities
- Supply of services related to 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
- Supply of services under diplomatic and consular relations, in accordance with international agreements
- Supply of services directly related to goods exempt from tax, being temporary imports or transits, or entered in deposits of the customs regime
- Supply of services related to the shipping of goods abroad
- Supply of services supplied by the Mozambican public railway entity to foreign railway companies
- Supply of services related to transport of persons proceeding from or going abroad

- Works on movable assets acquired or imported for purposes of such works, which are afterwards shipped or transported abroad

Furthermore, as stated earlier, 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, there are exceptions to this rule.

The supply of certain services, for instance, falls outside the scope of VAT in Mozambique when the customer is established or domiciled outside the country, even if the service provider has its headquarters, permanent establishment or domicile in Mozambique. This exception only applies to the following services:

- 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
- Leasing and renting (including financial leasing) of movable assets.

The time-of-supply rules determine when VAT becomes chargeable and the time from which the tax authorities may reclaim tax

- Services supplied electronically:
  - Supply of websites, web-hosting and distance maintenance of programmes and equipment
  - Supply of software and respective updates
  - Supply of images, text and information and provision of databases
  - Supply of music, films and games, including games of chance and gambling games, and of political, cultural, artistic, sporting, scientific and entertainment broadcastings and events
  - Supply of distance teaching
  - Other ancillary services

### 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 place where the supplier's business or permanent establishment from which the services are rendered, or its permanent address is situated.

However, in case of services, the following exceptions should be taken into consideration:

- 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

- 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, supply of staff, lease [including financial leasing] of movable goods, services supplied electronically etc.) are taxable in Mozambique, 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 coSupply 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
- 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
- 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); In case the taxpayer is in a VAT Credit position, the monthly return must be submitted by the 15th day of the following month;
- Amendments return — to be submitted within 15 days after the alteration of any information included in the Declaration of Start of Activity of the company (taxpayers should submit a Declaration of Alterations to the same entity)
- Closedown return — to be submitted within 30 days of the relevant declaration

The following deadline should be observed for VAT purposes:

- 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 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 (USD40,000 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 four months the amount of credit still exists and is higher than MZN100,000, the taxpayer may apply for the relevant refund.

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

- They cease their activities
- They start carrying on exclusively VAT-exempt operations with no right to deduction, or qualify under the exemption or under simplified regimes
- The amount of credit exceeds the fixed limit of MZN500,000

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 must 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
- Bank Identification Number, abbreviated as BIN (or NIB), for which state payments are made
- If the invoice is issued by an authorised printer, the name of the printer and their authorisation number and tax registration number
- If the invoice is issued using software previously authorised by the Ministry of Economy and 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.



For a credit note to be regarded valid for VAT deduction purposes by the supplier (in cases of VAT regularisation in favour of the taxpayer), it should be stamped and signed by the acquirer of goods or recipient of services.

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 marketplaces; supply of services in certain circumstances)
- 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.

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.



## Transfer of a whole business or independent part thereof is excluded from VAT, provided the recipient is or will become a taxable person

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. The general rates of customs duties applicable to the import of goods vary from 2.5% to 20%.

### 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 3% to 75%. These rates will be in force up to 2020.

### 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 — MZN250
- Powers of attorney with any other power — MZN100
- Loans (credit for a term of five years or longer) — 0.5%
- Legal, judicial, fiscal and customs proceedings (per page) — MZN1
- 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.

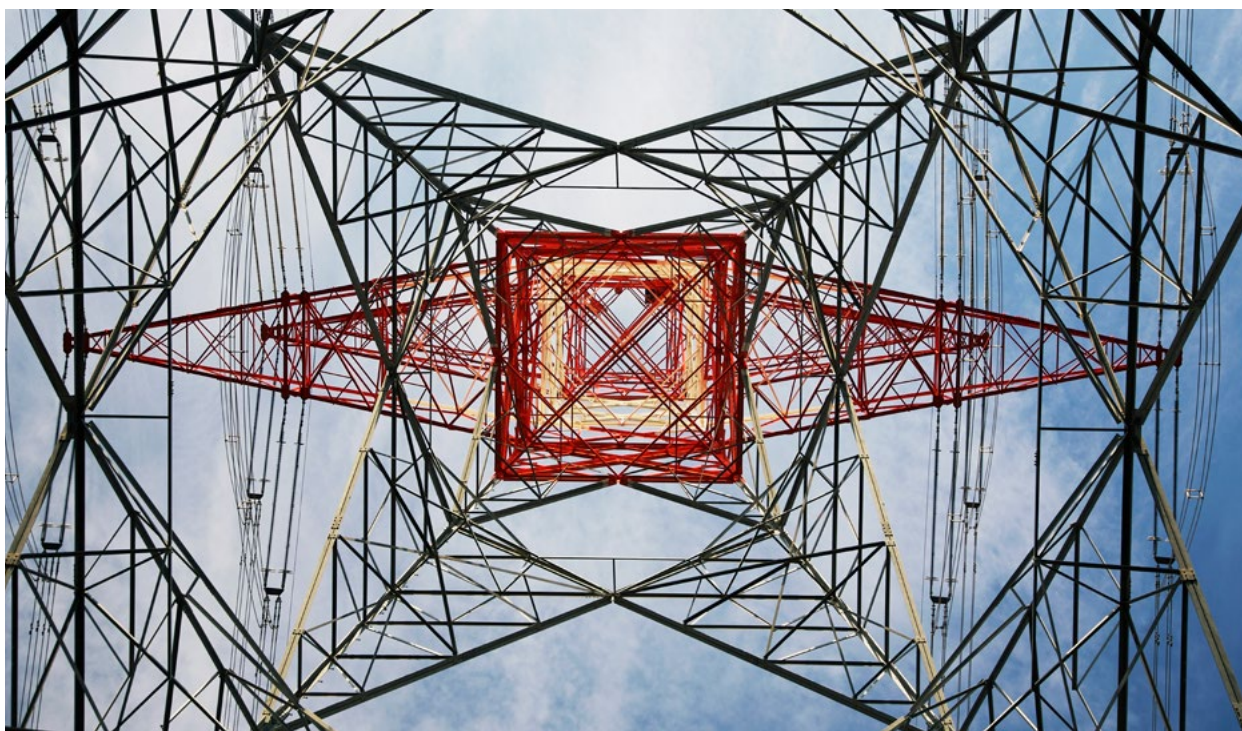
In general, the tax authorities will initiate compensation when the taxpayer pays more than the amount effectively due.

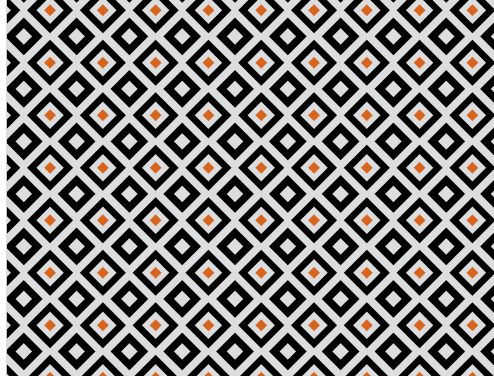
The tax authorities will notify the taxpayer and, with the taxpayer's consent, use this overpayment to offset any future tax debt.

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 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



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## 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 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
- 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
- Any activity conducted by the state.

## VAT registration

### Compulsory registration

Any person making taxable supplies of NAD500,000 or more in a 12-month period is obliged to register for VAT.

### Voluntary registration

A person may register voluntarily for VAT when they make 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. With the introduction of the new integrated tax administration system (ITAS), a taxpayer identification number (TIN) became effective.

All previous taxpayer reference numbers (7 digits) on the old system were migrated to ITAS, where an additional digit, '0', was added in front of the existing 7 digits, in order to make up the 8-digit TIN required for ITAS. The ITAS platform allows for online application of VAT registration, which is done by uploading the required documents under your TIN account.

### 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
- 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 (in March 2019 proposed to be removed from zero-rating, however not enacted yet)

- Fresh milk
- Funeral undertaking services
- International transport
- 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
- 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

- 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 taxable supplies in relation to total supplies is more than 90%, 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 of 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 (FOB) value plus the upliftment factor of 10% (i.e. effectively 16.5% of FOB value), 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 electronic payment (pre-payment) supported by a customs receipt.

Certain imports are exempt, but it is advisable to ascertain the customs procedures 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 they 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 they do not relate to movable goods which are not subsequently exported from Namibia or immovable property situated in the country.

A supply of services physically rendered outside Namibia is zero-rated.

### **Refunds to foreigners**

VAT refunds to 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

### Integrated Tax Administration System

The Integrated Tax Administration System (ITAS) became operational in January 2019. The overall objective of ITAS is to improve the service delivery to taxpayers, with an envisaged shift from manual interaction between Inland Revenue department and taxpayers, to a continuous online platform.

### Returns and payment of VAT and import VAT

A VAT return must be completed once every two months 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.

The integrated tax administration system (ITAS) allows for the online filing (e-filing) of VAT returns. Note this is an optional method of filing the return. VAT must be paid when the VAT return has to be filed or by the due date.

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. Payment, however, can also be made in cash before 00:00 (12:00am).

### 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 (as per the 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 on 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. An example is 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
- 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
- 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
- Proof of consignment or delivery of goods in an export country (where requested).

The SAD 500 must 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 they are kept on an electronic system linked to Namibia and that printouts can be provided within 24 hours after receiving a request from Inland Revenue.

### Specific VAT rules

#### Bad debts

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.

The VAT Act makes provision for an apportionment method to be used by persons rendering a mixture of taxable and exempt supplies (mixed supplies)

## 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 from or exports to 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 been signed and implemented.

### Fuel levy

A portion of the levy on fuel is transferred to the Road Funds Administration for road maintenance. Fuel levies are payable per 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. Increased fuel levy rates were recently introduced and are effective from the date of publication in the Government Gazette, i.e. 2 August 2019 (Government Notice No 225).

### Transfer duty

#### Non-agricultural

- Value of property less than NAD600,000 — nil
- More than NAD600 000 but less than NAD1 million — 1% of value exceeding NAD600,000
- More than NAD1 million but less than NAD2 million — NAD4 000 plus 5% of value exceeding
- NAD1 million
- 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% of so much of the value of the agricultural land as exceeds NAD1.5 million
- 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%.

### Environmental levy

Legislation on the introduction of environmental duties was introduced during June/July 2016 with amendments to the respective Acts made in August 2019.

### Carbon emission tax

Carbon emissions tax is levied on importation of vehicles. The rates vary depending on the CO<sub>2</sub> emission in g/km. This levy is usually based on the emission certificate of the vehicle upon importation. However, if no such certificate is available, customs officials will make use of a standard formula in determining the amount payable as a levy.

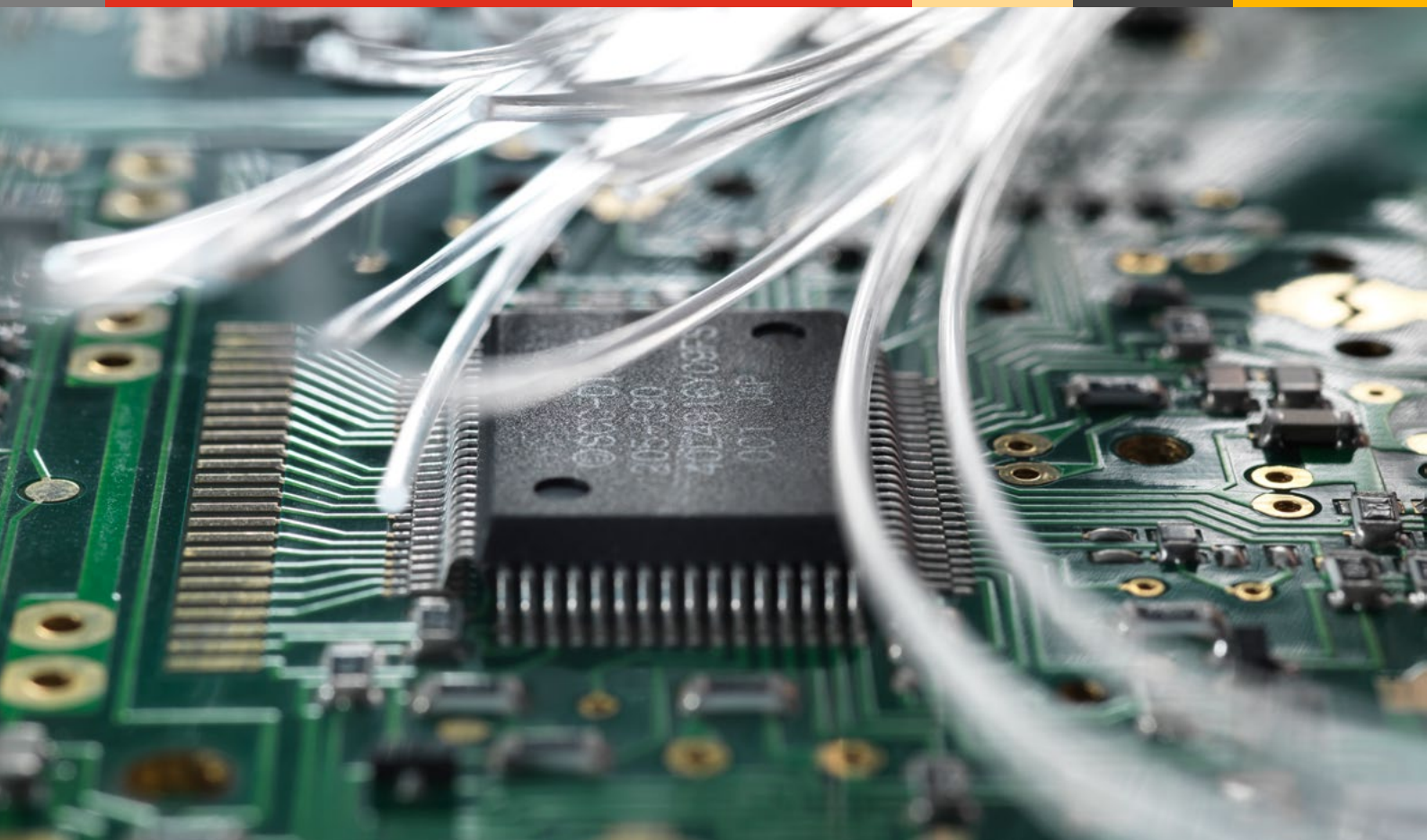
### Incandescent bulbs and vehicle tyres

Since 11 July 2016, environmental duties are levied on electric filament lamps at NAD3 per lamp.

On the tyre environmental levy, if a tyre is fitted to a wheel or rim, a NAD10 environmental duty per tyre will apply (tyre treads and tyre flaps of rubber used in the manufacture of tyres are excluded from the levy).

### Plastic bag levy

Since August 2019, an environmental levy of 50 cents per bag is levied on most bags made from plastic. Refuse, zipper bags and bags for immediate packings and refuse bin liners will be excluded. The levy is applicable on importation and manufacturing of plastic bags in Namibia.



### Lubricants and certain oils

Since August 2019, a levy of NAD1.80 per litre of most lubricants and certain oils is levied by Customs on importation or manufacturing in Namibia. The products include:

- Lubricating grease
- Prepared lubricating oil
- Base oils manufactured from refining of used lubricating oil
- Transformer and cable oil
- Hydraulic transmission fluids
- Waste oils

### Batteries

Since August 2019, a levy of 5% on the value of most primary cell batteries imported into (or manufactured in) Namibia is payable to Customs and Excise. Most disposable batteries will fall into the tax net.

### Export levy

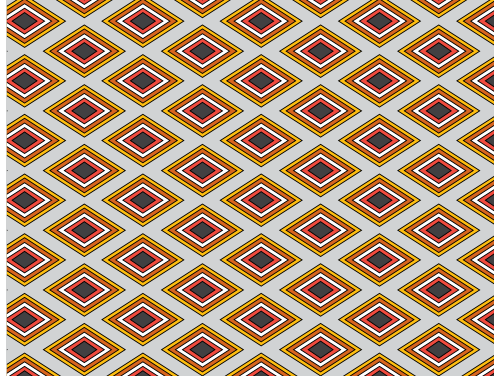
The export levy was promulgated in June 2016 and came into force on 1 June 2017. Exporters of

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.

The levies will range from 0.5% to 2% of the export value, depending on the commodity exported and state of beneficiation. It 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
- A penalty of double the export levy is prescribed if the exporter provided false or misleading statements to the customs authority





# Nigeria



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## Introduction

**“The 2019 Finance Act increases the VAT rate, provides clarification on exempt items and clearly defines previously contentious terms in the VAT Act”**

— Chijioke Uwaegbute, Indirect Taxes Leader, PwC Nigeria

## Rates and scope

VAT is charged on the supply of goods and services in Nigeria, except those specifically exempted under the VAT Act. VAT is also charged on goods and services imported into the country.

If VAT is to be charged on an activity, that activity must be classified as a ‘supply’. A ‘supply of goods’ is defined to be “any transaction where the whole property in the goods is transferred or where the agreement expressly contemplates that this will happen and in particular includes the sale and delivery of taxable goods or services used outside the business, the letting out of taxable goods on hire or leasing, and any disposal of taxable goods”.

A ‘supply of services’ means ‘any service provided for a consideration’.

Based on a strict interpretation of the VAT Act, all goods and services supplied in Nigeria are taxable supplies unless they are:

- Specifically classified as exempt supplies
- Specifically classified as zero-rated goods and services, or
- Do not qualify as a supply in Nigeria

The Finance Act expands the definition of ‘goods’ and ‘services’.

‘Goods’ is now defined as:

- All forms of tangible properties that are movable at the point of supply, but do not include money or securities; and



- Any intangible product, asset or property over which a person has ownership or rights, or from which he derives benefits, and which can be transferred from one person to another excluding interest in land.

‘Services’ will be ‘anything other than goods, money or securities which is supplied, excluding services provided under a contract of employment’.

### **VAT rates**

Vat is charged at a standard rate of 7.5% on the supply of VATable goods and services effective from 1 February 2020. The rate was increased from 5% to 7.5% through the 2019 Finance Act.

Also, VAT is charged at 0% on the following zero-rated goods and services:

- Non-oil exports
- Goods and services purchased by diplomats
- Goods purchased for use in humanitarian donor funded projects. ‘Humanitarian donor funded project’ includes projects undertaken by non-governmental organisations and religious and social clubs or societies recognised by law whose activity is not for profit and in the public interest

## **VAT registration**

### **Compulsory registration**

A taxable person is required to register for VAT immediately on commencement of business.

The Finance Act introduces a VAT registration threshold of NGN 25 million turnover in a calendar year. Therefore, businesses with an annual turnover of less than NGN 25 million are no longer required to register for VAT.

A taxable person is defined in the Act as “an individual or body of individuals, family, corporation sole, trustee or executor or a person who carries out in a place an economic activity, a person exploiting tangible or intangible property for the purpose of obtaining income by way of trade or business or a person or agency of government acting in that capacity”.

Based on the Finance Act, failure to register for VAT attracts a penalty of NGN50,000 for the first month of default and NGN25,000 for every subsequent month default continues.

### **Voluntary registration**

Businesses with an annual turnover of less than NGN 25 million may be eligible for voluntary registration. This is especially where such businesses wish to make claims for input tax.

