Value-Added Tax Act 2014 – An overview
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**Briefing**

The commencement date of the VAT Act 2014 (“the new Act”), which received Presidential assent on 11 December 2014, is now confirmed as 1 July 2015. This Act, which repeals the existing VAT Act 1997 (“the 1997 Act”), will introduce fundamental changes to widen the scope of VAT, reduce exemptions, adopt best international VAT practice and simplify administration. Regulations to be issued under the new Act are still pending. Given the fundamental changes introduced, it is important that all taxpayers ensure that they fully understand the implications for their particular business.

**Effect from**

A Government Notice signed on 3 June 2015 by the Minister for Finance confirms that 1 July 2015 is the date when the new Act will be in effect.

**Imports**

**Imports – capital goods**

Introduction of deferral of VAT on imported capital goods but subject to a requirement for

(i) application for approval by TRA and

(ii) Provision of security; VAT deferral can be refused where there is any outstanding tax liability or outstanding tax return under any tax law.

The deferred VAT must be accounted for as output tax and input tax in the same VAT return. Capital goods are defined as “goods for use in the person’s economic activities which have a useful economic life of at least one year and are not

(a) consumables or raw materials, and

(b) Goods imported for the principal purpose of resale in the ordinary course of carrying on the person’s economic activity, whether or not in the form or state in which the goods were imported”.

**Imports – services**

Most taxpayers will no longer be required to account for VAT on imported services; such accounting will in practice only be relevant where a taxpayer has exempt supplies of 10% or more of total supplies.

**Input Tax**

**Input tax deduction**

**Disallowable input tax** - Broader restrictions on claiming input tax (entertainment, sporting social or recreational clubs or associations; spare parts and repair or maintenance costs in respect of passenger vehicles).

**Employees** - No input tax restriction on costs incurred on supplies to employees if output VAT has been accounted for on the related benefit in kind.
**Input tax claim time limit** – Maintained at six months. However, this time limit starts to run not only by reference to the date of the relevant supporting documentation (e.g. tax invoice, fiscal receipt etc.) but also by reference to the date of the time of supply.

**Pre-registration** - Input tax incurred in the six months prior to VAT registration can be claimed no later than in the third VAT return submitted following registration.

**Partial exemption**

**Full input tax credit** – For a company with taxable supplies of more than 90% of total supplies.

**No input tax credit** – For a company with taxable supplies less than 10% of total supplies.

**Partial input tax recovery**– For a company with taxable supplies between 10% and 90% of total supplies. Where partial input tax recovery applies, there is only one apportionment method, namely the average method. Imported services are not taken into account as supplies when determining the allowance of input tax for partial exemption purposes.

**Refunds**

**Default refund qualification period** - Six months. However, companies with 50% or more of turnover that relates or will relate to zero rated supplies (normally, exports) will automatically qualify for refund on monthly basis.

**Time limit for the Tanzania Revenue Authority (“TRA”) to respond to refund request** - increased to 90 days (from 30 days under the 1997 Act).

**Time limit to file VAT refund claim** – Maintained at 3 years.

**Offset by TRA** - Maintenance of TRA’s right to offset VAT refunds against other tax liabilities.

**Threshold** - Introduction of a de minimis (minimum) threshold for VAT refund claim (otherwise the credit must be carried forward). The threshold will be set out in the Regulations (as yet unpublished).

**Types of supply**

**Zero-rated supplies**

**Exported goods** - More comprehensive definition of “export” in relation to goods.

**Zero-rated services** (use and enjoyment outside Tanzania) - Subject to exceptions for certain types of supply (e.g. 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.

**Zero rated services (other)**- Services subject to zero- rating also include international transport and certain related services, 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, supply of telecommunications services by a telecommunications service provider to a non-resident telecommunications service provider.
Exempt supplies
There are significant changes to supplies classified as exempt supplies. More detail in relation to exemptions is provided in the “Industry and other observations” section below.

Supplies - single and multiple; progressive and periodic
Specific provisions are introduced in relation to
(i) single and multiple supplies, and
(ii) Progressive and periodic supplies.

Valuation, Consideration

Supplies at open or fair market value
Supplies to be valued at fair market value if made
(i) to employees by way of benefits in kind; and
(ii) To connected persons.

Deposits
Consideration includes any deposit paid when goods are sold in a returnable container and where the deposit is refundable on return of the container.

Discounts / rebates
Discounts / rebates are recognised in calculating consideration whereby the discount or rebate is allowed and accounted for at the time of supply.

Reimbursements
A reimbursement is excluded from consideration where it is the exact reimbursement of costs incurred by an agent for a principal.

Rights, options and vouchers
There are specific provisions to deal with rights, options and vouchers.