### **Group or branch registration**

There is no scope for group or branch registration under the Nigerian VAT Act.

### **Non-residents**

A non-resident company that carries on business in Nigeria is also required to register for VAT before issuing its first invoice, using the address of the Nigerian party with whom it has a subsisting contract.

### Application for registration

Upon registration, the taxable person is issued with a notification of registration bearing the Tax Identification Number (TIN) and the date of registration. The tax registration certificate showing the unique TIN number and date of registration is also subsequently issued by the (Federal Inland Revenue Service) FIRS.

### Deregistration

The Finance Act introduces the requirement for deregistration. As such, where a taxable person permanently ceases to carry on a trade or business in Nigeria, they are required to notify the tax authorities of their intention to deregister for tax purposes within 90 days of such cessation of the trade or business.

The penalty for failure to notify FIRS of permanent cessation of trade or business is the sum of NGN50,000 for the first month of default and NGN25,000 for each subsequent month of default.

### Input tax deduction

#### Input tax allowed

Recoverable input tax is restricted to goods purchased or imported directly for resale and goods which form the stock-in-trade used for the direct production of any new product on which the output VAT is charged.

#### Input tax expressly denied

VAT on overhead, service and general administration expenses is not allowed as deduction from output tax. It is to be expensed through the income statement.

Also, VAT on fixed assets (capital items) which is to be capitalised along with the cost of the capital item is not allowed as deduction from output tax.

#### Partial exemption

There is no provision for partial exemption in the Nigerian VAT Act.

#### Change-of-use adjustments

There is no provision for change-of-use adjustments in the Nigerian VAT Act.

#### Pre-registration or post-deregistration VAT

Pre-registration VAT costs are not recoverable.

Is there recovery of VAT by non-residents?

Non-residents that are registered for VAT in Nigeria can recover input VAT. However, non-resident businesses that are not registered in Nigeria cannot recover input tax.

### Output tax

#### Brief description of output VAT

Output tax is charged and collected by a business from its customers on the supply of goods and services.

Based on the VAT Act, a business is obligated to account to the FIRS for the output tax charged to customers. However, the business can recover the input tax incurred on qualifying transactions (i.e. goods purchased for direct resale or goods that form stock-in-trade for goods on which output tax will be charged) by deducting it from the output tax. The VAT paid by the business to the FIRS is the excess of the output tax over the input tax (on qualifying transactions).

#### Exempt supplies

The following supply of goods and services are exempt from VAT:

- Oil exports
- Medical and pharmaceutical products
- Basic food items
- Books and educational materials
- Baby products
- Fertilizer, locally produced agricultural and veterinary medicine, farming machinery and farming transportation equipment
- Plants, machinery and good imported for use in the export processing zones or free trade zones
- Plant, machinery and equipment purchased for utilisation of gas in downstream operations
- Tractors, plough and agricultural implements purchased for agricultural purposes
- Locally manufactured sanitary towels, pads or tampons
- All exported services
- Medical services
- Services rendered by microfinance banks, people's banks and mortgage institutions
- Plays and performances by educational institutions as part of learning
- Tuition relating to nursery, primary, secondary and tertiary education



- Plant, machinery and equipment (including steel structures) for the manufacture of cement and allied products
- Vegetable oil
- Motorcycle (CKD)/Bicycle (SKDs) and their spare parts
- Corporate bonds and government securities (This exemption is only for a ten-year period commencing 2 January 2012)

### Zero-rated supplies

The following are zero-rated goods and services:

- Non-oil exports
- Goods and services purchased by diplomats
- Goods purchased for humanitarian donor-funded projects
- Imports of commercial aircraft, aircraft spare parts and machinery and equipment used in the solid minerals sector

### Special rated supplies

There are no special rated supplies under the Nigerian VAT Act

### Advertising prices

There are no specific provisions under the Nigerian VAT Act relating to advertising.

## International trade

### Imports

#### Goods

VAT is chargeable on goods imported into Nigeria, i.e. goods made outside Nigeria but supplied/consumed in Nigeria. VAT will apply on all non-exempted goods imported into Nigeria whether or not:

- The goods are liable to customs duties, and
- The person importing the goods is registered for VAT

Import VAT is recoverable and can be used to offset any output VAT payable.

#### ***Basis for calculating VAT on imported goods.***

For the purpose of levying VAT, the value of the imported goods is an amount equal to the price of the imported goods and includes:

- All taxes, duties and other charges levied either outside or by reason of importation into Nigeria
- All costs by way of commission, parking, transport and insurance up to the port or place of importation.

### ***Point of import***

The VAT point of imported goods is the relevant port or border post. Where the goods are imported by post, at the post office or the place in Nigeria where the goods are received. In the case of intangible assets, the VAT point is the place where payment in Nigeria is due.

## Imports

### Services

Imported services are liable to Nigerian VAT. The VAT Act requires a non-resident company (NRC) that carries on business in Nigeria to register for VAT, and issue VAT invoices to its Nigerian customers. Even where the NRC does not include VAT on its invoice, the Nigerian company is expected to now 'self-charge' the VAT and remit.

Until recently, the generally accepted position was that VAT did not apply on services provided by NRCs to Nigerian customers, where the NRC does not physically provide the service in Nigeria. However, the courts have recently ruled that VAT is applicable on services provided to Nigerian customers, even where the services are rendered outside Nigeria. This is however, still being disputed through the court process.

Based on the Finance Act, VAT will apply where "the services are provided to a person in Nigeria, regardless of whether the services are rendered within or outside Nigeria.". This aligns with the destination principle.

## Exports

### Goods

Under Nigerian VAT laws, oil exports are VAT exempt while non-oil exports are zero rated.

### Services

Under the Nigerian VAT Act, exported services are specifically exempted from Nigerian VAT.

#### ***Definition of exported services***

Based on the Finance Act, an 'exported service' is defined as "services provided within or outside Nigeria by a person resident in Nigeria to a non-resident person provided that the non-resident person is neither a fixed base nor a permanent establishment in Nigeria".

## Place, time and value of supplies

### Place of supply

Goods that are situated in Nigeria at the time of supply are deemed to be supplied in Nigeria.



Services which are performed by a Nigerian resident to a person within Nigeria are clearly supplied in Nigeria and are within the scope of Nigerian VAT.

There are some technicalities involved in the determination of the place of supply of services when cross-border transactions are involved. Please refer to the explanation of imported services and exported services.

### **Imported services**

Based on the Finance Act services provided to a person in Nigeria are now considered to have been supplied in Nigeria regardless of whether the services are rendered within or outside Nigeria.

### **Time of supply**

The Nigerian VAT Act does not define 'time of supply' (i.e. the time when VAT becomes payable). However, like in other jurisdictions, goods are generally considered to have been supplied at the time they are made available to the customer; while services are deemed to be supplied when their performance is completed.

For imported goods, VAT is payable at the time of importation.

### **Value of supply**

The value of a taxable supply is determined as follows:

- Where the supply is for a money consideration, the value is deemed to be an amount which with the addition of the tax chargeable is equal to the consideration
- Where the supply is for a non-monetary consideration, the value of the supply is deemed to be its market value
- Where the supply of taxable goods or services forms part of a matter to which consideration in money relates, the supply is to be the part of the consideration properly attributed to it

Please refer to International trade on the determination of the value of imported goods.

## **VAT compliance**

### **Accounting basis and tax period**

Based on the Finance Act, VAT is accounted for and remitted on a cash basis.

In arriving at the VAT payable for each month, the output tax collected by a taxpayer in the previous month is matched with the input tax paid to the vendors during the period. The difference between

output tax collected and input tax paid in the preceding month is then remitted or treated as future credit.

The tax period for Nigerian VAT is on a monthly basis and the due date for rendering VAT returns is the 21st day of the month following the month of transaction.

### **Returns and payment of VAT**

VAT returns are due on the 21st day of the month following the month of transaction. Every taxable person is to remit the monthly net VAT payable (i.e., the excess of output tax over input tax), together with the VAT returns and the payment is to be made in the currency of transaction.

The following should be submitted to the tax authority:

- Completed VAT returns form
- VAT schedule showing Tax Identification number (TIN), name and address, date of transaction, invoice number, contract sum, rate applied, tax paid and month of return.
- Evidence of payment of any tax due.

Where there was no activity carried out for a specific month, the taxable person is required to file a 'Nil' return with the tax authorities.

### **Interest and penalties**

The Nigerian VAT Act creates the following offences for which interest and penalties will apply, upon commission:

- Failure to register for VAT: NGN50,000 for the first month and NGN25,000 for every subsequent month.
- Failure to remit VAT: 10% per annum of the amount of tax not remitted plus interest at the prevailing Central Bank of Nigeria minimum re-discount rate.
- Failure to issue tax invoice: Fine of 50% of the cost of the goods or services for which tax invoice was not issued.
- Failure to keep proper records: Fine of NGN2,000 for every month in which failure continues.
- Failure to collect VAT: Penalty of 150% of the amount not collected plus 5% interest above the Central Bank of Nigeria (CBN) Monetary Policy Rate.
- Failure to submit returns: Fine of NGN50,000 for the first month of default and NGN25,000 for each subsequent month default continues.

## Effective 1 February 2020, the VAT rate increased from 5% to 7.5% through the 2019 Finance Act

### Refunds

There is scope for claiming VAT refund in certain defined cases including where there has been:

- Outright overpayment done in error
- Deduction of VAT at source without corresponding adjustment for input tax
- Input tax claims by zero-rated taxable persons
- Input tax in excess of output tax; etc

Input tax refund may be claimed in any of the following ways:

- Credit method
- Direct cash refund
- A combination of the above

The most common practice is the credit method whereby a taxable person may offset the excess input tax against the output tax in subsequent periods.

### Objections and appeals

The tax authority is empowered to carry out tax audits, investigations to determine a taxpayer's VAT compliance level. The tax authority may also conduct desk compliance reviews over a period in order to evaluate the VAT returns filed by the company for the relevant period.

Where a taxpayer is aggrieved by an assessment made by the tax authorities, they may file an objection with the tax authority. The tax authority may revise the assessment or issue a notice of refusal to amend.

Thereafter, a taxpayer may further appeal to the Tax Appeal Tribunal (TAT) from the decision of the tax authority. Proceedings at the TAT can be instituted at the insistence of the tax authority or the taxpayer.

An appeal from the TAT may further lie to the Federal High Court.

### Time limits

Statutorily, Nigerian companies are required to keep accounting records for a period of six years. Thus,

the period covered by an audit is not expected to exceed a six-year period from the date of the audit.

### Withholding VAT obligation

#### Appointment of withholding VAT agents

Based on the VAT Act the following categories of taxable persons have been appointed as VAT agents:

- All government ministries, parastatals and agencies
- Companies operating in the oil and gas sector
- Resident entities transacting with non-resident companies carrying on business in Nigeria.

These agents are required to withhold the VAT at source on transactions and remit the tax to the tax authority.

#### Withholding VAT exemption

The obligation to withhold VAT at source will not apply in the following circumstances:

- Where goods are purchased off the shelf and there is no contract signed between the parties, e.g. purchase of airline tickets at the office of the airline company, purchase of stationery at a shop, etc
- Where the party supplying the good or service is a government agent (since all government agencies are also empowered to deduct VAT at source)
- Invoices for goods and services specifically exempted from VAT under the VAT Act

These exemptions are specific to companies operating in the oil and gas sector but (i) and (ii) will necessarily apply to all withholding VAT agents.

#### Withholding compliance

All government ministries, parastatals and agencies are required to withhold the VAT on payments made to their vendors/contactors and remit the tax to the relevant tax office. The remission is to be accompanied with a schedule showing the name

and address of the contractor, invoice number, gross amount of invoice, amount of tax and month of return.

Further, taxable persons transacting with non-resident companies are required to remit the VAT withheld at source in the currency of the transaction.

The notable duties and obligations of companies in the oil and gas sector include:

- Separate the returns on normal trading activities from those of its own consumption / contract awards. The input and output credit mechanism will apply only to its sales activities but not to contract awards
- Pay VAT on VATable transactions, whether or not the contractors have duly reflected VAT charges on such contracts
- Prepare and forward to the tax authorities relevant schedules on all VAT payments indicating the name and address of each contractor, TIN, invoice number, contract value, dates of contract award and payment as well as VAT amount

### Refunds

The procedure / guidelines for claiming VAT refunds are specified in the FIRS Information Circular No. 2007/02 of 1 August 2007.

Based on the circular, VAT refund cases may arise under any of the following circumstances:

- Outright overpayment done in error
- Double remittance by banks
- Double payment for the same tax liability by the taxpayers
- Deduction of VAT at source without corresponding adjustment for input tax
- Input tax claims by zero-rated vatiable persons
- Input tax in excess of output tax
- Error in tax computation

### Procedure

Where a taxpayer makes an application for a VAT refund, the application must include the following information/documents:

- The precise grounds for the refund
- That the application is a VAT refund application

- The period in which the transaction that gave rise to the refund occurred
- Treasury receipts and bank deposit slips evidencing payment of the excess amount

The application must be made to the relevant tax office where the taxpayer's records are domiciled. This application will be subject to verification and thereafter an audit or a mere spot check. Typically, refund applications that are less than NGN 300,000 are recommended for payment while refund claims over this threshold will be subject to an audit or a spot check before approval.

In most cases an application for refund will trigger a complete tax audit before the refund is approved. Where the audit is conducted and the refund is approved, the refund is to be made within 90 days from the date of the approval.

## VAT record-keeping

### Tax invoices

Every taxable person who makes a taxable supply is required to furnish the purchaser with a tax invoice containing the following information:

- Taxpayer identification number (TIN)
- Name and address
- VAT registration number
- The date of supply
- Name of purchaser or client
- Gross amount of transaction
- Tax charged and rate applied

Failure to issue a tax invoice attracts a fine of 50% of the cost of the goods or services for which the tax invoice was not issued.

The tax invoice is also required where the purchaser chooses to pursue a claim for input tax.

### Credit notes and debit notes

There are no express provisions in the Nigerian VAT Act for credit notes and debit notes. However, credit notes are utilised in practice where the VAT payable on a supply is reduced or reversed as a result of a subsequent discount or an error. Conversely, debit notes are utilised where VAT payable on a supply is increased as a result of a subsequent error or adjustment to the initial tax invoice.

The information in the credit notes and debit notes is essentially the same as the tax invoice. However, it

will also include a description of the initial invoice for ease of reference.

### **Additional export documentation**

There are no specific provisions of the VAT Act on export documentation. Documentary evidence of the transaction and proof that the goods physically left Nigeria will suffice.

### **Record-keeping**

Every taxable person is required to keep proper records and books of all transactions, operations, imports and activities enough to determine the correct amount of VAT payable. These records include:

- VAT account
- Original tax invoices received
- Copies of tax invoices issued
- Credit and debit notes issued and received
- Import and export documents

### **Specific VAT rules**

#### **Bad debts**

The VAT Act does not provide relief for VAT on bad debts. However, in practice, most taxpayers adjust for the VAT remitted on the debt amount by taking a deduction against output VAT payable in the next period after the debt has been written off.

The tax authority does not challenge this approach where the taxpayer can prove that the debt is truly bad.

#### **Digital economy**

The Nigerian VAT Act does not contain express provision on digital economy. However, the Act

provides that NRCs carrying on business in Nigeria are required to register for VAT and include VAT in their invoice. Also, NRCs providing service to customers in Nigeria (whether or not the NRC physically provides the service in Nigeria) are required to register for and charge VAT.

In addition, VAT reverse charge on imported services means that even where the NRC does not include VAT on its invoice, the Nigerian company is expected to now self-charge the VAT and remit.

### **Land and buildings**

VAT is applicable on buildings at the standard rate of 7.5%. However, VAT on land is outside the scope of the VAT Act.

The Finance Act introduces applicability of VAT on interest in land. This is because the Act defines 'goods' as movable tangible properties excluding money or securities, and transferrable intangible products, assets or property, excluding interest in land.

It however defines 'services' to include anything other than goods, money or securities which is supplied excluding services provided under a contract of employment.

### **Leasing**

There are no specific rules under the Nigerian VAT Act on leasing. VAT is applicable on leases.

### **Promotional gifts**

There are no specific rules under the Nigerian VAT Act on promotional gifts.

### **Second-hand goods**

VAT is applicable at the standard rate of 7.5% on the disposal of second-hand goods.

VAT will apply where the services are provided to a person in Nigeria, regardless of whether the services are rendered within or outside Nigeria





### Tourism industry

There are no specific rules under the Nigerian VAT Act applicable to the tourism industry.

### Currency conversion

Under the Nigerian VAT Act, VAT is to be remitted in the currency of transaction.

### Transfer of business

The Finance Act introduces VAT exemption on group reorganisations, provided that the following conditions are met:

- The sale is to a Nigerian company and it is for the better organisation of the trade or business
- The entities involved are part of a recognised group of companies a year before the transaction, and the relevant assets are not disposed earlier than a year after the transaction

### Warranty repairs

There are no specific rules under the Nigerian VAT Act on warranty repairs.

## Other indirect taxes

### Import duties

Import duties are payable upon importation prior to or at the port of entry. They apply on various goods based on Harmonized System (HS) Codes at rates ranging between 5% to 35%.

### Excise duties

Excise duties is normally charged on applicable products either on the basis of ad valorem, specific or both.

Products	2019 rates (NGN)	2020 rates (NGN)
Tobacco	20% + 2	20% + 2.9
Beer and Stout	0.35	0.35
Wines	1.5	1.5
Spirit	1.75	2

Excise duty is due and payable immediately on manufacture of excisable goods. The Nigerian Service Customs Board may however at its discretion deem the duty to become due and payable at a stage not later than the delivery of the goods from the products store.

There are no filing requirements for excise duties. However, manufacturers are required to keep the following records of manufacture and return:

- Material register
- Operation register
- Finished product register

Based on the Finance Act, imported excisable products are now subject to excise duties at the same rates applicable to locally manufactured items.

### Stamp duty

All instruments relating to an act to be performed in Nigeria must be stamped, except those specifically exempted.

Stamp duty is chargeable either at fixed rates or ad valorem (i.e., in proportion to the value of the consideration) depending on the class of instrument.

Certain instruments are exempt from stamp duties:

- Instruments in connection with a scheme for the reconstruction or amalgamation of companies may enjoy relief from stamp duties subject to specified conditions
- Transfer from self to self, whether inter or intra bank, i.e. transfers between accounts held by the same person
- Any form of withdrawals or transfers from savings accounts
- Salaries

The definition of 'instrument' now includes "every written document including electronic documents".



# Rwanda



## Contact details

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## 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 came into effect on 5 February 2013 and repealed the old VAT law (Law No. 06/2001 of 20/01/2001). The Law No. 31/2012 was also Modified and Complemented by the Law N° 02/2015 of 25/02/2015. In 2016, Law 37/2012 was further modified and complemented by the Law No N°40/2016 of 15/10/2016.

## 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 USD 21,482) 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.

A person who issued a VAT invoice when he or she is not registered for VAT is liable to an administrative fine of one hundred percent (100%) of the VAT indicated in the invoice and payment of that tax as indicated on that invoice.

### 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 online. 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 seven 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.

The taxation period for a person who suspends registration of the VAT occurs immediately before the registration is cancelled.

## 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.

### VAT exemption

In order for an industry to be eligible for the VAT exemption on machinery, capital goods and raw materials, the following requirements must be fulfilled:

- The industry must be registered as a company in Rwanda
- The industry must aim at processing raw

materials to produce goods for sale, or for mining and quarry exploitation

- Exemption must only be applied for machinery, capital goods or raw materials appearing on the list established by the minister in charge of industry and approved by the minister in charge of taxes
- The application must indicate the direct link between the goods for which exemption is sought and the industrial activity that would be carried out
- The application must be addressed to the Commissioner General in accordance with the procedure established by the Tax Administration, if the exemption applied for concerns machinery, capital goods and raw materials that are locally produced in Rwanda
- A declaration form must be submitted to the Commissioner for Customs if the exemption is applied for machinery, capital goods and raw materials that are imported

### 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:

- Services of supplying clean water and ensuring environment treatment for non-profit making purposes with the exception of sewage pump-out services;
- Goods and services for health-related purposes:
  - *health and medical services*
  - *equipment designed for persons with disabilities*
  - *goods and drugs appearing on the list made by the Minister in charge of health and approved by the Minister in charge of taxes*
- Educational materials, services and equipment appearing on the list made by the Minister in charge of education and approved by the Minister in charge of taxes
- Books, newspapers and journals
- Transportation services by licensed persons:
  - *Transportation of persons by road in vehicles which have a seating capacity of fourteen (14) persons or more*
  - *Transportation of persons by air*
  - *Transportation of persons or goods by boat*
  - *Transportation of goods by road*

- Lending, lease and sale:
  - *sale or lease of land*
  - *sale of a whole or part of a building for residential use*
  - *renting or grant of the right to occupy a house used as a place of residence of one person and his/her family, if the period of accommodation for a continuous term exceeds ninety (90) days*
  - *lease of a movable property made by licensed financial institution*
- Financial and insurance services:
  - *premiums charged on life and medical insurance services*
  - *bank charges on current account operations*
  - *exchange operations carried out by licensed financial institutions*
  - *interest chargeable on credit and deposits*
  - *operations of the National Bank of Rwanda*
  - *fees charged on vouchers and bank instruments*
  - *capital market transactions for listed securities*
  - *transfer of shares*
- Precious metals: sale of gold in bullion form to the National Bank of Rwanda
- Any goods or services in connection with burial or cremation of a body provided by an Order of the Minister in charge of finance
- Energy supply equipment appearing on the list made by the Minister in charge of energy and approved by the Minister in charge of taxes
- Trade union subscriptions
- Leasing of exempted goods
- All agricultural and livestock products, except processed ones. However, milk processed, excluding powder milk and milk-derived products, is exempted from this tax
- Services of agriculture insurance
- Services, agricultural inputs, and other agricultural and livestock materials and equipment appearing on the list established by the Minister in charge of agriculture and animal resources and approved by the Minister in charge of taxes
- Gaming activities taxable under the Law establishing tax on gaming activities
- Personal effects of Rwandan diplomats returning from foreign postings, Rwandan

Suppliers of taxable goods and services are required to apply for VAT registration. These include sole proprietors, limited liability companies and corporations

refugees and returnees entitled to tax relief under customs laws. The period of twelve (12) months required for tax relief for vehicles provided under customs laws shall not apply to Rwandan diplomats returning from foreign postings

- Goods and services meant for Special Economic Zones imported by a zone user holding this legal status
- Mobile telephones and SIM cards
- Information, communication and technology equipment appearing on the list made by the Minister in charge of information and communication technology and approved by the Minister in charge of taxes

### Zero-rated goods and services

Zero-rated supplies include supplies of the following goods or services:

- 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
- Goods sold in shops that are exempted from tax as provided for by the law governing customs
- Services rendered to a tourist for which value added tax has been paid
- The following goods and services intended for persons of a special category:
  - *Goods and services intended for diplomats accredited to Rwanda that are used in their missions*
  - *Goods and services intended for international organizations that have signed agreements with the Government of Rwanda*





- Goods and services donated to local nongovernmental organizations, which have been acquired through funding by countries or international organizations that have signed agreements with the Government of Rwanda and for being used for agreed upon purposes
- Goods and services intended for projects funded by partners that have signed agreements with the Government of Rwanda

## 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
- The time period for claiming input tax has expired (input tax must be reclaimed within two 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
- 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
- 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
- The acquired goods give any person right to membership of or access to any sports, social or recreational clubs
- 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
- 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.

## 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
- For matters not specified in the previous point:
  - *The cost of insurance and freight incurred in bringing the goods to Rwanda, and*
  - *The cost of services which facilitate the importation of goods*
- 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 the country, but where the services are supplied for use or consumption in the country.

## 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 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 consumed 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 of 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, refraining from doing any act and the lease of goods under an operating leasing agreement.

### Time of supply

The time of supply of goods and services occurs at the earlier of:

- The date on which the invoice is issued
- The date on which payment of goods and services, including a partial payment is made. However, this paragraph does not concern the advance payment made to the constructors who later reimburse it by deducting it from the invoices presented to the client
- The date on which goods are either removed from the premises of the supplier or when they are given to the recipient
- The date on which the service is delivered
- In the case of electricity, water or any other supplies, goods or services measured by meter or any other calibration, the taxation period shall be the time when the meter or any other calibration reads the number that follows the previous consumption of the supply.

### Value of supply

Except where this Law provides otherwise, the taxable value of goods or services is the consideration paid in money by the recipient. The taxable value on goods and services is the fair market value, exclusive of the VAT, if goods or services are supplied for:

- A non-monetary consideration
- Monetary consideration for one part and non-monetary for the other
- Consideration that is less than the 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 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 (at the bank) or a bank transfer.

The VAT payable for an import is due and payable when the imported goods reach the country.

A taxpayer may apply to the Commissioner General for an extension of the deadline for tax declaration if he or she provides valid reasons for not declaring tax on time.

The taxpayer applies in writing to the Commissioner General at least 15 days before the last filing date of the declaration.

The Commissioner General may, in writing, grant to the taxpayer an extension of tax declaration deadline within ten days from the date the request was received. Extension of a deadline for tax declaration neither affects the deadline for the tax payment nor suspends the accrual of interest.

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 non-filing of VAT return, fixed 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
- If the taxpayer commits the same fault twice in five years, the basic fine is doubled. In case the same violation is committed again within those five years, the fine is four times the basic administrative fine.

In case of non-declaration of VAT return and non-payment on time, non-fixed fines related to such violation are:

- 20% of due tax, when the taxpayer exceeds the time limit for declaration and payment for a period not exceeding thirty days
- 40% of tax the taxpayer should have declared and paid, if he or she pays within a period ranging from 31 to 60 days from the time limit for the payment
- 60% of due tax, if the taxpayer exceeds the time limit for declaration and payment by more than 60 days.

In case of declaration of VAT return on time but non-payment of tax declared on time, non-fixed fines related to such violation are:

- 10% of due principal tax, when the taxpayer exceeds the time limit for payment for a period not exceeding 30 days from the fixed date of payment
- 20% of the principal tax due, when the taxpayer exceeds the time limit for the payment of a period ranging from 31 to 60 days from the fixed date of payment
- 30% of due principal tax, when the taxpayer exceeds the time limit for payment by more than 60 days from the fixed date of payment

A person who does not comply with provisions of VAT is subject to an administrative fine as follows:

- An administrative fine of 50% of the amount of VAT output for the entire period of operation without VAT registration, where VAT registration is required
- An administrative fine of 100% of the VAT indicated in the invoice and payment of that tax as indicated on that invoice, for a person who issued a VAT invoice when he or she is not registered for VAT.

A public institution which fails to withhold the VAT or which withheld VAT and failed to pay the tax withheld to the Tax Administration, must pay the Tax not withheld or not paid, fines and default interests as provided for by this Law.

Late payment of VAT is subject to a late payment 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:

- 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
- The administrative fine referred above doubles if the understatement rate exceeds 20% of the principal tax liability the taxpayer ought to have paid
- If an audit or investigation shows that a taxpayer has neither declared nor paid tax in the required time, the taxpayer is liable to an administrative fine equivalent to 60% of due principal tax

In case of failure to use the electronic invoicing system by a person registered for VAT, fines apply as follows:

- An administrative fine of ten times the value of the evaded VAT
- In case the fault is repeated, the defaulter is liable to an administrative fine of 20 times the value of the evaded VAT

A person who fails to comply with obligations of the user of the electronic invoicing system is liable to an administrative fine as below:

- Two hundred thousand Rwandan francs (FRW 200,000)
- In case the fault is repeated, the administrative fine is increased to FRW 400,000
- In case a taxpayer delivers an electronic invoice with under-valued price or quantity of goods or services, they are liable to an administrative fine of ten times the value of the evaded VAT
- In case the fault is repeated, the administrative fine is increased to 20 times the value of the VAT evaded

## Refunds

If, during a particular prescribed taxation period, the input tax exceeds output tax, the Commissioner General shall refund the supplier the due amount to which the supplier stands in credit by reason of the excess, on receipt of the relevant tax return document within 30 days:

- After one day from the expiry of the prescribed period for tax declaration
- After receipt of proof of the last outstanding tax declaration

However, the VAT paid by registered investors shall be refunded within a period not exceeding 15 days after receipt by the Revenue Authority of the relevant application.



Prior to payment, the Commissioner General may order for verification of the claim for refund or deduction submitted to him/ her. In such a case, the period for the response to be communicated shall not exceed three months from the date of submission of the claim.

### 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 they may, upon giving notice in writing 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
- 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

## 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 words '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
- 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 invoices issued.

VAT registered persons are required to use a certified electronic billing machine (EBM) that generates tax invoices. There are significant penalties for failure to use EBM.

### Credit and debit notes

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
- Be headed 'credit note' or 'debit note' as appropriate and clearly show the following details:
  - *The identifying number and date of issue*
  - *The name, address and the 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 importation and exportation
- 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 exist
- If the nature of taxable goods or services is changed or damaged
- If the consideration of taxable goods or services is changed
- If 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
- 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
- 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.

### 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 17/2019 of 10/08/2019 which replaced 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



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## Introduction

Introduced in 1980, Value Added Tax (VAT), is an indirect tax which applies on commercial operations, goods and services.

The Senegalese General Tax Code (GTC) provides VAT rules from articles 351 to 399.

The member states of the West African Economic and Monetary Union (WAEMU) including Senegal have notably harmonised their rules regarding VAT. For instance, any member state is required to fix a unique rate that must be between 15% and 20%.

## Scope of VAT

VAT applies on the supply of goods and provision of services within the framework of economic activities.

Indeed, all economic activities are within the scope of VAT, including the activities of independent professionals (attorneys, lawyers, chartered accountants etc.).

## Mechanism of subject to VAT

### Supply of goods

A supply of goods is the transfer of ownership of tangible goods.

The following operations are also considered as supply of goods: the supply of water, electricity or gas, the instalment sale, and the transmission of

property carried out under a commission contract on the purchase.

If a company withdraws goods from the stock for itself or for a third party without payment, this is considered as self-delivery of goods. Such operation is subject to VAT.

### Provision of services

According to the Senegalese GTC, all transactions that are not supplies of goods are considered as provisions of services, including self-supply services (use of a business property for purposes other than those of the business or the provision of services by the taxable person for purposes other than exploitation or for the benefit of third parties free of charge).

## VAT rates

The VAT rate is 18% and applies to most commercial operations on goods and services.

However, there is a 10% reduced rate that applies to services rendered by licensed tourist accommodation establishments.

## VAT registration

### Compulsory registration

Companies that carry out economic activities must be registered. (Article 354 - 1 of the GTC).

To be registered, the company must have a valid tax identification number that fits for all taxation purposes.

### Voluntary registration

Voluntary registration is only possible for the following activities:

- Farmers production sales
- Public transport operations made by carriers which apply the tariffs approved by the public authority

This option applies to all operations realised by the optional taxpayer. The demand is addressed to a competent chief of tax services.

It only applies to supply of goods from the receipt date of the option letter.

This option is irrevocable once it is granted.

### Group or 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.

### Application for registration

An application for tax ID number must be submitted when the company is incorporated.

This tax ID number is used for all taxes applicable in Senegal, including VAT.

### 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.

## Input VAT deduction

### Input tax allowed

It applies on goods or services acquired for the company's exclusive needs (it is deductible). Input tax is paid on delivered goods or services rendered by another person subject to VAT.

Input tax is allowed on exempted operations such as:

- Export and related transactions and services directly related to exports
- Transport of goods to international destinations

To be deductible, invoices must be compulsorily issued with all required mentions listed in the GTC (e.g. VAT number of the supplier).

### Input tax expressly denied

VAT is not deductible on expenses on goods and services when the percentage of private use exceed 80% of their total use. The input tax expressly denied concerns:

- Vehicles designed for the transport of individuals or mixed use, when they are not intended to be resold in their original state or rented by a professional lessor
- Accommodation, meals and foods, receptions and show expenses
- Remunerations paid in exchange of service rendered when the beneficiary is not subject to any income tax in Senegal regarding those remunerations
- Advertising expenses on goods and services whose advertising is prohibited
- Furnishing, excluding office furniture
- Services related to goods which are excluded from the right to deduct
- Assets sold without remuneration or for a remuneration lower than their normal selling price, in particular as a commission, salary, gifts, regardless of the quality of the beneficiary or the form of distribution, except when the value of the good does not exceed XOF20,000 exclusive of VAT (Cf. article 383 of the GTC)
- Limitation regarding certain businesses:
  - *Travel agencies and tour operators subject to the margin system cannot deduct the tax relating to the price paid to transport companies, hoteliers, restaurateurs, entertainers and other taxable persons who physically provide the services used by customers*



## Value Added Tax (VAT), is an indirect tax which applies on commercial operations, goods and services

- *Merchants of second-hand goods subject to the margin system cannot deduct the tax on goods acquired for resale (Article 382 of the GTC)*

### Partial exemption

When performing taxable and non-taxable economic activities (exempted operations without right of deduction), the 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 exempted 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*
  - *An exempted sector, where the VAT paid is not deductible*

VAT paid to providers for goods and services acquired for both sectors, which is calculated in accordance with the above apportionment formula.

### Change-of-use 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 goods
- 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.

### Pre-registration or post-deregistration VAT

These procedures are not applicable in Senegal.

### Refunds to non-residents

It is not possible for a non-residents to recover VAT.

## Output tax

### Brief description 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 and services. For importation, it is the customs valuation, CIF (cost, insurance and freight charges).

The following items are not included in taxable income:

- Stamp and registration duties
- Disbursement under-provision
- Rebates or discounts, if mentioned in the invoice and are not the remuneration of a provision of the service of the debtor

### Exempt supplies

A certain number of operations are VAT exempted.

The exemptions concern:

- Health care
- Unprocessed food
- Education
- Banking, insurance and reinsurance, (specific taxation applies)
- Farming
- Fishing activities
- Operations related to exports of goods and services
- Real estate transactions subject to registration duties
- Import of goods whose supply is exempted of VAT etc.
- Imports, deliveries and services performed for companies holding a prospecting/exploration hydrocarbon authorisation or mineral/petroleum substances prospecting permit and their subcontractors during the period of validity of the permit or authorisation and their renewals and during the development phase (Article 361-25 of the GTC- 2019 Amending Finance Law)
- Deliveries and imports of agricultural equipment and agricultural works and services (until December 31, 2021). The list is jointly fixed by the ministers of finance and agriculture (Law n°2018-10 of March 30)
- Equipment deliveries for the production of renewable energies and renewable energies deliveries through producers. The list is jointly fixed by the ministers of finance and renewable energies

### Zero-rated supplies

No supplies are zero-rated, but economic operators who are exempted because of exportation activities may deduct input tax and obtain a reimbursement of the corresponding credit, subject to certain conditions.

### Special rated supplies

Services rendered by licensed tourist accommodation establishments are special rated. The VAT rate is 10%.

### Advertising prices

Advertising revenues are not exempted of VAT (Article 361 of the GTC).

Furthermore, advertising costs on goods and services whose advertising is prohibited do not benefit from VAT deduction.

## International trade

### Imports

#### *Goods*

Imports of goods are subject to VAT at cost, insurance and freight (CIF) value.

#### *Services*

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

#### *Goods*

Exports of goods are exempted from VAT. Refunds to foreigners are not possible in practice.

#### *Services*

Export of services are also exempted from VAT. The mechanism is the same as for goods.

## Place, time and value of supplies

### Place of supply

#### *Supply of goods*

The place of delivered goods taxation is located where the property is at the time of delivery, with these provisions:

- In case of delivery of gas, electricity, heat, cold or similar, the place of taxation is in Senegal if these goods are delivered in Senegal

- In case of the shipment or transport of goods, the place of taxation of the delivery of goods is located at the place where the goods are at the time of the departure of the shipment or transport of the goods to the customer ends
- When the place of departure of the shipment or transport of the good is in a third country, the place of taxation of the delivery made by the importer is located in Senegal when the good is imported into Senegal
- If the goods are installed or assembled by the supplier or on his behalf, the place of taxation is located at the place where the installation or assembly is carried out

#### *Provision of services*

The place of taxation of the services is located in Senegal when the service is used there or when the person to whom the service is rendered is established there (Article 357 of the GTC).

However, the place of taxation of services related to a real property is the place where the property is located.

Regarding telecommunication services, they are considered not to be used in Senegal when the beneficiary is established abroad and the service is made by a public service operator in the telecommunications field.

### Time of supply

The chargeable event for supply of goods and provision of services is upon occurrence of the soonest event below:

- Payment of the price (or instalment payments)
- Invoicing/posting of the services
- Performance of the services

Finally, the time of supply for importations is at the time of customs clearance.

### Value of supply

For companies subject to actual income regime or simplified actual income scheme, the taxable basis is made up of the counterpart received or to be received by the supplier or the service provider.

When the counterpart is received in whole or in part, the value is determined based on the normal selling price of a similar delivery or service.

According to Article 364 of the GTC, the following will be included in the taxable basis:

- The taxes, excluding VAT itself
- The ancillary costs, including insurance and transport costs, commissions, etc.
- The extra cost, whatever the cause is, and equalisation payments

## VAT compliance

### Accounting basis and tax period

The financial statements shall follow the following local accounting standards:

- West African Accounting System (SYSCOA)
- OHADA Uniform Act related to the accountant law

The financial statements are based on the accounting year, which corresponds to the civil year.

For new companies, the length of the first accounting year can, exceptionally, be less or more than 12 months, without exceeding 18 months.

### Returns and payment of VAT

VAT returns must be filed and VAT paid within 15 days after the end of the month within the tax event.

Type of operation	VAT generating event	Date of payment/filing
Provision of good	Delivery of the goods	Within 15 days of the next month following the provision of goods
Provision of service	Upon occurrence of the soonest event below: <ul style="list-style-type: none"> <li>• Payment of the price (or instalment payments)</li> <li>• Invoicing/posting of the services</li> <li>• Performance of the services.</li> </ul>	Within 15 days of the next month following the generating event.
Importation	Customs clearance	When clearing customs duties

### Interest and penalties

#### Interest

In case of late payment, the administration could claim 5% interest plus 0,5% additional interest for each month or fraction of the month of the late payment.

#### Penalties

In case of lack of payment of collected VAT to the administration, 50% penalties will apply.