Registration

Registration – general
New registration threshold – To be set out in Regulations (not yet published). Expected to increase to TZS 100m pa (from current TZS 40m pa).

Continuation of existing registration – Registered traders who filed VAT returns 12 months prior to commencement will continue to be treated as a registered person under the new Act.

Confirmation of registration – TRA to serve a notice of confirmation of registration within three months of commencement and to inform taxpayers of their option to cancel their VAT registration if no longer required to be registered.

Registration – special rules
Automatic registration – Mandatory registration for professional services providers (e.g. lawyers and accountants), and for Government entities/institutions carrying on economic activity.
**Intending trader registration** – Conditions include:

(i) provision of sufficient evidence to satisfy the Commissioner of intention to commence an economic activity, including contracts, tenders, building plans, business plans, bank financing;

(ii) the person makes or will make supplies that will be taxable supplies if the person is registered; and

(iii) Specification of the period within which the intended economic activity will commence production of taxable supplies.

**Registration – non residents**

**VAT representative** - A non-resident who carries on 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.

**Deemed supply** - There is a deemed supply in Tanzania where supplies are made to an unregistered person if the supplies are in the form of:

- Services performed in Mainland Tanzania, if the services are received by a person in Mainland Tanzania who effectively uses or enjoys the services in Mainland Tanzania;

- Services received for radio or television broadcasting at an address in Mainland Tanzania; and

- “Electronic services” delivered to a person who is in Mainland Tanzania at the time when the service is delivered.

**Adjustment events**

**Bad debts**

- A supplier has the right to make a “decreasing adjustment” if:
  - Payment is overdue for more than 12 months and the debt has been written off.
  - Payment is overdue for more than 18 months.

- A customer has an obligation to make an “increasing adjustment” if payment is overdue for more than 18 months.

- If payment is made subsequent to the adjustments above, then further adjustments should be made as appropriate.

**Other adjustments**

Other events that trigger adjustments include application for private use; making/receiving insurance payments; the correction of minor errors; VAT registration or cancellation of registration.

**Other matters**

**Transfer of Going Concern**

- The sale of an “economic activity” as a going concern is not a supply and so no VAT is chargeable.

- The definition of the term “economic activity” appears to be broader than previous term (“business”).
Conditions for this treatment to apply include the following:

- The sale must be from one taxable person to another taxable person.
- The sale must be of everything necessary for continued operation of the economic activity.
- The purchaser makes the acquisition in the course of or for the purposes of an economic activity it carries on after the sale.

**Correction of errors**

- To correct an error (other than a minor error) a requirement is introduced that application must be made for such correction.
- A three year time limit is introduced for the correction of errors.
- There is no longer provision for the exclusion of penalties and interest on voluntary disclosure.

**Industry and other observations**

**Agriculture**

**Exemptions include** - agricultural implements (e.g. tractors, harrows, spades, forks); agricultural inputs (e.g. fertilizers, pesticides, insecticides); livestock, basic agricultural products and foods for human consumption; implements for fisheries and bee-keeping; dairy equipment.

Exemptions in respect of agricultural products and food for human consumption are generally limited to “unprocessed” supplies; although “unprocessed” is not defined, the exempt items listed are identified with HS codes. In addition, maize flour and wheat flour are specifically included in the list of exemptions.

**Charitable**

Exempt imports include:

- Food, clothing and shoes donated to non-profit organizations for free distribution to orphanages or schools for children with special needs in Mainland Tanzania.
- Goods imported by non-profit organizations for the provision of emergency and disaster relief, and where such goods are capital goods, the goods shall be handled to the National Disaster Committee upon aversion, completion or diminishing of the disaster.
- Goods imported by religious organisations for the provision of health, education, water, religious services in circumstances that, if services are supplied-
  (a) without fee, charge or any other consideration in a form of fees; or
  (b) On payment of any consideration, the fees or charges does not exceed fifty percent of the fair market value.

**Financial services**

**Financial services** - There is a very detailed definition of “financial services” which lists (in items (a) to (h)) eight different categories of supply that fall within this definition.
However, the definition concludes by expressly excluding any arrangement or facilitation services in relation to the supplies specified.

**Finance leases** – These are subject to the rules for progressive / periodic supplies.

**Insurance** – exemption limited to health and life insurance / reinsurance, so non-life is now taxable.

Power is granted to the Minister to make regulations to prescribe input tax apportionment methods for the financial services sector.

**Education**

**Exempt supplies** include: educational services provided by a relevant approved educational institution; education materials.

**Exempt imports** include: laboratory equipment and reagents imported by a registered educational institution and to be used solely for educational purposes.