#### Refunds

In case of excess of the input tax against the output tax, the taxpayer qualifies for a repayment from the government. The taxpayer may request for VAT refund quarterly or before the limitation period of two year-ends, following the chargeable event of the VAT. Otherwise, the VAT credit is definitely lost.

However, the taxpayer may apply for VAT refund during the month following the month in which the non-charged credit VAT has been noticed. This is applicable in the context of resale of goods to recipients outside the country, input deductible tax on goods or services used for the implementation of a project with the government, public institutions, stated-owned companies and which project is financed with foreign subsidies or foreign loans (Article 391 of the GTC).

### Objections and appeals

Any liable person can contest liability for VAT before the courts, after the receipt of confirmation of 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.

### Withholding VAT obligation

#### Appointment of withholding VAT agents for foreign companies

When services are subject to VAT, foreign providers must designate a fiscal representative for the payment of VAT. If not, the Senegalese debtor has to pay the VAT on behalf of the foreign provider.

The fiscal representative must be subject to VAT (Article 355 of the GTC).

#### Withholding VAT system

Withholding VAT is a system of recovery which consists in withholding, at the source, during the payment, a fraction or the totality of the tax due on the operation.



Operations related to any contract paid, notably by the following, are subject to VAT withholding:

- The state, other public collectives, public establishments, national societies
- Building and public works enterprises registered at the department of large enterprises
- Producers or importers of cement, etc.

#### ***Withholding VAT system exemptions***

The withholding tax system does not apply to:

- The supply of goods and services rendered by individuals or companies registered in the department responsible for large and medium enterprises
- The supply of goods and services rendered for the benefit of state agencies
- When the supplier or the service provider holds at least 20% of the shares forming the capital of his client or vice versa, excluding, however, operations for which the state, the public authorities or public institutions are beneficiaries of supplies or services
- Electricity supply operations carried out for the benefit of electricity utility contractors
- Supply of goods and services performed by individuals or companies registered with the Centre des Moyennes Entreprises (midsize companies centre) (from January 1, 2015)
- Transactions covered by any contract paid by public institutions, national companies, majority-state-owned companies and public service operators, particularly with regard to water, electricity and telephone, carried out by companies registered (from January 1, 2020)

#### ***Withholding VAT Compliance***

The person liable for VAT on transactions subject to the withholding tax system is the purchaser of the delivered goods or the beneficiary of the services provided.

The VAT relating to these transactions is liquidated at the rate in force on the date of the payment considered as the generating event.

The VAT is paid by the persons listed above, for which they are obliged to retain in full and declare it, at the time when it is payable on a prepayment declaration, separately from their VAT return.

This VAT is paid to the competent collection office.

### **VAT refunds**

#### **When are VAT refunds due**

The VAT refunds are due within 15 days of the approval of the refund application by the tax authority. The reimbursement is made by cheque, bank transfer, or tax removal certificate under the taxpayer request.

It should be noted that the VAT credit will be refunded once the taxpayer has paid his existing tax debts.

The application for restitution must be examined by the administration within 60 days following the submission month of the application.

However, this period shall be limited to one month from the date of application filing for any taxable person who has already successfully submitted a request for refund and who, moreover, has not been reassessed during the six years preceding the filing of this first refund application (Article 393 of the GTC).



## Record-keeping

### Tax invoices

Any taxpayer subject to VAT must issue his invoice by including the following mentions:

- Exact name and address, tax identification number, trade register number
- Nature and quantity of the goods or services
- Amount exclusive of VAT, VAT rate, VAT amount, amount inclusive of VAT
- Invoice number
- The exemption provision from the tax code (if VAT is not applicable)
- 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
- Banking documents proving that payment has been made by the importer.

Credit notes and debit notes are just accounting notions and are considered to be neither legal documents nor invoices

## Records retention

Any records and books of account (books, registers, declarations, receipts, contracts, documents, supporting documents etc.) must be kept for a period of ten years in Senegal.

The retention of records in electronic or scanned format 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.

### Digital economy

The tax code does not provide rules about digital economy.

### 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.

### Promotional gifts

VAT on promotional gifts is recoverable if the value of each item is not above XOF 20 000 (Article 352 of the GTC).

### Second-hand goods

VAT applies on second-hand goods resold by second-hand goods dealers.

The margin scheme applies when the dealer has purchased those goods in order to sell them to:

- A non-taxable person
- Another taxable person to the extent that the delivery of the goods by that other taxable person has been exempted from VAT
- Another dealer in second-hand goods under the margin scheme

The taxable amount is equal to the difference between the dealer sales price second-hand goods, exclusive of VAT, and the purchase price of the same goods.

Resales which are not subject to the margin scheme are subject to the normal VAT regime. Furthermore, the second-hand goods dealer may deduct VAT on goods acquired for resale (Article 371 of the GTC).

It should be noted that VAT does not apply on second-hand goods resold by their user (Administrative Letter n°444 MEFP/DGID/DLEC/BL of May 19 2015).

### Tourism industry

There is a 10% reduced rate that applies to services rendered by licensed tourist accommodation establishments.

### Currency conversion

Not applicable.

### Transfer of 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 duties

In the case of the importation of goods, some taxes are applicable, such as customs duty, which range from 5% to 20%

However, there is an exemption for essential social goods such as medicines, medical and surgical devices, newsprint, books, newspapers, condoms, wheelchairs, certain fertilisers, etc.

Other indirect taxes include:

- Statistical tax — 1%
- Solidarity community levy — 0,8%
- CEDEAO levy — 0.5% (only applicable among CEDEAO countries)
- COSEC levy — 0.4% (only applicable on importation by sea)

### Excise duties

The products on which the Senegalese authorities levy excise tax, and the relevant excise tax rates, are as follows:

- Beverages:
  - 50 % for beverages containing alcohol and alcoholic liquids (Article 413-a GTC, 2018 Amending Finance Law)
  - 5% for other beverages and liquids (Article 413-b of the GTC)
- Tobacco — 65% (Article 434 of the GTC, 2018 Amending Finance Law)
- Coffee — 5%
- Tea — 5%
- Fat — rate varies from 10% to 15% (Article 431 of the GTC, Law n°2018-10 of March 30, 2018 amending the GTC)
- Private cars with a horsepower rating superior to 13CV — 10% (Article 440 of the GTC)
- Cosmetic products — 15% (Article 442 of the GTC, 2018 Amending Finance Law)
- 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
- Plastic bags — (Article 444 of the GTC, 2019 Amending Finance Law)

### Stamp duty

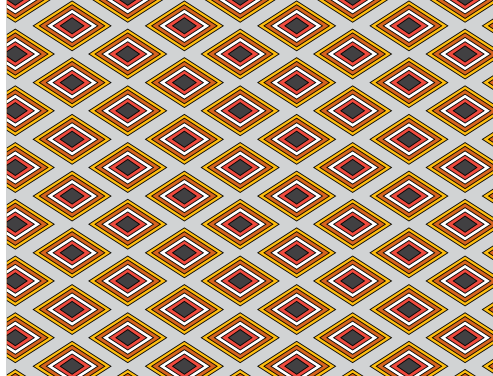
Among the transactions subject to stamp duties are any documents pertaining to registration formalities; acknowledgment of payment in cash; and bills of exchange.

The stamp duty is XOF2,000 per page. There are also stamp duties due on payments made in cash: 1% if the payment is higher than XOF100,000. If below this amount, then there is no stamp duty.

### Tax on plastic bags

A tax is instituted for the benefit of the state budget on plastic bags. It is levied on plastic bags of all kinds, produced or imported into Senegal.

The tax tariff is XOF300 per kilogram of plastic bags (Article 444 of the GTC).



# Seychelles



## Contact details

**Physical address:** PwC services, including indirect tax services, are provided to clients operating in the Republic of Seychelles from our office at PwC Mauritius.

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## Introduction

VAT took effect as of 1st January 2013 and replaced the goods and services tax (GST) which had been in existence since 2001. The VAT Act was passed in the national assembly in December 2010. The VAT system is administered by the Seychelles Revenue Commission (SRC), led by the revenue commissioner. VAT is recoverable from the recipient of the supply.

## Rates and scope

The standard VAT rate of 15% is levied on all taxable supplies that are not zero-rated, made by a taxable person and on taxable imports made by any person, where a taxable person refers to a VAT registered person or a person required to be registered in terms of the Act.

A taxable supply is of goods (immovable or tangible movable property, including animals, but not including money) or services that are not exempt and is made in the course or furtherance of an enterprise carried on in Seychelles. This also includes a deemed supply in terms of the Act.

Supply includes goods and services. A supply of goods means a sale, exchange, or other transfer of the right to dispose of goods as owner, including under a hire purchase agreement. A supply of services means anything done that is not a supply

of goods or money, including the grant, assignment or surrender of any right and the making available of any facility or advantage.

## VAT registration

### Compulsory registration

The registration threshold (in Seychellois rupee/ SCR) is SCR2 million. If the value of a person's 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, the person must apply for registration.

Any reference to a 'person' means an individual, entity, partnership, trust, estate, government body, or public international organisation.

When determining whether a person has exceeded the threshold, the revenue commissioner will ignore the sale of any capital assets (tangible or intangible assets having a useful life of longer than one year, excluding trading stock) and taxable supplies made as a consequence of the person selling the whole or a part of their enterprise or permanently ceasing to carry on the enterprise.

The revenue commissioner may also include the value of taxable supplies made by an associate of the person when determining whether the threshold has been exceeded, if the commissioner is satisfied that it is appropriate. Two persons are associates if the relationship between them is such that one may reasonably be expected to act in accordance with the intentions of the other, or both persons may reasonably be expected to act in accordance with the intentions of a third person.

The application for registration must be lodged in the prescribed form within 14 days of the person becoming required to apply for registration. Where a person is required to be registered, but has not yet lodged an application, the revenue commissioner may register such person from the beginning of the first period in which they were required to be registered.

### Voluntary Registration

Any person who, in the course of their enterprise, makes or intends to make taxable supplies may apply for voluntary registration. Registration in such cases will be granted where: the person has a fixed place from which their enterprise is conducted, the person is keeping proper records of their enterprise and has complied with its obligations under other revenue laws and there are reasonable grounds to believe that the person will keep proper records and furnish regular and reliable VAT returns.

### Branch Registration

An enterprise conducted by a person in branches or divisions is treated as a single enterprise for VAT purposes. An enterprise conducted in such a way must be registered in the name of the person and not in the names of the branches.

### Non-residents registration

Where a non-resident person meets the compulsory registration requirements but does not carry on their enterprise through a fixed place in Seychelles, the non-resident must appoint a VAT representative in Seychelles and may be required to lodge security, by bond, deposit, or otherwise, if required by the commissioner.

The VAT representative would be a person controlling the person's affairs in Seychelles, including a manager of any business of such person, and is responsible for doing all things required of the non-resident person under the VAT Act.

### Deregistration

A registered person who ceases to make taxable supplies must apply to the revenue commissioner for cancellation of their registration. A registered person who continues to make taxable supplies but no longer exceeds the threshold, may also apply to the commissioner for cancellation of their registration.

Where a person has not furnished regular and reliable VAT returns or has not complied with its obligations under other revenue laws and there are reasonable grounds to believe that the person will not keep proper records or furnish regular or reliable VAT returns in future, the revenue commissioner may cancel the person's registration without application.

The person must pay output VAT on any goods on hand, other than capital goods, at the time of deregistration. The disposal is deemed to take place immediately before the person's deregistration.

### Output tax

#### Calculation of VAT

VAT is calculated by applying the VAT rate of 15% to the value of the supply or import, where the value is the VAT exclusive amount.

#### Exempt supplies

The following is a selection of supplies of goods or services that are exempt. The full list can be found in the First Schedule to the VAT Act:

- An import of goods if their supply in Seychelles would be an exempt or zero-rated supply;
- Certain listed food, medicine and other items imported or locally produced (e.g. meats, fish, fruit and vegetables);
- Financial services by a person carrying on a business as a financial institution;
- Educational services including any textbooks or stationery supplied in relation to such services;
- Internationally donated goods or services to a non-profit body;
- Life insurance premiums, health insurance premiums, marine cargo insurance premiums, insurance premiums under the agriculture disaster and fisheries insurance scheme or a reinsurance contract by a person carrying on the business of a licensed insurer or reinsurer;



- Government hospital, medical and dental services including government ancillary services;
- Public utility services;
- Services for construction of residential dwellings, including renovation and extensions of such dwellings as well as the leasing or renting of such premises;
- Broadcasting services by a licenced service provider;
- The transfer of land and rights therein and
- The leasing of an asset subject to a financial lease as defined under the Financial Leasing Act, 2013.

### Zero-rated supplies

If a supply is both zero-rated and exempt, it is treated as being zero-rated. The following is a selection of supplies of goods or services that are zero-rated. The full list can be found in the Second Schedule to the VAT Act:

- Any goods manufactured in, or imported into, Seychelles for the purpose of export where the goods have actually been exported from Seychelles;
- Services supplied directly in connection with temporarily imported goods;
- Goods or services supplied by a business involved in the manufacture of petroleum products;
- Certain telecommunications services supplied to non-residents;
- Services supplied to a person who is outside Seychelles if: the services are directly related to land located outside Seychelles, the services are physically performed on goods located outside Seychelles or the services are advertising or electronic services in relation to an enterprise carried on by the person outside Seychelles;
- A grant, transfer or assignment of a copyright, patent, licence, trademark or similar right for use outside Seychelles;
- International transport services;
- Goods or services supplied as part of the transfer of an enterprise or part of an enterprise as a going concern by a registered person to another registered person under certain conditions;

A non-resident person who meets the compulsory registration requirements but does not have a fixed place in Seychelles, must appoint a VAT representative

- Transportation of cargo by sea to inner and outer islands and
- Port services, where the services are directly connected to international transport services or rendered to a non-registered person.

### Input tax

#### Input tax allowed

A taxable person is allowed an input tax credit for the tax imposed on the acquisition of goods or services by the person to the extent that the acquisition was for the purposes of making taxable supplies.

The input tax credit is allowed in the VAT period in which the tax is paid, provided the taxable person holds the required documentation. Where the person does not yet have the documentation, the input tax credit is allowed in the first VAT period in which the documentation is obtained.

#### Input tax expressly denied

An input tax credit for the acquisition of the following items is not allowed:

- Passenger vehicles, spare parts or repair services for such a vehicle, unless the person's enterprise involves the dealing in or hiring of such vehicles and the vehicle was acquired for such purpose;
- Petroleum products, unless those products are wholly for use in the person's enterprise;
- Items acquired for entertainment purposes, unless the entertainment was provided in the ordinary course of the enterprise carried on and was not provided to an associate or employee, or the entertainment was provided while the recipient was away from home for the purposes of the enterprise;

- To the extent the acquisition is used to provide accommodation, unless:
  - *The person's enterprise involves providing accommodation and the accommodation was provided in the ordinary course of the enterprise or*
  - *The accommodation was provided while the recipient of the accommodation was away from home for the purposes of the enterprise or*
- The acquisition provides membership or entrance for any person in a sporting, social, or recreation club, association or society.

### Partial Exemption

Where goods or services are acquired partly to make taxable supplies and partly to make other supplies, the input tax credit allowed is calculated using the ratio of the value of taxable supplies to the value of total supplies made. Where the ratio is more than 0.9, the taxable person is allowed a full input tax deduction and where the ratio is less than 0.1, the taxable person is not allowed to deduct any input tax.

### Adjustments

Where a taxable person was allowed an input tax credit, and then subsequently applies the goods or services acquired, wholly or partly, for private or exempt use, they are deemed to have made a taxable supply on the portion of goods or services so applied in an amount equal to the input tax paid for that portion. The supply is deemed to occur on the date that the goods or services are applied for private or exempt purposes.

Where:

- A supply is cancelled,
- The nature of the supply is fundamentally varied or altered,
- The consideration for a supply is altered or
- The goods (or part thereof) are returned to the supplier,

If the VAT properly chargeable exceeds the VAT actually accounted for by the supplier, the excess amount must be treated as output tax by the supplier. Where a debit note for the excess has been issued, the recipient must treat the additional VAT indicated as input tax paid in the period in which the debit note is received.

If the VAT actually accounted for exceeds the VAT properly chargeable, the supplier is allowed an input tax credit for the excess amount unless the recipient is not a taxable person, in which case no input tax

credit is allowed until the amount specified in the credit note is paid by the recipient. Where a credit note for the excess has been issued, the recipient must treat the additional VAT indicated as output tax paid in the period in which the credit note is received.

### Pre-registration and post-deregistration VAT

There are certain conditions under which a taxable person may claim an input tax credit for goods held, at the time of registration, for the purposes of making taxable supplies. The input tax may be claimed in the first VAT return furnished by the person after registration. If the person is not in possession of the relevant documentary evidence when the VAT return is to be furnished, no input tax credit is allowed in that period or any time in the future.

Post-deregistration, a person remains liable for any act done or omitted while they were a registered person in respect of the taxable supplies made by them.

### International trade

#### Imports

##### Goods

Subject to certain exemptions, imported goods are subject to VAT at the standard rate of 15%. The value of an import is the sum of:

- The value of the goods for customs purposes, whether or not customs duty was actually paid,
- The costs of insurance, freight and other ancillary or incidental services treated as part of the import, incurred in bringing the goods into Seychelles and
- The amount of any customs duty, excise or other fiscal charge other than VAT or any fee or other charge paid in respect of the import.

If goods are re-imported, after being exported, for the purpose of undergoing repair, renovation or improvement, the value of the import is the amount of the increase in the value of the goods as a result of the repair, renovation or improvement, provided the form or character of the goods has not changed and ownership of the goods has not changed since the goods were exported.

##### Services

An imported service is treated as a supply made by the taxable person themselves, but only to the extent that the input tax credit would be denied if the services had not been imported.

The taxable supply is made at the time the services are performed and is valued at either the fair market value, where the supplier and recipient are associates, or the value of consideration in any other case.

If a taxable person carries on an enterprise both in and outside Seychelles, the part of the enterprise carried on outside Seychelles is treated as if it were carried on by a separate person (the overseas person), who is not a taxable person. An internal provision of services from the overseas person to the taxable person is treated as imported services.

### Exports

Goods are considered to be exported from Seychelles if they are delivered to, or made available at, an address outside Seychelles. Exported goods and services listed in the second part of the First Schedule to the VAT Act are zero-rated.

### Refunds to Foreigners

A visitor may claim for a refund, at the time of his or her departure from Seychelles, of the VAT paid on certain taxable goods purchased from VAT registered persons in Seychelles, such as:

- Articles or jewellery of precious metals,
- Precious or semi-precious stones (natural or synthetic or reconstructed),
- Articles of natural or cultured pearls,
- Carpets: silk, woollen, dhurries and chain-stitch,
- Crafted artefacts, arts or sculpture,
- Manufactured fragrance or perfume,
- Manufactured toiletries or fashion accessories,
- Cosmetic items,
- Accessories - handbags, sunglasses, hats/caps, backpacks and shoes and
- Technological and electronic devices - computers, laptops, tablets, mobile phones, music players, walkie talkies and storage devices.

The visitor claiming the refund shall present to the customs officer the unconsumed purchased goods for inspection along with their foreign passport, flight ticket or a valid boarding pass and VAT invoice.

No refund will be granted where the aggregate amount refundable is less than the administrative charge of SCR150.

## Place, time and value of supplies

### Place of supply

VAT is levied on supplies of goods and services made in Seychelles. A supply of goods is said to have occurred in Seychelles if the goods are delivered or made available in Seychelles. Where transportation is involved in the delivery, goods are supplied in Seychelles if they are within the country when delivery is made.

A supply of services occurs in Seychelles if the enterprise of the supplier, from which the services are being supplied, is situated in Seychelles. There are also specific rules that deal with situations that are not covered by the above but are still considered to be a supply made in Seychelles such as services that are physically performed in Seychelles by a person who is in the country at the time of supply.

### Time of supply

A supply of goods or services generally occurs on the date any payment or part payment for the goods or services is made or, where prior approval from the revenue commissioner is obtained, the date the invoice is issued.

A supply between associates or by way of a gift occurs on the day the goods are delivered or on the day the performance of the service is complete.

A supply by means of a vending machine, meter or other device operated by money, is the day the money is taken from the machine.

If services are supplied by way of leasing goods, or progressively by way of periodic payments, the supply is treated as a series of separate, successive supplies of services corresponding to each relevant period. Supply is deemed to occur at the earlier each payment is due or received.

### Value of supply

The value of a taxable supply made by a taxable person is the consideration for the supply reduced by an amount equal to the consideration multiplied by the tax fraction

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$$0.15$$

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$$1.1$$

The value of any other supply is the amount of consideration. A supply that is ancillary or incidental to a supply of another kind is treated as part of the principal supply. Likewise, a supply that is ancillary or incidental to an import of goods is treated as part of the import.



The sale of goods under a hire purchase agreement is treated as separate supplies of goods and credit under the agreement, provided the credit is specified as a separate charge and is disclosed to the recipient of the supply.

If a taxable supply is made by a taxable person to an associate for no consideration, or for a consideration that is less than the fair market value of the supply, and the recipient is not entitled to a full input tax credit in respect of the supply, the value is the VAT exclusive fair market value of the supply determined at the time of supply. The value of goods or services supplied for no consideration, other than a supply between associates, is zero.

## **VAT compliance**

### **Display of registration**

A registered person must display, in a conspicuous place, the original copy of its VAT registration certificate at its primary place of business and a certified copy of the registration certificate at every other place of business, if applicable.

### **Returns and payment of VAT**

The VAT return must be submitted and payment made within 21 days after the end of each VAT period (VAT period being a calendar month), except in the case of an importation, where the VAT is paid at the time of the import.

A taxable person who has filed for voluntary registration must file a VAT return and make payment no later than the 21st of the months of April, July, October and January of any year.

All registered persons must submit a return electronically via the e-service platform as well as submit a duly signed hard copy of the return.

### **Interest and penalties**

Where a person has incorrectly treated a supply as zero-rated or exempt, the revenue commissioner may assess both the supplier and recipient of the supply for payment of the VAT due in respect of the supply and any interest and additional tax imposed as a result of the late payment. Any amount subsequently paid by the supplier will be offset against the recipient's liability and vice versa.

Where a taxable person fails to pay their VAT liability by the due date, they will be liable for interest and additional tax. Interest is charged, using the quarterly average prime lending rate on the first day of the interest period, on any outstanding tax owed. Additional tax equal to 10% of the unpaid revenue is levied, where the revenue does not include interest or additional tax.

For a false or misleading statement that results in a lower tax liability than would have been otherwise due, the following rates of additional tax will be levied:

- 25% of the shortfall if the reasoning is failure to take reasonable care to comply,
- 50% of the shortfall where the statement was made recklessly as to the operation of law,
- 75% of the shortfall where the reasoning is intentional disregard of revenue laws or
- Where a person was previously liable under the above, the percentage will be increased by 20%.



A person who, without reasonable excuse, fails to apply for registration as required under section 7 will be liable for additional tax equal to double the amount of VAT payable for the period commencing on the day on which the person was first required to apply for registration and ending on the earlier of the day the person lodges an application for registration or the person is registered by the revenue commissioner on the revenue commissioner's own motion.

### Refunds

Where the total input tax credit exceeds the total output tax for the period, the excess may be carried forward to the next period. A refund may be claimed where:

- VAT credit has been carried forward to two consecutive VAT periods and exceeds SCR10,000 at the end of the third VAT period by a compulsory registered taxable person
- A VAT credit exceeding SCR10,000 is reported on the quarterly return by a voluntary registered taxable person;
- Unless otherwise applicable, a VAT credit exceeding SCR10,000 is reported on a monthly return by an exporter, supplier of zero-rated goods or services or investor during the commencement phase of the business activity, or
- The person is engaged in farming, fishing or operating supporting activities directly related to fishing and farming and is registered with either the Seychelles Agricultural Agency or the Seychelles Fishing Authority

Subject to the above, a refund will be granted where a taxable person has claimed for a refund on a VAT return and has fulfilled all payment obligations.

### Objections and Appeals

A taxpayer dissatisfied with an assessment or revenue decision may serve the revenue commissioner with an objection, in writing, within 60 days of the notice of the decision. A taxpayer dissatisfied with an objection decision may then make an application to the revenue tribunal within 30 days of receiving notice of the decision.

Where a party to a proceeding before the revenue tribunal is dissatisfied with the tribunal's decision on an objection decision, they may lodge a notice of appeal against the decision to the Supreme Court within 30 days of receiving notice of the decision.

Where a party is dissatisfied with a decision of the supreme court, an application to the court of appeal may be lodged.

### VAT records

A taxable person who, for any reason, has not been issued with an original VAT invoice, VAT credit note or VAT debit note as required under the Act may make a written request to the supplier to issue the document.

The request must be made within 60 days of the date of the supply, in the case of a VAT invoice, or in the case of a debit or credit note, within 60 days of the date of the event that gave rise to the debit or credit note. Such a request must be complied with within 14 days of receipt.

The following documentation is required in order to claim an input tax credit:

- In the case of an import, a bill of entry or other documentation prescribed under the customs legislation
- In the case of a taxable supply, the VAT invoice for the acquisition
- In the case of an input tax credit allowed in terms of an adjustment, the debit note required to be issued, or
- In the case of an input tax credit allowed in terms of an adjustment, a copy of the credit note required to be issued to the recipient

### VAT invoices

Amounts taken into account under the VAT Act must be expressed in rupees. Where an amount is expressed or paid in a currency other than rupees, the amount must be converted into rupees at the applicable exchange rate in terms of either the customs legislation, in the case of imports, or the Central Bank of Seychelles mid-exchange rate, in any other case.

The requirements of a VAT Invoice are as following:

- The words 'VAT Invoice' in a prominent place
- The name, address and the taxpayer identification number of the supplier
- The description of the goods (including quantity or volume) or services supplied and the date on which the supply was made
- The consideration for the supply and the amount of VAT charged
- The name of the recipient of the supply

The original invoice must be issued to the recipient.

### **Credit notes and debit notes**

A credit note must contain the following particulars:

- The words 'VAT Credit Note' or 'VAT Debit Note' in a prominent place
- The name, address and taxpayer identification number of the supplier
- The name, address and taxpayer identification number of the recipient
- The individualised serial number and the date on which the VAT credit note or debit note is issued
- A brief description of the circumstances giving rise to the issuing of the VAT credit note or debit note, including information sufficient to identify the taxable supply to which the VAT credit note or debit note relates
- Where the debit note or credit note has been issued due to a supply being cancelled, the consideration for a supply being altered or the goods (or part thereof) being returned to the supplier: the consideration shown on the VAT invoice for the supply, the correct amount of the consideration, the difference between those two amounts and the amount of VAT that relates to the difference
- Where the debit note or credit note has been issued because the nature of the supply has been fundamentally altered: the VAT originally paid, the VAT paid as a result of the circumstances giving rise to the issuing of the VAT credit note and the difference between those amounts

An original credit note must be issued to the recipient.

### **Additional export documentation**

The following documentary proof is considered sufficient evidence that goods have been exported, in the absence of proof to the contrary:

- The consignment or delivery of goods to an address outside Seychelles, or
- The delivery of the goods to the owner, charterer, or operator of a ship or aircraft supplying international transport services for the purposes of carrying the goods outside of Seychelles

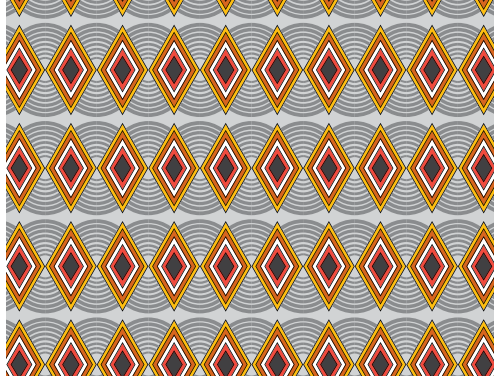
### **Record-keeping**

The following documentation must be maintained by a taxable person for the purposes of the Act:

- Original or copies of all VAT invoices, VAT credit notes and VAT debit notes received by the person,
- A copy of all VAT invoices, VAT credit notes and VAT debit notes issued by the person,
- Documentation relating to imports and exports of goods by the person and
- In relation to imported services, sufficient written evidence to identify the supplier and the recipient, and to show the nature and quantity of services supplied, the time of supply, the place of supply, the consideration for the supply and the extent to which the supply has been used by the recipient for particular purposes.

The documents must be maintained in chronological order.

All registered persons must submit a return electronically via the e-service platform as well as submit a duly signed hard copy of the return



# Sierra Leone



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## Scope of GST

Goods and Services Tax (GST) is imposed by The Goods and Services Act 2009. Unless specifically exempted, GST is charged on:

- Taxable supply of goods and services
- Taxable imports of goods and services

A taxable supply is a supply made in Sierra Leone by a taxable person in the course or furtherance of a taxable activity excluding exempt supplies.

Taxable import means an import of goods other than an exempt import.

GST is chargeable when:

- A taxable supply is accounted for and paid by the supplier
- A taxable import is paid by the importer at the time of the import

## GST rates

The GST Act provides the following rates on a taxable supply or import:

- If the supply or import is zero-rated under the first schedule, the rate is 0%
- In any other case, the rate is 15%

## GST registration

### Compulsory registration

A person has to register for GST at the end of the month if:

- The person exceeded the registration threshold in the period of 12 or lesser months ending on that day
- The person exceeded one-third of the registration threshold in the period of four months ending on that day
- There are reasonable grounds to expect that the person will exceed the registration threshold in the 12-month period commencing on the following day

The registration threshold for GST is a turnover of taxable supplies exceeding Le350,000,000 (approximately US\$36,097.60) in any 12-month period.

The following persons are required to register for GST irrespective of whether that person exceeds the threshold or not:

- Promoter of public entertainment or a licensee or promoter of a place of public entertainment
- Government entity or a local council that makes taxable supplies

### Voluntary registration

A business that makes taxable supplies may apply for GST registration with the Commissioner-General.

### Group or branch registration

A group of taxable persons can apply to the Commissioner-General for approval to be treated as one taxable person provided each member of the group agrees to be jointly and severally liable for any breach of the GST Act.

A person who conducts a taxable activity through one or more branches may apply for separate registration for each branch provided that each can be separately identified by reason of nature or location or its business activity and each branch maintains a separate accounting system.

### Non-residents

A non-resident person who conducts business principally in Sierra Leone and meets the registration threshold is required to register and charge GST. However, if the business of the non-resident person is through a resident agent, the GST will be payable by the resident agent and not the non-resident person.

In the case of telecommunications services, the supply is regarded as to have taken place in Sierra Leone if the supplier is a non-resident and a person physically in Sierra Leone initiates the supply whether or not the supply is initiated on behalf of another person.

The person who initiates a supply of telecommunication services is the person who is identified by the supplier or recipient of the service as being:

- The person who controls the start of supply
- The person who pays or receives payment for the services
- The person who contracts for the supply

### Application for registration

Any person who qualifies for registration shall apply to the Commissioner-General and be registered within 21 days of the date of receipt of the application.

The date of effect of registration is the date on which the person was required to be registered. A GST registration certificate will be issued to the taxable person after registration.

### Deregistration

A registered person who does not make taxable supplies for a six month period and who does not intend to make taxable supplies within a further consecutive 12-month period is required to apply for cancellation within seven days after the end of the six month period.

Any registered person whose taxable supplies do not exceed the registration threshold in a 12 month period may also apply for cancellation of its registration.

### Input GST

#### Input GST allowed

A taxable person is allowed input GST credits for all of the input GST paid or payable on taxable acquisitions or imports made by the person during that tax period. The input GST has to be claimed within six months after the date on which the return was due.

#### Input GST expressly denied

Input GST deductions are not allowed on the following:

- Acquisition or import not made in course or furtherance of the person's taxable activity
- Acquisition or import or hiring of a motor vehicle or spare parts and repair and maintenance services of the vehicles
- Entertainment including food, beverages, recreation or hospitality of any kind, unless the person's taxable activity involves providing entertainment
- Fees or subscription dues of a club, association or society of a sporting, social or recreational nature
- Acquisition, import or hiring of mobile phone handset or spare parts or repair services unless the person's taxable activity involves dealing in or hiring out handsets

#### Partial exemption

A taxable person who makes both taxable and exempt supplies shall determine the input GST credit for a period as follows:

- If the input GST relates wholly to making taxable supplies, full amount is deductible
- If any input GST relates wholly to making of supplies that are not taxable, no input tax is allowed in respect of those supplies



## A taxable supply is a supply made in Sierra Leone by a taxable person in the course or furtherance of a taxable activity excluding exempt supplies

- If the input GST relates to making taxable and partly to making other supplies, the input tax deduction shall be apportioned based on the percentage that relates to taxable supplies

### Pre-registration or post-deregistration GST

A taxable person may within six months of becoming registered apply to the Commissioner-General to be able to claim input GST on taxable acquisitions or taxable imports made in the three months preceding the date of registration.

In the instance where the registration of a taxable person is cancelled, the person is regarded to have made a taxable supply of goods or services on hand at the time the registration is cancelled but only if the person was allowed an input GST credit in respect of the acquisition or importation of those goods or services.

### Output GST

Output GST is calculated by applying the rate of the tax to the taxable value. This is computed by first applying the 15% to the tax-exclusive amount.

### Exempt supplies

Exempt supplies include (but are not limited to):

- Agricultural inputs
- Supply of water, excluding bottled or other packaged and distilled water
- Education services
- Medical services and pharmaceuticals
- Transportation of persons by bikes, buses and similar vehicles, ferry, train and air excluding internal air travel, boat and hovercraft services
- Financial services
- Crude oil and hydrocarbon products excluding lubricating oils
- Goods designed exclusively for use by the disabled
- Supply of animals, fish and birds imported for breeding and rearing purposes, seeds and bulb rooting imported for propagation
- Supply of rice in its raw state

### Zero-rated supplies

Zero rated supplies include the following:

- Export of goods including rutile and its by-products, iron ore, bauxite, gold, diamonds and other minerals
- Goods shipped as stores on vessels and aircraft leaving the country

### Advertising prices

A price advertised by a taxable person includes an amount representing the GST chargeable on that supply, whether or not the taxable person included an amount for GST when determining the price.

## International trade

### Imports

#### Goods

Goods imported other than exempt goods and services are subject to GST, 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 GST. The receiver of the service must account for GST by means of a reverse-charge mechanism. The reverse charge applies to services that are supplied by a non-resident to a person in Sierra Leone otherwise than through a resident agent.

### Exports

#### Goods

Exports of taxable goods attract GST at the rate of 0%. The zero-rate supply list does not include services. In the case of supply of services, the place of service is Sierra Leone if the supplier is resident or the supplier is a non-resident but provided the services physically in Sierra Leone by any person who is in the country at the time the services are performed.

## Place, time and value of supplies

### Place of supply

A supply of goods or services takes place in Sierra Leone if the supplier is a resident.

Should the supplier be a non-resident person and it involves goods, the place of supply is Sierra Leone when the goods are located in Sierra Leone at the time of the supply. For services, the place of supply is Sierra Leone if the services are physically performed in the country by any person who is in Sierra Leone.

### Time of supply

The time of supply of goods or services is the earlier of the time when:

- An invoice for the supply is issued by the supplier
- Any of the consideration for the supply is received
- Goods are delivered or made available for collection
- Services are performed

### Value of supply

The value of a taxable supply is:

- Where the supply is for monetary consideration, the amount of the consideration with the addition of all duties and taxes but excluding GST
- Where the supply is not for monetary consideration or is only partly for monetary consideration, the fair market value excluding GST

## GST compliance

### Accounting basis and tax period

Tax period means one calendar month.

### Returns and payment of GST

GST 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.

### Interest and penalties

The following pecuniary penalties/interest are charged (but not limited):

- Late submission of a return — penalty of Le5,000,000 (approximately US\$515.52)
- Late payment — interest of Bank of Sierra Leone lending rate applied on the tax due
- Failure to register — not less than 10% and not more than 100% of the tax payable had the taxpayer registered when required
- Failure to display GST Certificate — penalty of Le5,000,000 (US\$515.52)

### 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 and the person has ceased operation or deregistered.
- Despite this, a GST refund or input GST credit shall be utilised to offset current and future GST claims within three years. Any unutilised credit will be written off after the third year.

### Objections and appeals

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

A person who is dissatisfied with the decision of the Commissioner-General may lodge an appeal with any court with jurisdiction to hear and determine tax disputes within 60 days after being notified of the decision.

## Withholding GST

### Appointment of withholding GST agents

Not applicable in Sierra Leone.

### Withholding GST exemption

Not applicable in Sierra Leone.

## GST record-keeping

### Tax invoices

GST invoices must be pre-printed and authorised by the Commissioner-General. The invoices should contain the following:

- Customer's name and Tax Identification Number
- Description of goods or services supplied
- Date of supply, invoice or payment



- Invoice amount (excluding GST), GST amount and GST rate
- Total inclusive of the GST

Every registered GST trader is required to maintain an electronic cash register as may be determined by the Commissioner-General for the purpose of recording all transactions.

### 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. Their issuance should be based on 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
- The goods or services, or part thereof, have been returned to the supplier

### Additional export documentation

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

### Record-keeping

Records must be kept for at least six years.

### Specific VAT rules

#### Bad debts

A taxable person may recover input GST on bad debts where the recipient becomes insolvent and fails to pay all or part of the taxable amount of the sale plus the GST imposed. The input GST on the bad debts can be claimed if the amount is overdue for more than 12 months from the date on which the payment was due.

#### Land and buildings

Supply of land and buildings are exempt from GST.

#### Leasing

The value of a supply of goods under a finance lease does not include an amount payable in relation to a supply of credit under a lease agreement.

#### Promotional gifts

Promotional gifts attract GST. Input GST may be deducted when promotional gifts are acquired.

#### Second-hand goods

No specific rules apply on second hand goods.

#### Transfer of business

Transfer of a business as a going concern is outside the scope of GST.

#### Warranty repairs

No special rules apply.