**Extractive Industries**

**Exempt imports** include:

- Goods eligible for relief under the East African Customs Management Act (where imported by a registered and licensed explorer or prospector for exclusive use in oil, gas or mineral exploration or prospecting activities).
- Various goods imported by a natural gas distributor (including CNG plants equipment, natural gas pipes, transportation and distribution pipes, CNG storage cascades, CNG special transportation vehicles, natural gas metering equipment, CNG refuelling of filling, gas receiving units, flare gas system, condensate tanks and leading facility, system piping and pipe rack, condensate stabilizer). There are transitional provisions to stabilise existing VAT reliefs where these are the subject of a commitment in an existing agreement with Government.

**Government**

**Exempt supplies** include:

- Non-commercial activities by a Government entity or institution (except to the extent that the activity involves making supplies of goods, services or immovable property that are to be supplied in Mainland Tanzania by a person who is a non-Government entity).
- Arms and ammunitions, parts and accessories thereof, supplied to the armed forces.

**Exempt imports** include goods:

- Exempt under an agreement entered into between the Government and another Government or an international agency.
- Made available free of charge by a foreign government or an international institution with a view to assisting the economic development of Tanzania
- Given, otherwise than for the purposes of sale, as an unconditional gift to the State.
**Health and Safety**

- **Exempt supplies** include: healthcare (provided by an appropriately approved institution); medicine or pharmaceuticals products, not including food supplements or vitamins; articles designed for people with special needs; funeral services.

- **Exempt imports** include: fire fighting vehicles imported by the Government and firefighting equipment;

**Individuals**

**Exempt imports** - Baggage or personal effects if exempt from customs duty under the Fifth Schedule of the East African Customs Management Act, 2004.

**Petroleum products**

**Exempt petroleum products** (and the HS code where relevant) are: aviation spirit (2710.12.30); spirit type jet fuel (2710.12.40); kerosene type jet fuel (Jet A-1) (2710.19.21); petrol (MSP and MSR) (2710.12.20); diesel (GO) (2710.19.31); kerosene (IK) (2710.19.22); bitumen (27.148); liquefied petroleum gas (LPG) (2711.11.00); compressed natural gas (CNG); LPG or CNG cylinder; gas cooker designed for natural gas.

Heavy Furnace Oil (HFO) and Industrial Diesel Oil (IDO) are not included in the list of exemptions and therefore are subject to VAT.

**Postal supplies**

No exemption for postal supplies (unlike the 1997 Act).

**Property**

**Exempt supplies** include:

- A sale of vacant land.
- A lease, license, hire or other form of supply, to the extent that it is a supply of the right to occupy and reside in residential premises.
- A sale of immovable property, to the extent that the property relates to residential premises, not including:
  (a) the first sale of newly constructed residential premises; or
  (b) A subsequent sale if the premises have been occupied as a residence for less than two years.

**Technology**

No exemption for computers (unlike the 1997 Act).

**Telecommunications**

- Prepaid telecommunication services:
  - No VAT between the provider and intermediary as transaction is treated as a non-supply (and so outside the scope of VAT).
- Consideration of supply by the provider is the intended retail price, i.e. disregard any discount to the intermediary.

- Place of supply of telecommunication services is generally consistent with the destination principle.
- Services initiated in Tanzania - where the initiator of the supply is a person in Mainland Tanzania who is not a telecommunications company, the place of supply will be Mainland Tanzania.
- Inter-carrier services – Inter-carrier services from a resident provider to a non-resident provider are subject to the zero rate. A telecommunications service provider based in Zanzibar is regarded as non-resident.

**Tourism**

- Exemptions have been reinstated on the following tourist services: supply of tourist guiding, game driving, water safaris, animal or bird watching, park fees, and ground transport services.
- A supply of goods is zero-rated if the goods are supplied to a tourist with documentary evidence and establishing that the goods shall be removed from Tanzania without being effectively used or enjoyed in Tanzania.

**Transport / International**

**Zero-rated supplies**: International transport with exclusion of “ancillary transport services” as defined.

**Exempt supplies**: Transportation of person by any means of conveyance other than taxi cabs, rental cars or boat charters; air charter services.

**Exempt imports**: aircraft, aircraft engine or parts imported by a local operator of air transportation; railway locomotive, wagons, tramways and their parts and accessories imported by a registered railways entity; goods shipped or conveyed to United Republic for transshipment or conveyance to any other country; goods previously exported with no subsequent change of form or use and no change of ownership, and provided not zero-rated when initially exported.

**Water /Power**

**Exempt supplies** include:

- Water (except bottled or canned water or similarly presented water).
- Solar equipment (in particular, solar panels, modules, solar charger controllers, solar inverter, solar lights, vacuum tube solar collectors and solar battery). (However, wind generators and liquid elevators are no longer included in list of exemptions (unlike the1997 Act)).

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