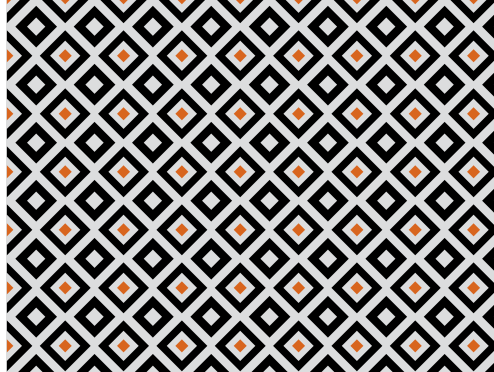
### Other indirect taxes

#### Import duties

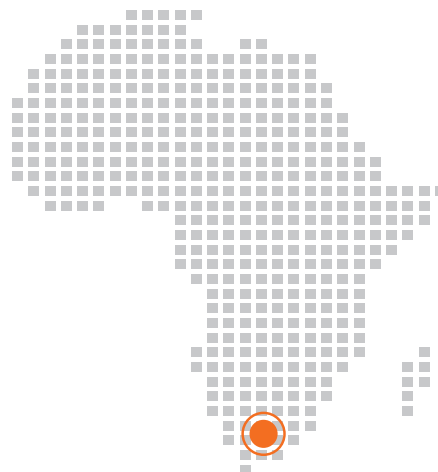
Import duty ranges from 0% to 35% as specified under the (Economic Community of West African States) ECOWAS Common External Tariff and Other Schedules.

#### Excise duties

Excise duty is charged on some imported and locally manufactured products such as alcoholic beverages, cement and plastics. Excise duty for cement is 5% of sales.



# South Africa



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## 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. In April 2019, the VAT rate increased for the first time in two decades to 15%.

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 15% 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. The issue, acquisition, collection, buying or selling or transfer of ownership of any cryptocurrency is considered to be a 'financial service' and not money or currency.

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 (± 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, and trust funds.

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.

## In April 2019, the VAT rate increased for the first time in two decades to 15%

Provisions have been introduced, 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 ZAR1 million (± USD 66 500). At least two of these three provisions should be satisfied.

Previously, the Commissioner allowed a concession that branches of internationally based companies who each individually meet the compulsory registration requirements to have a single VAT registration, rather than multiple registrations i.e. a VAT registration for each branch. This concession was made by approving a VAT class ruling in terms of a section 72 (a special provision allowing the Commissioner to use his discretion where a person experiences a difficulty, anomaly or incongruity). However due to changes in this regard, SARS has ceased issuing these VAT class rulings (e.g. single VAT registration for a group of branches or entities) and when existing rulings of this nature expire SARS may not issue a new ruling on the same basis.

### 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
- 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

There are two instances where non-residents may be required to register for VAT in South Africa. Firstly, where there is an enterprise activity being conducted in South Africa and the value of the associated supplies meets the criteria for a compulsory registration. Secondly, where non-residents are suppliers of electronic services. For a non-resident to register as a VAT vendor 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. However, these requirements are not required for non-residents who register for VAT due to providing electronic services, and the fiscal representative may be a foreigner.

### 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

- 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 tax 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.

### Application for an electronic services registration

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 a recent 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 annual ZAR50,000 voluntary registration limit, or when they cease 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 (15/115) 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, such as long-term insurance, interest and the provision of credit, exchange of currency, transactions involving letters of credit, equity securities, debt securities shares and derivatives
- 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, homeowners' 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 the country, 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
- 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
- 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, edible legumes, cake wheat flour and white bread wheat flour
- 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
- 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)
- Sanitary towels (pads)

### Zero-rated services

- 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) or to any person who is in South Africa at the time that the services are rendered
- 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
- Horse race winnings

## Input tax

### Input tax allowed

Input tax 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*
- 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)
- 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
- 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  $[15/115 \times \text{lesser of cost or open market value} \times \% \text{ of decreased taxable use}]$ , 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  $[15/115 \times \text{lesser of cost or open market value} \times \% \text{ of taxable use}]$  and may be made in the tax period in which the taxable application occurs

- 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  $[15/115 \times \text{lesser of cost or open market value} \times \% \text{ of increased taxable use}]$  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  $[15/115 \times \text{lesser of cost or open market value} \times \% \text{ of taxable use}]$  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 Southern African Customs Union (SACU) country, namely Botswana, Lesotho, Namibia or Eswatini (Swaziland), the VAT payable on importation is calculated as 15% of the customs value of the goods.

Where goods are imported from outside the SACU region, the VAT payable on importation is calculated as  $[\text{customs value of goods} + 10\% \text{ thereof} + \text{customs and excise duties}] \times 15\%$ .

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 15% 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. If the supplier levies VAT at 15% on these exports, the foreign purchaser may be entitled to claim a VAT refund.

### 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
- 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 15%. 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 contains limited 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, 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. The definition of an 'electronic service' has been revised with the issue of a new Regulation (Regulation No.429 published in Government Gazette No. 42316 dated 18 March 2019) effective 1 April 2019, which has widened the scope of electronic services.

'Electronic services' is defined as any services supplied by means of an electronic agent, electronic communication or the internet for any consideration, with the exception of certain educational services, telecommunications and specific services supplied between companies in the same group of companies.

### 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, and 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

The definition of an ‘electronic service’ has been revised with the issue of a new Regulation (Regulation No.429 published in Government Gazette No. 42316 dated 18 March 2019) effective 1 April 2019, which has widened the scope of electronic services

- 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
- 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
- Supplies between connected parties — particular time-of-supply rules and provisions apply
- 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
- No price is paid and no special rule applies — value is nil

### 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 + 15% VAT**

**VAT = Consideration x 15/115**

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

### 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
- 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
- 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
- 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
- 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
- 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.

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.

The Commissioner has issued a regulation on the requirements for tax invoices for electronic services, which must include the following information:

- The name and VAT registration number of the electronic services supplier
- The name and address (physical, postal or email address) of the electronic services recipient
- An individual serialised number
- The date of issue
- A description of the electronic services supplied
- The consideration in money for the supply in the currency of any country. If the ZAR currency is used, the amount of the VAT charged or a statement that it includes a VAT charge and the rate at which the VAT is charged. If another currency is used, the amount of the tax charged in ZAR or a separate document is issued by the electronic services supplier reflecting the amount of tax charged in ZAR
- The exchange rate used

Electronic invoicing is accepted on certain conditions as prescribed in Government Notice 787 issued in Government Gazette 35733 — dated 1 October 2012, and must adhere to the above mentioned requirements.

Documents kept electronically should be readily accessible when requested by SARS and should be stored in a format which allows SARS to read and correctly analyse the data. The format used for storage must preserve the integrity of the data. Further, these records must be maintained at a place physically located in South Africa (i.e. the computer servers must be in South Africa), unless a senior SARS official grants the person authority to keep the records at a location outside South Africa and subject to various requirements being met.

### 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:

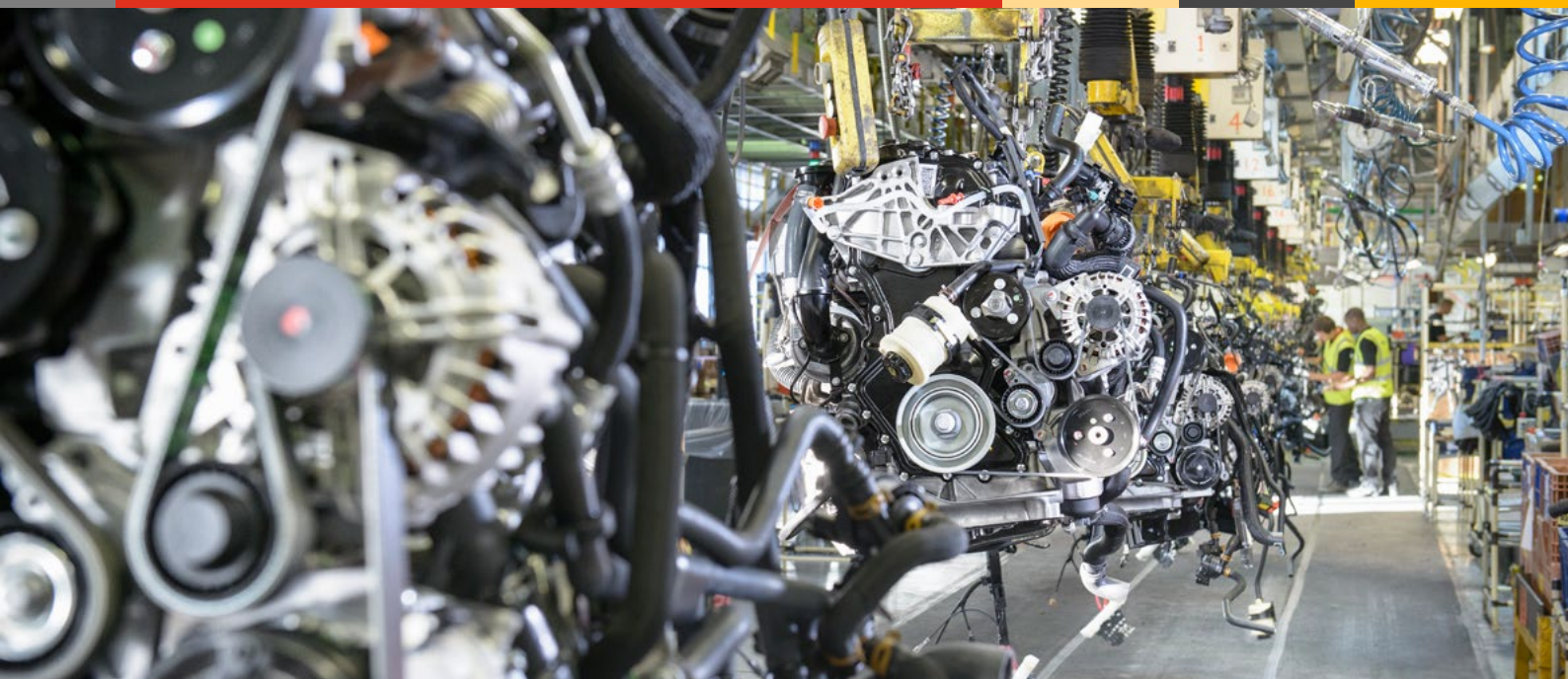
- The words 'credit note' or 'debit note'
- Name, address and VAT registration number of supplier
- Name, address and VAT registration number of recipient (only if a full tax invoice was issued for the original supply)
- Date of issue of credit note or debit note
- Reason for issuing the credit note or debit note
- Sufficient information to identify the transaction to which the credit note or debit note relates
- 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).

The Commissioner has issued a regulation on the requirements for credit or debit notes for electronic services, which must include the following information:

- The name and VAT registration number of the electronic services supplier
- The name and address (physical, postal or email address) of the electronic services recipient



- The date of issue
- A brief explanation of the circumstances giving rise to the issuing of the credit or debit note
- The increased or decreased consideration together with the increased or decreased amount of tax. If the ZAR currency is used, the increased or decreased amount of the VAT or a statement that the consideration includes the increased or decreased amount of VAT and the rate at which the VAT was charged. If another currency is used, the increased or decreased amount of the tax in ZAR or a separate document is issued by the electronic services supplier reflecting the increased or decreased amount of tax in ZAR
- The exchange rate used, being the exchange rate used for the tax invoice

### 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
- 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
- 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, they 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 earliest.

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 (15/115) 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).

Furthermore, a recent court case judgement reiterated the principle that the full charge of tour packages arranged for foreign tour operators may also be considered standard-rated supplies as the tourists will be in South Africa when the services (e.g. accommodation, food and beverages etc) are rendered, irrespective of whether the foreigner was outside South Africa when the tour was arranged or purchased.

Therefore, the VAT rate applicable will be dependent on the facts and circumstances and where the services will be rendered.



### 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
- 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 Eswatini (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 (CO<sub>2</sub>) vehicle emissions.

### Carbon tax

A further environmental levy introduced in 2019 is Carbon Tax, with the aim to reduce greenhouse gas emissions. Carbon Tax is imposed on entities that operate emissions generation facilities at a combined installed capacity equal to or above the carbon tax threshold. It is the carbon dioxide equivalent of the greenhouse gas emissions that will be subject to this tax with a tax rate of ZAR120 per ton of carbon dioxide equivalent emissions. There are also industry-specific tax-free emissions allowances which range between ZAR6 to ZAR48 per ton of carbon dioxide equivalent emissions.





### Health Promotion Levy on sugary beverages (sugar tax)

A new levy on sugary beverages was introduced to decrease diabetes, obesity and other related diseases and is known as the Health Promotion Levy (HPL) or commonly referred to as sugar tax. HPL has been effective as from 1 April 2018. The rate is 2.1 cents per gram of sugar content that exceeds 4.0 grams per 100 ml. The first 4.0 grams per 100 ml are exempt from the HPL.

For the purposes of HPL, sugar content means both intrinsic and added sugar and other sweetening matter. This levy is applicable to both identified imported products and locally manufactured products. HPL on imported products is levied when it is cleared for home consumption and HPL on locally manufactured products is payable by the South African manufacturers. HPL is not payable on sugar beverages that are exported or used in the process of manufacture of other dutiable goods.

### 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 2020:

- If the value of the property is less than ZAR1 million — 0%
- If the value of the property exceeds ZAR1 million, but not ZAR1.375 million — 3% on the value above ZAR1 million
- If the value of the property exceeds ZAR1.375 million but not ZAR1.925 million — ZAR11,250 + 6% of the value above ZAR1.375 million
- If the value of the property exceeds ZAR1.925 million but not ZAR2.475 million — ZAR44,250 + 8% of the value above ZAR1.925 million
- If the value of the property exceeds ZAR2.475 million but not ZAR11 million — ZAR88,250 + 11% of the value above ZAR2.475 million

- If the value of the property exceeds ZAR11 million — ZAR1.02 million + 13% of the value above ZAR11 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

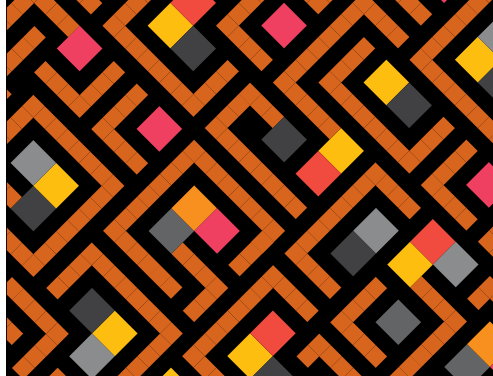
Certain persons whose turnover does not exceed ZAR1 million during the year of assessment, and who do not render professional services, may apply to be registered for the turnover tax for microbusinesses. This is a simplified tax system which serves as an alternative to VAT, income tax, provisional tax, 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 Eswatini pay air passenger departure tax of ZAR100 per passenger, while passengers departing to other international destinations pay ZAR190 per passenger.



## Swaziland (Eswatini)



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### Introduction

**VAT was introduced in Eswatini with effect from 1 July 2011, by way of the Value-Added Tax Act 2011. 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 Eswatini Revenue Authority (SRA).**

### Rates and scope

The VAT rates are as follows:

- 0% on goods and services exported from Eswatini
- 0% on supplies of electricity
- 15% 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 Eswatini or imported into Eswatini, 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

Eswatini's currency is the lilangeni. The VAT registration threshold is SZL500,000 taxable turnover in the past or next 12 months. The SRA 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. A person who fails:

- to apply for registration as required under section 6
- to notify the Commissioner-General of a change in circumstances as required by section 9(10), or
- to apply for cancellation of registration as required by section 8(1)

Commits an offence and is liable on conviction — (i) where the failure is deliberate or reckless, to a fine not less than SZL6,000 but not exceeding SZL15,000 or to imprisonment for a term not exceeding six years or to both; or (ii) in any other case, to a fine not less than SZL2,000 but not exceeding SZL6,000 or to imprisonment for a term not exceeding three years, or to both.

### 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 Eswatini may be required to register for VAT notwithstanding the fact that only part of their business is carried on in Eswatini 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 Eswatini but live or only supply goods or services abroad.

A local fiscal representative is required, but a bank account in Eswatini 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 XXX XXX XXX. It is called a tax identification number (TIN).

### Deregistration

The SRA 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
- 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:

- The supply of postage stamps
- The supply of financial services
- The supply of insurance services
- The supply of land and buildings except for land and buildings used for commercial and industrial purposes
- A supply by way of lease or letting of immovable property, other than a:
  - *Lease or letting of commercial premises*
  - *Lease or letting of hotel or holiday accommodation*
  - *Lease or letting of residential accommodation for periods not exceeding 45 days*
  - *Lease or letting of space for parking or storing cars or other vehicles*
- The supply of education services
- The supply of medical, dental, and nursing services
- The supply of social welfare services
- The supply of betting, lotteries, games of chance or casino gambling services
- The supply of goods as part of the transfer of a business as a going concern by one taxable person to another taxable person
- The supply of burial and cremation services
- The supply of precious metals and other valuables to the Central Bank of Eswatini for the Treasury of the Government of Eswatini
- The supply of passenger transportation services, other than services provided by registered tour operators

- The supply of tap water and sewage
- The supply of services and goods closely linked to welfare and social security work, including those supplied by old people's homes, by bodies governed by public law or by other bodies recognised as being devoted to social wellbeing
- The supply by an amateur sporting organisation of sporting activities, where such activities are deemed for purposes of the Act to be non-professional
- The supply of non-profit making cultural activities and services
- The supply of goods and services in a charity arrangement.

### Zero-rated supplies

The following supplies are specified for the purposes of section 24(4):

- The supply of goods or services where they are exported from Eswatini as part of the supply
- The supply of international transportation of goods or passengers or goods or services in connection with the international transport of goods or passengers
- Maize meal (Tariff Heading 1102.20), where it is graded as super maize meal, special maize meal, sifted maize meal or unsifted maize meal
- Maize (Tariff Heading 1005.00), where it is dried maize or dried seed of the plants *zea mays* indurate and *zea mays* inderata or any one or more crossings thereof of a mixture of the dried seed of such plants, but excluding popcorn (*zea mays* everta) or green mealies for human consumption
- Beans (Tariff Heading 0713.00), provided that they are dried, whole split, or crushed, but not further prepared or processed, or where packaged as seed
- Agricultural input, viz. fertilisers (chapter 31) seeds, excluding flower seeds, and pesticides (3808.00) zero rated; where fertilisers constitute goods consisting of a substance in its final form which is intended or offered for use in order to improve or maintain the growth of plants or the productivity of the soil; where pesticides consist of goods consisting of any chemical substance or biological remedy, or any mixture or combination of any such substance or remedy, intended or offered for use — (i) in the destruction, control, repelling, attraction, disturbance or prevention of any undesired microbe, alga, bacterium, nematode, fungus, insect, plant, vertebrate or invertebrate; or (ii) as a plant growth regulator, defoliant, desiccant, adjuvant or legume inoculants, and anything else which the minister of agriculture has by notice in the Gazette declared to be a pesticide; (iii) where seeds are in form used for cultivation
- Paraffin (Tariff Heading 2710.11) intended for cooking, illuminating and heating is zero rated provided it is not mixed or blended with any other substance for any purpose other than cooking, illuminating or heating
- Milk (Tariff Headings 0401.10, 0401.20; 0403.90) being cultures high-fat, full-fat, low-fat and fat-free
- Brown bread (tariff Heading 1905.10). For purposes of interpretation only brown bread made from brown wheaten meal and water that has been fermented by yeast and which has been baked in the standard form shall be zero rated
- Animal feeds (Tariff heading 2308.00) provided that they are goods which consist of any substance obtained by a process of crushing, gritting or grinding, or by addition to any substance or the removal there from any ingredient; or any condimental food, vitamin or mineral substance which possesses or is alleged to possess nutritive properties; or any bone product; or any maize product; (k)
- Samp (tariff heading 1005.90) not further prepared or processed
- Fresh fruit and vegetables (tariff headings 0701.10 – 0709.90 & 0801.11 – 0810.90) Vegetables, not cooked or treated in any manner except for the purpose of preserving them in their natural state, but excluding dehydrated, dried, canned or bottled vegetables. Fruit not cooked or treated in any

A person living in Eswatini may be required to register for VAT notwithstanding the fact that only part of their business is carried on in Eswatini while the other part is carried out abroad



manner except for the purposes of preserving it in its natural state, but excluding dehydrated, dried, canned or bottled fruit and nuts

- Fresh eggs (tariff heading 0407.00) being raw eggs laid by hens of the species *gallus domesticus*, whether supplied in their shells or in the form of egg pulp being raw pulp consisting of the yolk and white which is obtained from such eggs after the shells have been removed
- Rice (tariff heading 1006.20) whether husked, milled, polished, glazed, parboiled or broken
- Vegetable oil except olive oil (tariff heading 1512.11–1512.21, marketed and supplied for use in the process of cooking food
- The supply of prescription drugs and medicines;
- the supply of school text books

## 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 Eswatini, 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.

### Input tax expressly denied

There are specific items on which VAT cannot be reclaimed or partially claimed:

- Telephone bills - only 50%
- Motor cars with a weight of less than 3.5 tons. This includes maintenance and repairs to motor vehicles under this weight

- 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
- 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.

## International trade

### Imports

#### Goods

VAT is payable on the importation of goods by any person into Eswatini. 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 Lesotho) are deemed to have been imported into Eswatini at the time the goods physically enter Eswatini. Goods are deemed to have been imported into Eswatini from outside SACU on the date on which the goods enter the borders for use within Eswatini.

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, their value 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 Eswatini.

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 Eswatini are subject to the same VAT when imported into Eswatini.

### Services

An imported service is a supply of services by a person in the course or furtherance of an enterprise carried on outside Eswatini that are meant for use or consumption in Eswatini. VAT is payable on the imported service by the person importing the service into Eswatini, 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 Eswatini when allocated, the supply is in Eswatini, while if the goods are not in Eswatini 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 Eswatini, but not near the border between Eswatini and another country, the commissioner may determine that the services are supplied in Eswatini if the supplier is registered or operates in Eswatini, or
- In the case of the supply of radio, television, telephone or other communication services, if the signal or service originates outside Eswatini, 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:

- Except as otherwise provided under this Act, a supply of goods or services occurs —
  - *where the goods or services on which input tax has been deducted, are applied to own use, on the date on which the goods or services are first applied to 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 services is completed, or*
  - *in any other case, on the earlier of the date on which — (i) the goods are delivered or made available, or the performance of the service is completed; (ii) payment for the goods or services is made, or, (iii) a tax invoice is issued for the services 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
- 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 or quarterly depending on turnover) 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 2% per month of the outstanding VAT. 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 SRA 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 a decision of a tax officer may submit an objection to the Commissioner-General within 30 days after the service of the notice of decision.

Where the Commissioner-General is satisfied that owing to absence from Eswatini, sickness or other reasonable cause, the person who is dissatisfied was prevented from submitting an objection within the time specified in subsection (1) and there has been no unreasonable delay by the person in lodging the objection, the Commissioner-General may accept an objection submitted after the time specified in subsection (1).

The objection shall be in writing and shall specify in detail the grounds upon which it is made.

Where an objection to, or a notice of appeal against an assessment has been submitted, the tax payable under the assessment is due and payable, and may be recovered, notwithstanding that objection or appeal.

The Commissioner-General shall only consider an objection submitted if the person has given sufficient security for the tax due under the assessment and any penalty tax that may become payable.

The Commissioner-General shall serve the person objecting with notice in writing confirming the receipt of the objection within 14 days of its receipt. If the Commissioner-General has not made an objection decision within 90 days after the receipt of the objection, the Commissioner-General shall be deemed to have made a decision to allow the objection.

### ***Appeal to the Tax Tribunal***

A person dissatisfied with an objection decision may, within 30 days after being served with notice of the objection decision, submit a notice of appeal with the Tax Tribunal and serve a copy of the notice of appeal on the Commissioner-General.

The Tribunal may admit an appeal after the expiration of 30 days if it is satisfied that the appellant has a good and sufficient reason for not submitting the notice of appeal within the time specified in subsection (1).

In an appeal to the tax tribunal against an objection decision, a person is limited to the grounds set out in the objection, unless the tribunal grants the person leave to add new grounds.

In deciding an appeal, the tribunal may make a decision —

- Affirming, reducing, increasing, or varying the assessment under appeal; or
- Remitting the assessment for reconsideration by the Commissioner-General in accordance with the directions of the tribunal

### ***Appeal to High Court***

A person who is dissatisfied with a decision of the tax tribunal may, within 30 days after being notified of the decision, submit a notice of appeal with the registrar of the high court; and shall serve a copy of the notice of appeal on the other party to the proceedings before the tribunal.

An appeal to the high court may be made on questions of law only, and the notice of the appeal shall state the question or questions of law that will be raised on the 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
- 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 Eswatini customs at exportation
- Certified copies of customs import documents of the country of destination
- 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
- Credits allowed to customers

A vendor must keep a summary of supplier invoices received, showing separate totals for:

- VAT paid on purchases in Eswatini
- Value of the purchases before VAT
- VAT paid on imported supplies
- 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
- Business records

### **Specific VAT rules**

#### **Bad debts**

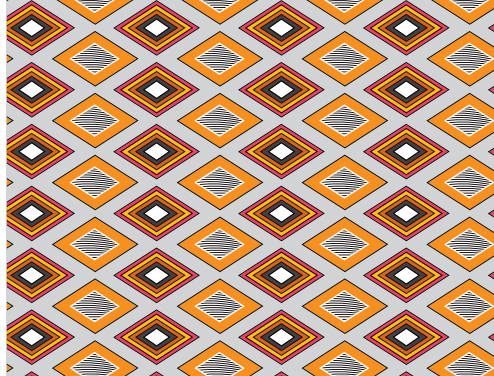
VAT paid to the SRA by a taxpayer in respect of a taxable supply, but not received from an insolvent customer is allowed as a credit where the whole consideration for the supply is subsequently treated as a bad debt. The credit arises on the later of:

- 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
- 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.



# Tanzania



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## 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. Mainland Tanzania and Zanzibar have different VAT legislation. In Zanzibar, the VAT Act 1998 came into effect on 1 January 1999 and has not changed. VAT is administered by the Tanzania Revenue Authority (TRA) in Mainland Tanzania, and in Zanzibar by the Zanzibar Revenue Board (ZRB).

## 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 USD44,000) in a period of 12 consecutive months, or
- TZS50 million (approximately USD22,000) 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)
- 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
- 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.

Advertised prices must be stated inclusive of VAT. Output tax is calculated on the taxable value of the supply.

## Output tax

### Exempt supplies

The following supplies are exempt from value added tax:

- Agricultural implements\*
- Agricultural inputs\*
- Livestock, basic agricultural products and foods for human consumption\*
- Fisheries implements\*
- Bee-keeping implements\*
- Dairy equipment\*
- Medicine or pharmaceuticals products, not including food supplements or vitamins\*

- Articles designed for people with special needs\*
- Education materials\*
- Health care
- Immovable property
- Educational services
- Intermediary services (including life insurance and financial services provided free of charge)
- Non-statutory services by a government entity or institution
- Petroleum products\*
- Supply of water, except bottled or canned water or similarly presented water
- The transportation of a person by any means of conveyance other than taxi cabs, rental cars or boat charters
- Supplies of arms and ammunitions, and parts and accessories thereof, to the armed forces
- Funeral services, as regards the coffin, shroud, transportation, mortuary and disposal services of human remains
- Gaming supplies
- Supply of solar panels, modules, solar charger controllers, solar inverters, solar lights, vacuum tube solar collectors and solar batteries
- Supply of air charter services
- Revenue Stamps (HS Code 4907.00.90)\*
- Electronic cash register (HS Code 8470.50.00)\*
- Supply of precious metals, gemstones and other precious stones by a small scale miner at buying stations or at the Mineral and Gem Houses designated by the mining Commission under the Mining Act
- A supply of aircraft lubricants (H.S Codes 2710.19.51, 2710.19.52, 3403.19.00 and 3403.99.00) to a local operator of air transportation\*

- Raw materials for local production of mosquito nets

Note: \* Denotes items restricted to prescribed HS codes.

The following imports are exempt from value added tax:

- An import of baggage or personal effects (exempt from customs duty under the Fifth Schedule of the East African Customs Management Act, 2004)
- An import of goods given as an unconditional gift to the State, otherwise than for purposes of sale
- 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
- An import of goods shipped or conveyed to the United Republic of Tanzania for transshipment or conveyance to any other country
- 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 of Tanzania
- 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
- 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
- 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 —
  - *without fee, charge or any other consideration in a form of fees, or*
  - *on payment of any consideration the fees or charges will not exceed 50% of the fair market value*

VAT legislation  
also empowers the  
Commissioner General to  
register an entity regardless  
of the registration threshold



- An import of goods that is exempt under an agreement entered into between the Government of the United Republic of Tanzania and another government or an international agency listed under the Diplomatic and Consular Immunities and Privileges Act
- 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
- An import of an aircraft, aircraft engine or parts by a local operator of air transportation
- An import of a railway locomotive, wagons and tramways, and of their parts and accessories by a registered railways company, corporation
- An import of fire-fighting vehicles by the Government
- An import of laboratory equipment and reagents by an education institution registered by the Ministry responsible for education, to be used solely for educational purpose
- 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 refueling 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
- Firefighting equipment
- An import of machinery of HS Codes 8479.20.00, 8438.60.00, 8421.29.00, 8419.89.00 by a local manufacturer of vegetable oils for exclusive use in manufacturing vegetable oil in Mainland Tanzania
- An import of machinery of HS Code 8444.00.00, 8445.11.00, 8445.12.00, 8445.13.00, 8445.19.00, 8445.20.00, 8445.30.00, 8445.40.00, 8445.90.00, 8446.10.00, 8446.21.00, 8446.29.00, 8446.30.00, 84.47, 8448.11.00, 8448.19.00, 8449.00.00, 8451.40.00 or 8451.50.00 by a local manufacturer of textiles for exclusive use in manufacturing of textiles in Mainland Tanzania
- An import of machinery of Chapter 84 by a local manufacturer of pharmaceutical for exclusive use in manufacturing pharmaceutical products in Mainland Tanzania
- An import of machinery of HS Code 8453.10.00 by a local manufacturer of hide and skins for exclusive use in manufacturing;
- Leather in Mainland Tanzania
- Import of an ambulance of HS Code 8703.90.10 by a registered health facility other than a pharmacy, health laboratory or diagnostic centre
- An import of refrigerator containers of H.S Code 8418.69.90 by a person engaged in horticulture for exclusive use in horticulture in Mainland Tanzania
- An import of grain drying equipment of HS Code 8419.31.00 by a person engaged in agriculture for exclusive use in agriculture in Mainland Tanzania
- An import of aircraft lubricants, airline tickets, brochures, leaflets, calendar, diaries, headed papers and airline uniforms engraved or printed or marked with the airline logo imported by a designated airline under a Bilateral Air Services Agreement between the Government of United Republic and a foreign government

## 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
- 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
- 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%
- 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; exportation of raw minerals; raw forestry; raw aquatic or raw fauna products; spare parts; and repair or maintenance costs in respect of passenger vehicles.

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 16.

## 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 the amount that related to its taxable supplies. There are two methods specifically mentioned in the legislation to calculate this amount, i.e. the average method and direct attribution method.

### 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.

### Direct attribution method

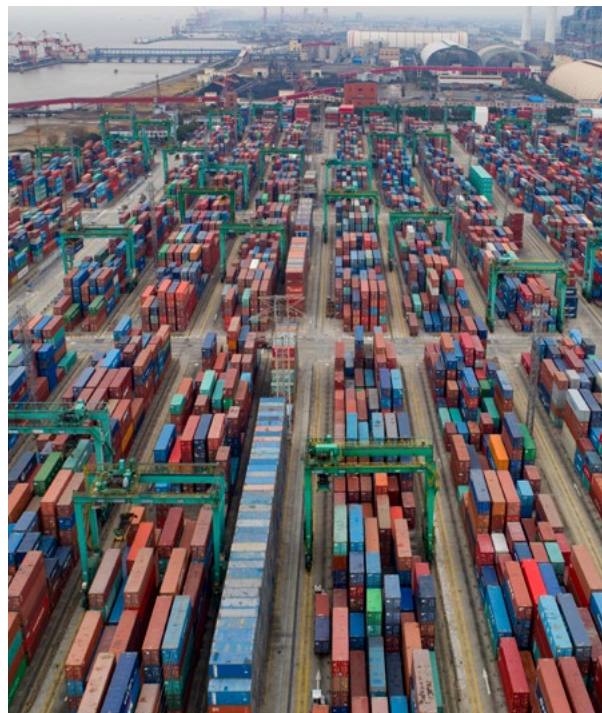
This method is used where a partially exempt trader can directly attribute part of his input tax to taxable supplies and another portion to exempt supplies.

In this case he should be allowed to claim the whole amount of input tax attributable to taxable supplies while the amount of input tax attributable to exempt supplies is not claimable.

The remaining input tax that is attributed to both exempt and taxable supplies will be apportioned by using the average method.

### 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
- Registration 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 the Act. This includes claiming any input tax in respect thereof.

## Imports

### Goods

VAT is chargeable on importation of 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 are 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, it has 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, it does not have to account for VAT on imported services as all the resultant input tax on applying a reverse charge will be claimable
- If a recipient of services makes taxable supplies of between 10% and 90%, that person will be required to do reverse charge accounting of imported services and charge output tax in full, and it 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-ratings also include; international transport (as well as transit goods), 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 and supply of electricity from a supplier in Mainland Tanzania to a supplier in Zanzibar

### 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
- The time of supply

The time of supply is defined as:

- For goods — when they are delivered or made available
- 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. Consideration for goods supplied free of charge is the fair market value.

## VAT compliance

### Accounting basis and tax period

VAT returns are electronically filed on the 20th of every month following the accounting 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 ITX240.02 B must be lodged with any VAT payment due or claim to repayment, by the 20th 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. Note: there are no refunds on input VAT claims incurred on exportation of raw minerals, raw forestry, raw aquatic or raw fauna products.

### 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
- 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
- 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
- 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, ground transport as well as the provision of food and accommodation are taxable at the standard rate of 18%.

### 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.

### Taxation of digital economy

Electronic services supplied to customers in Mainland Tanzania who are not registered for VAT are regarded as supplies made in Mainland Tanzania and therefore locally taxable. Electronic services means any of the following services provided or delivered through a telecommunications network: websites, web-hosting, or remote maintenance of programmes and equipment; software and the updating thereof; images, text, and information; access to databases; self-education packages; music, films, and games, including gaming activities; and political, cultural, artistic, sporting, scientific, and other broadcasts and events including broadcast television.

## Interplay between VAT and transfer pricing

Taxable supplies between connected persons should be at arm's length i.e. at fair market value reduced by a tax fraction.

## Impact of the Africa Continental Free Trade Area (AfCFTA)

Tanzania has already signed in for the continental-free trade zone but is yet to ratify the instruments of the AfCFTA.

## 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 000cc in engine size, various cosmetics, handbags, artificial hair, imported pipes, 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. Also, in 2018 the government introduced electronic tax stamps to be used by manufacturers and importers / distributors of excisable goods. The implementation is being done in phases. Excise duty on excisable goods and services in Zanzibar is administered by the Excise Duty Act 2017, which came to effect on 4 July 2017.

## 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. For Zanzibar, the duty is administered by the Stamp Duty Act 2017.



# Tunisia



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## Introduction

**VAT is levied under the Tunisian VAT Code and is due on all transactions taking place in. 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 19%. Lower rates of 7% and 13% 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
- 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 VAT regime. 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
- 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 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 tax on the purchase of goods and services necessary for the realisation of the transaction subject to VAT 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,

## VAT exemptions also apply to sales defined as exports, which means sales of goods and services to entities not located in Tunisia

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 tax 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 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
- 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)
- VAT mentioned on invoices that do not comply with the VAT requirements, i.e. invoices that do not mention 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

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
- 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.

## 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

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
- 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.

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 their accounts has no reserves affecting the tax basis
- 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.

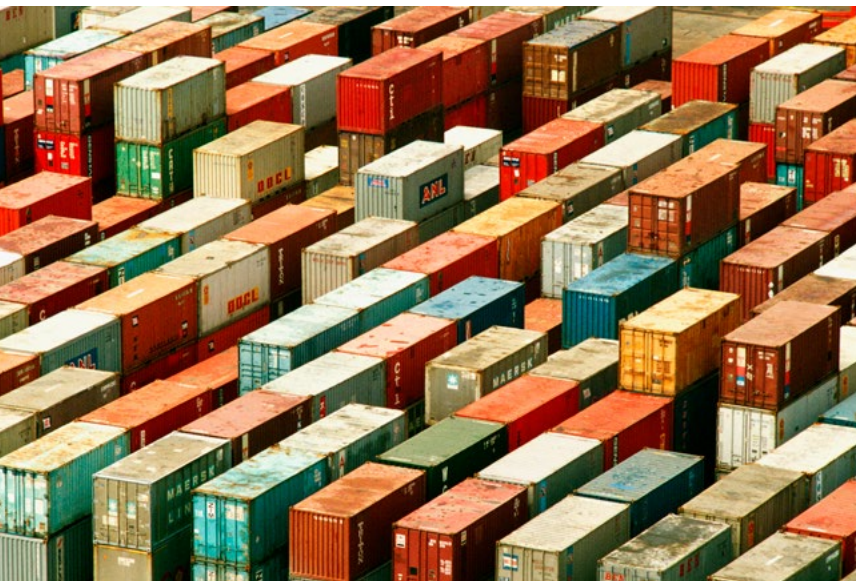
The above rate will be 100% for companies under the Direction of Large Companies (Direction des Grandes Entreprises [DGE]) based on special report of the statutory audit.

### 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 0.75% in the case of spontaneous payment and 1,25% of the tax due in case the delay doesn't exceed 2 months or 2,5% of the tax due in case the delay is more than two months.



The penalty is 1.25% in the case of tax audit. (This rate is reduced by 20% if the cash payment is made within 30 days from the agreement date signed with the tax authority) and 1,25% of the tax due in case the delay doesn't exceed two months or 2,5% of the tax due in case the delay is more than two months.

### Tax invoices

A proper tax invoice should include:

- The name, address and tax identification number of the supplier
- The name, address and tax identification number of the client
- The designation of the goods or services
- The transaction date
- The amount excluding VAT, the VAT rate, and the VAT amount

### Specific VAT rules

#### Land and buildings

The sale by a property developer of buildings exclusively destined for housing is subject to VAT at the rate of 13%. the rent of non-equipped houses is VAT exempted.

#### 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 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 TND25 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 TND0.600 on each issued invoice, unless the customer is expressly exempt.



# Uganda



## Contact details

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## 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 USD40 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.

The standard rate of 18% applies to all supplies that do not qualify for an exemption, except for the zero-rated supplies



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.
- Specific categories of persons may also 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 tax 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.

### Supply of electronic services

With effect from 1 July 2018, the definition of electronic services was amended to include the following when provided or delivered remotely through:

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

Prior, the VAT Act restricted electronic services to those provided on or through a telecom network.

This amendment expanded the scope of electronic services to include all the above services irrespective of the medium of delivery.

The URA proceeded to issue a public notice on 13 December 2018 regarding taxation of non-residents providing electronic services to non-taxable persons in Uganda. URA's practice note was based on Section 16(2)(d) of the VAT Act which provides that any non-resident person who supplies electronic services to a non-taxable person in Uganda, makes a taxable supply in Uganda. However, there remained ambiguity regarding how non-residents were supposed to register for VAT/ appoint a tax representative to enable them to comply with this obligation.

The URA issued another public notice on 28 October 2019 which sets out the procedure for non-resident persons to account for VAT on electronic services supplied in Uganda. This public notice provides that;

- Non-resident persons supplying electronic services in Uganda will now be required to register for VAT through the URA portal.
- Upon registration, the non-residents shall file monthly VAT returns and make payments by the 15th day of the following month.
- A non-resident person may appoint a tax representative for purposes of accounting for VAT and making the requisite payments.

However, there still remain administration challenges in regard to registration of non-residents to obtain a TIN for purposes of accounting for VAT through their representatives. URA is yet to issue guidance on this.

### 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:

- Livestock, unprocessed foodstuffs and unprocessed agricultural products, except wheat grain;
- Postage stamps;
- Financial services;
- Health insurance services, life insurance services, micro insurance services, aircraft insurance 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 goods – limited to:

- Dental, medical and veterinary equipment:
  - *Ambulances,*
  - *Contraceptives of all forms,*
  - *Maternity kits (mama kits),*
  - *Medical examination gloves,*
  - *Medical cotton wool,*
  - *Mosquito nets, acaricides, insecticides and mosquito repellent devices, and*
  - *Diapers;*
- Animal feeds and premises;
- Machinery, tools and implements suitable for use only in agriculture;
- Crop extension services;
- Deep cycle batteries, composite lanterns, and raw material for the manufacture of deep cycle batteries and composite lanterns;
- 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;
- Bibles and Qur'ans and textbooks;
- Goods and services to contractors and subcontractors of hydro-electric power projects;
- Services to conduct a feasibility study, design and construction to a developer of an industrial park or free zone whose investment is at least USD50 million;
- Earth moving equipment and machinery, construction materials for development of an industrial park or free zone whose investment is at least USD50 million; and
- Imported drugs, medicines and medical sundries.

### 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 and tickets for their transport;
- Drugs, medicines and medical sundries manufactured in Uganda;
- Educational materials;
- Seed, fertilizer, 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

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

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:

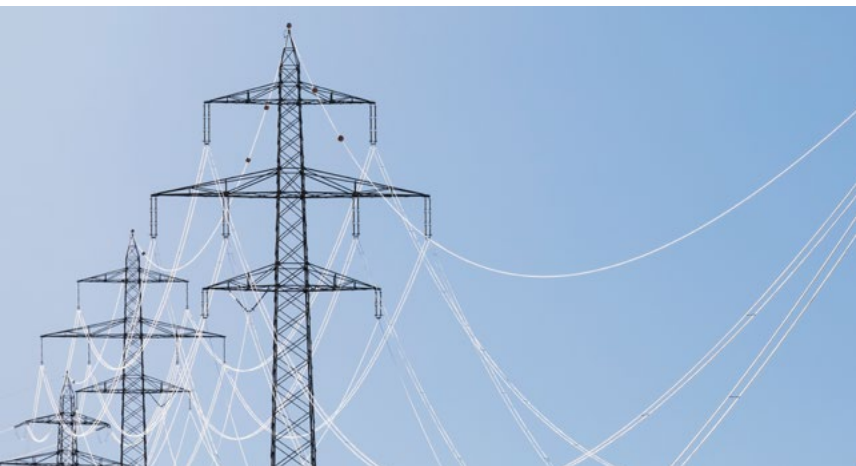
- Goods or services acquired for purposes of entertainment (i.e., the provision of food, beverages, tobacco, accommodation, amusement, recreation or hospitality of any kind), unless the taxable person is in the business of providing entertainment, or supplies meals or refreshments to their employees 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;
- 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) or a person providing business process outsourcing services 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 URA Commissioner-General.

### Pre-registration and post-registration of 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.

### Withholding VAT

With effect from 1 July 2019, VAT withholding provisions were re-introduced after their introduction and subsequent suspension in 2018. The provisions require a designated person to withhold 6% of the taxable value of the supply when making a payment. The list of designated withholding VAT

agents has not yet been gazetted so the withholding requirement is not currently effective.

We understand there will be an exemption for compliant taxpayers that is expected to operate in a similar manner to the current WHT exemption list (i.e., based on a 6 monthly renewal conditional on good VAT compliance behaviour). This should reduce the tax compliance burden and cash flow implications for payees.

## 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; 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.

### 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 affected 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.

Period is a period of one calendar month.

### 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.

### 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; 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 five years after the end of the tax period to which the records relate, including in the electronic format. 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.

Records can be kept in another language or in a different currency on application and approval by the Commissioner-General.

### Specific VAT rules

#### 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; and
- A person undertaking midstream operations as defined by the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act 2013.

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;
- Passenger transport services provided by a registered tour operator – standard-rated;
- 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) 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 airtime on mobile cellular, landlines and public phones. Excise duty is also charged on over the top services at UGX 200 per user per day of access.

Bank charges, with the exception of those which are loan-related, are also subject to excise duty of 15%.

### 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



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## Introduction

**Value-added tax (VAT) was introduced in Zambia on 1 July 1995 to replace Sales Tax. It is largely invoice driven and therefore generally uniform.**

**VAT is administered under the Indirect 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 Zambia Revenue Authority through gazette notices.**

## Rates

Supplies for VAT purposes are classified into three categories, namely:

- Exempt supplies
- Standard-rated supplies at 16%
- 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 accrual's basis. However, taxable suppliers who are members of



the Association of Building and Civil Engineering Contractors can apply to the ZRA to be assessed on the cash accounting basis. In this instance output VAT needs to only be accounted for once the supplier has received payment for the supplied goods and services.

## VAT registration

### Compulsory registration

It is a statutory requirement for suppliers making taxable supplies with a taxable turnover exceeding ZMW800,000 (approximately USD58,000) in any 12 consecutive months or ZMW200,000 in any three consecutive months, or whose taxable turnover is expected to exceed either ZMW800,000 in any 12 consecutive months or ZMW200,000 in any consecutive three months, to 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 ten thousand penalty units (a penalty unit is currently ZMW0.30) or ZMW3 000 (approximately USD 210), 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. As such, any supplier registered under voluntary registration is required to renew the registration every 12 months and should notify the Commissioner General of the intention to renew the registration at least 30 days before expiry of the registration.

### Group registration

Group registration for VAT purposes was abolished effective 1 January 2017.

Given the above, each member of a group of companies that meet VAT registration requirements is required to be registered individually for VAT with the ZRA.

### 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
- 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.

### 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
- Booklets and newspapers
- Transportation of persons
- 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
- 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
- Energy saving appliances, machinery and equipment
- Certain agricultural equipment and accessories
- 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.

## Input tax

### Input tax expressly denied

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)
- Petrol, except where it is purchased for resale
- 90% of the expenditure incurred on diesel for business purposes. However, for mining companies effective 1 January 2020, the claim of input VAT on diesel will be limited to 70% from 90%
- Telephone and internet services
- All non-business purchases, including expenses incurred for the benefit of employees

The claim for VAT incurred 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 tax on their supplies in Zambia.

The above list is not exhaustive and is generic. It is for guidance purposes only and specific advice should be sought in each case.

### Partial exemption

A business that makes both taxable and exempt supplies is allowed to claim input tax to the extent that the expenditure relates to taxable supplies.

Input tax in this instance can be claimed using any of the following four methods:

- Method 1 – Input tax claimable for each month is determined by identifying the input tax that is directly attributable to the taxable supplies
- Method 2 – Input tax claimable for each month is determined by taking the input tax 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 tax 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 tax claimable to date
- Method 4 – Input tax claimable is determined using a similar basis to method 2 above but by using aggregate year to date values

### Pre-registration input tax

A business registered for VAT may not claim input tax on goods or services relating to the start-up of the business or on expenditure that is/was incurred prior to the effective date of registration for VAT purposes.

### 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, 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 ten years after registration
- Any other intending trader — within a period of two years after registration

### Time limits

The time limit for claiming input tax is three months from the date of the tax invoice or other relevant supporting document.

## International trade

### 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 a 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 to account for output VAT on their behalf.

In this instance the tax agent once appointed will issue an invoice under their local VAT registration and account for output VAT on behalf of the foreign supplier. The invoice issued by the tax agent will enable the Zambian recipient to claim an input tax credit with respect to the imported services.

### Electronic Services

Effective 1 January 2020 electronic services performed, undertaken or utilized in Zambia or whose benefit is for a recipient in Zambia is subject to VAT regardless of whether the service is paid for outside of Zambia.

Where the electronic service provider has a permanent address of business or a registered office in Zambia, the service provider will be required to register and account for VAT through the normal VAT operations.

In the case that the service provider does not have a permanent address of business or a registered office in Zambia, they will be required to appoint a person resident in Zambia to act as a tax agent on their behalf.



Notwithstanding the above, the Commissioner General of the Zambia Revenue Authority may appoint a tax agent to account for VAT on electronic services/commerce.

There are no registration thresholds for an electronic service provider.

## Exports

### 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 authority
- Copies of import documents for the goods, bearing a certificate of importation into the country of destination provided by the customs authority of that country or copies of transit documents for goods in transit bearing a certificate of transit provided by the customs authority of the country of transit or a copy of the airway bill or road manifest or goods train manifest or bill of lading
- Tax invoices for the goods exported;
- Proof of payment, made by the customer, for the goods
- Documentary evidence, proving that payment for the goods has been made by the customer into the exporter's bank account in Zambia
- Such other documentary evidence as the authorised officer 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

- 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 their 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
- 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
- The goods are made available to the buyer
- The supplier receives payment
- The supplier issues a tax invoice to the buyer

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
- The supplier 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 to 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 basis.

VAT returns must be lodged with the ZRA within 18 days of the end of the prescribed accounting period for returns submitted online for standard businesses.

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 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 or make payment by the filing/payment deadlines set out are liable to penalties and interest as noted below:

- For late submission of a return the penalty is K300, or 1/2% (0.5%) of the tax payable (whichever is greater) for each day that the return is not submitted
- For late payment of VAT the penalty is 1/2% (0.5%) of the tax due for each day the VAT is unpaid
- Interest is chargeable for each month or part of a month that a payment is overdue and is charged at the Bank of Zambia discount rate plus 2%

### VAT withholding tax agents

The law provides that ZRA appointed VAT withholding agents are required to withhold, account for, and pay the VAT charged on invoices from their suppliers directly to the ZRA.

The suppliers are still required to charge output VAT on their invoices to the agent and also include it on their VAT returns even though the agent will withhold the VAT.

The VAT withholding agent is required to account for the VAT withheld on or before the 16th of the month following the end of the month in which the invoice is received while other taxpayers will be required to submit their VAT returns on or before 18th of the month following the end of the month in which the invoice was issued .

Once the withheld VAT is paid, ZRA will issue a VAT withholding certificate to the supplier which can be used to offset against the supplier's output VAT or claim a refund.

#### Refunds

When accounting for VAT a business can 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.

VAT refunds are not automatic as such in order 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 (audit) to verify the authenticity of the refund.

Effective 1 January 2020 electronic services performed, undertaken or utilized in Zambia or whose benefit is for a recipient in Zambia is subject to VAT regardless of whether the service is paid for outside of Zambia

## 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 request for a duplicate tax invoice in case of loss of the original 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
- The selling price including VAT, or the total charge on the invoice inclusive of VAT, any discount and the rate of VAT

The law requires all VAT registered suppliers to issue invoices using an Electronic Fiscal Devices (EFD) alternatively the supplier can apply for approval to issue invoices from:

- An approved computer generating invoice system, or
- A manual pre-printed invoice

The approvals are subject to the Commissioner General's discretion.

In respect of manual invoicing, the ZRA require that the invoices be issued from a pre-printed sequentially numbered invoice book that should be obtained from an authorised supplier of such books. If the supplier wishes to issue a computer-generated invoice, then the ZRA may request that a virtual EFD software be installed on the system and 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 indicate the Kwacha exchange rate or 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.

Failure to issue a tax invoice in the form and manner prescribed by the Commissioner-General from an approved computer package, a preprinted tax invoice book or an Electronic Fiscal Device, is an offence and is liable, on conviction, to a penalty not exceeding ZMW 90,000 or to imprisonment for a term not exceeding three years or to both.

Additionally, daily sales should be recorded using the EFD, an approved computer system or a preprinted tax invoice. Non-compliance with this requirement will result in the following penalties:

- First offence ≥ ZMW 9,000
- Second offence ≥ ZMW18,000
- Third offence ≥ ZMW27,000

## 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
- 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'.

Further, the credit note should also include:

- Details of the person or business receiving the credit
- Quantity and amount credited for each item
- Number and date of the original tax invoice
- 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.

### Other indirect taxes

#### Customs duties

Customs duty is payable on goods imported into the country Republic. Duty is applied on the value of goods for duty purposes at the rate prescribed

by the Customs and Excise Harmonised Systems code. The value for duty purposes (VDP) generally comprises the cost of the goods being imported, plus insurance, freight and incidental costs of importation.

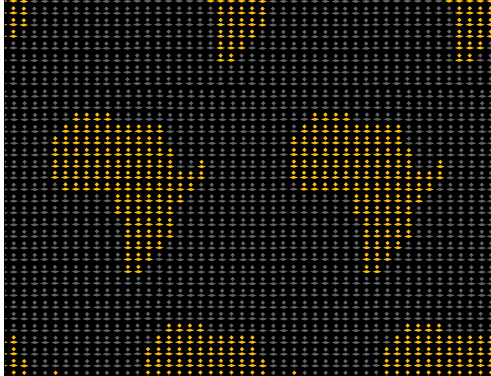
#### Excise duties

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, cement, 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 plus the import duties payable on importation.





# Zimbabwe



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## 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 14.5%
- A 20% rate applicable to the export of unbeneficiated chrome
- The zero rate of 0%

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
- Export of raw hides unprocessed leather, rough diamonds, and unbeneficiated chrome. Imposition of VAT on raw hides has been deferred to 31 December 2021

The 14.5 % VAT applicable on exportation of unbeneficiated platinum has been further postponed to 1 January 2022 with the current reduced rates remaining in force.

Tax on exportation of unbeneficiated lithium has been deferred from 1 January 2019 to 1 January 2025 for lithium suppliers in the special economic zones.



The definition of financial services was amended to include any services provided by a banking institution registered or required to be registered in terms of the Banking Act.

The supply of radio and television services from outside Zimbabwe to a local address, or the supply of electronic services by an e-commerce operator domiciled outside Zimbabwe to a local resident is considered to be a supply that is made in Zimbabwe.

Medical statutory bodies will be exempted from the requirement to charge and remit VAT for the period 2009 to 30 November 2018.

The disregarding of tax adjustment arising from the increase or decrease of taxable use of business assets where the change arises from an amendment in legislation has been backdated.

## 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 annual threshold for compulsory registration is ZWD1,000,000 commencing 1 January 2020.

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
- 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.

### 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.

### 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 of 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.

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
- Has not opened a banking account.

### 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
- 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 14.5% to the value of a taxable supply. Where the supplier has not specified whether VAT has been included, the tax fraction of 14.5/114.5 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 good
- 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 purpose
- Certain agricultural equipment and machinery
- Certain fuel and fuel products (including ethanol fuel)
- Certain live animals
- Tobacco supplied on the auction floors
- Sanitary wear
- Fruits and vegetables
- Specific protective clothing generally used in farming (e.g. gloves, raincoats and gumboots),
- Mineral water and brown rice
- Specification of items of tobacco not sold on the auction floor that were provided for exemption from VAT, but not specified in the VAT regulations as follows:

Commodity code	Description
2401.10.10	Flue-cured of the Virginia type
2401.10.20	Burley
2401.10.30	Dark Fried
2401.10.40	Oriental
2401.10.50	Sun cured
2401.10.90	Other

### 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
- 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 a foreign-going aircraft
- Handling, pilotage, salvage, towage and operation or management of a foreign-going aircraft, where supplied to a non-resident and a 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)
  - Property for use outside Zimbabwe
  - Deemed services supplied by a charitable organisation to a public or local authority
  - Services supplied by a registered operator to their branch situated in an export country
  - 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
  - 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 insecticides
  - Soya beans 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
- 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.

The Commissioner may extend the time for claiming a deduction of amount of input tax from the current 12 months counted from the tax period in which it was incurred if the registered operator can show good cause for extending the time of claiming.

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 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 VAT withholding tax is one third.

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 of 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 ZLD400 or a prison term of up to 12 months or both.

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;
- 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
- Exportation of raw hides
- Rough diamonds, and unbeneficiated chrome, hides, diamonds 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 can 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 ZWL60.



### 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, or
- 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 ZWL1 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.

The definition of 'input tax' includes the amount of VAT paid on imported services. The change will result in the extension of input tax credit to VAT paid by registered operators on imported services. Clients to note that, where the VAT on imported services relates to non-taxable supplies, an apportionment will still have to be made.

### 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.

VAT of 20% 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
- 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 or partly in Zimbabwe.

### Time of supply

The time of supply of goods or services is deemed to take place:

- At the time an invoice is issued by the supplier or the recipient in respect of that supply, or
- At the time any payment of consideration is received by the supplier in respect of that supply, or
- In the case of a supply of a moveable good, at the time of its removal from the place of sale, or
- In the case of a supply of an immovable good, at the time the recipient takes possession of it, or
- in the case of a supply of a service at the time the service is performed, or

Whichever time is earlier.

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
- 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

- 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 ZWD4,000,000
- Category C — One-month periods, applicable to traders with a turnover above ZWL1,000,000 or high-risk traders, regardless of turnover
- 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. 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
- 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 what it is supposed to be

The order of liquidation of VAT debts will give priority towards settlement of the principal amount followed by penalty and finally interest.

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 25% 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 ZWL10, 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. The ZWL10 limit will likely be reviewed to align to the now in use, ZWL.

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
- 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
- Consideration for the supply

The recipient must verify the person's ID number or passport number. Where the amount of the supply is ZWL10 (still to be aligned to a ZWD amount) 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.

### **Focalised recording of taxable transaction**

Every registered operator 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*
  - *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.



Licensed vendors to provide back-up services to registered operators with devices that were supplied by operators who have ceased operations.

### 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), they must be kept for a period of six years from the date of the last entry in the book. Where they are 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, 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
- The supplier disposes of assets necessary for such continuity

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

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:

- Transfers that arise from inheritance
- Transfers to private vehicle ownership transfers that form part of an approved scheme of reconstruction or a similar arrangement
- Transfers between spouses or parents and their children
- 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 ZWL0.05.

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