



VAT Act, 2013

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Presentation Outline

- **Vision 2030 - A context for VAT reform**
- **Revenue - How is the pie diced?**
- **VAT Act, 2013 - Implications**
- **Discussion**

Vision 2030: Context for VAT Reform

Vision 2030 as guiding framework

- **Vision 2030:** “Transforming Kenya into a globally competitive and prosperous nation with a high quality of life by the year 2030.”
- Three pillars:
 - **Economic** - Accelerating and sustaining economic growth
 - **Social** - Equity and poverty reduction as a basis for equitable social development
 - **Political** - Building an accountable and democratic political system

Vision 2030 as guiding framework

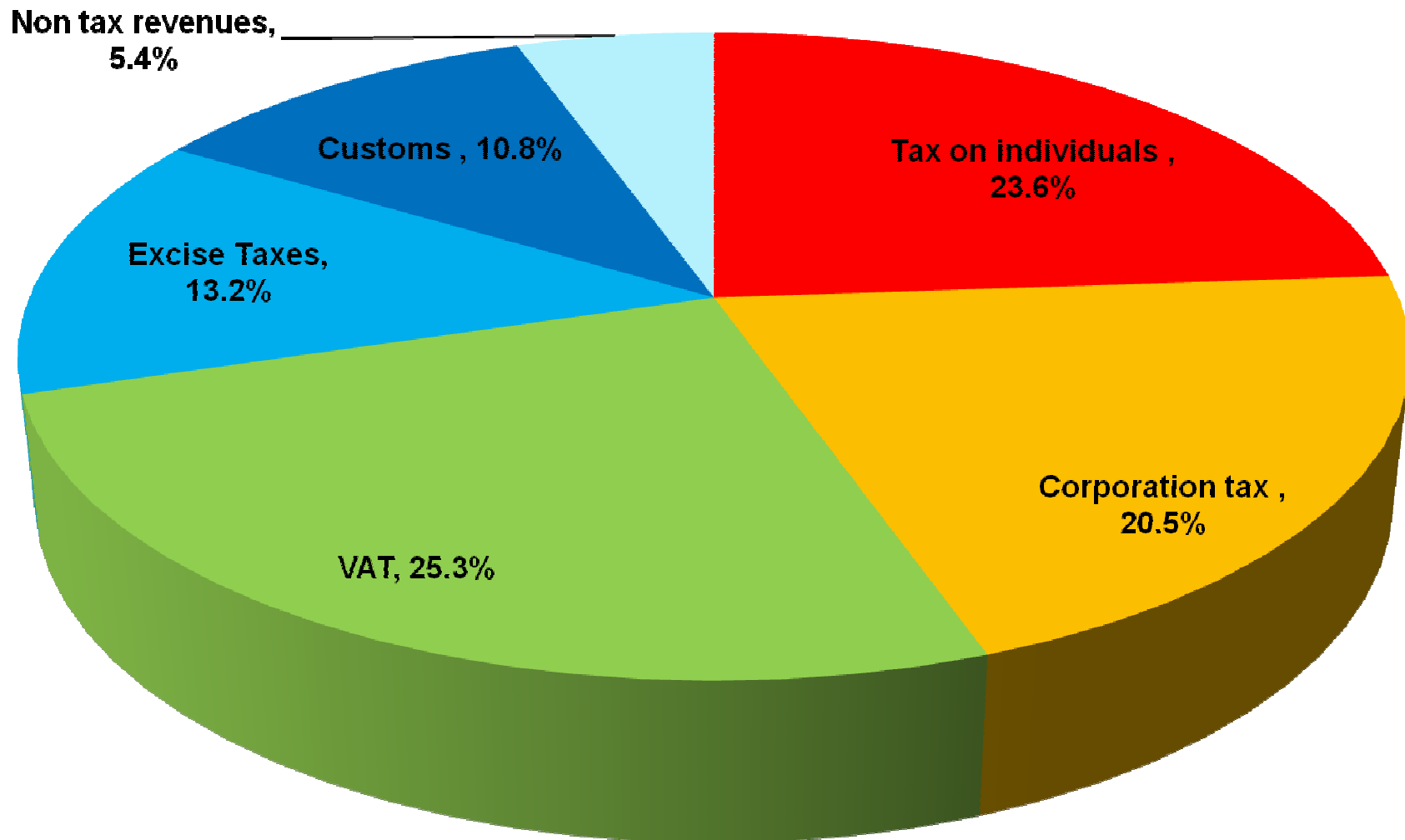
- **Vision 2030 Priorities:**
 - Tourism
 - Manufacturing
 - Business Process Outsourcing
 - Agriculture
 - Wholesale & Retail
 - Financial Services
- **Supported by expanded and quality infrastructure**
- **Facilitative environment**



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Gov't Revenue

Composition of government revenues - 2012



Overarching Objectives

- **Simplification of VAT Regime**
- **Align to international best practice**
- **Managing VAT refunds**
- **Seal revenue leakage**

On the Spot

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National fiscal revenue rises by 9.2% in Aug, boosted by VAT

Global Times | 2013-9-11 23:53:01

By Global Times



E-mail Print

China's national fiscal revenue grew by 9.2 percent in August, driven partly by faster growth in the central government's fiscal revenue and increased taxes collected from the real estate sector by local governments, according to data filed with the [Ministry of Finance](#) (MOF) Wednesday.

The total fiscal revenue in August reached 858.8 billion yuan (\$140.3 billion), with the central government's fiscal revenue accounting for 49.16 percent of the total value, and the remaining coming from local governments' tax income, according to the MOF.

Fiscal revenue for the central government rose by 12.1 percent in August year-on-year, 3.3 percentage points higher than in July.

With the recovery in the domestic economy and a better international trade environment, the central government's fiscal revenue will see a continuously faster rise in the following months of this year, the ministry said.

The faster growth in fiscal revenue was also driven by rising receipts from value-added tax (VAT), which saw a 13.8 percent year-on-year rise to hit 204.1 billion yuan in August.



Global Times ePaper

Daily Specials

- Growing GM food rumors set concern
- Locals lust after found ebony millions
- Tomb of Tang emperor's 'right woman' discovered
- Recent child tragedies in China in neglect





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VAT Act, 2013

The Impact

GetIT411...simplified?

“UHURU orders Kenya Revenue Authority to publish VAT regulations for public to know that **milk**, bread and flour are exempt from the new law.”

11:31, 17 Sep

VAT Rates: Simplified

- The VAT Act No. 35 of 2013 took effect on **2 September 2013**
- The Act provides for two rates of tax:
 - 0% - Zero-rated
 - 16% - standard rate
- 12% concessionary rate on energy supplies eliminated

Place of Supply Rules - Services

- **Supplier's place of business is in Kenya**
- **Definition of “Service exported out of Kenya”**
- **F.H. Services Kenya Ltd vs Commissioner of Domestic Taxes (2012)**
- “...the place of performance is immaterial, what is material is the place of use or consumption...”***

Place of Supply Rules - Goods

- Supply occurs in Kenya if...the goods are delivered outside Kenya, the goods **were in Kenya when their transportation commenced**
- Definition of “export” under Sec 2
- What is the way forward for exports?

Input VAT & Credit notes

- Input tax - claimable **within 6 months** from the date of invoice
- Credit notes on taxable supplies - **within 6 months** from the date of the original supply

Reverse VAT (RVAT)

- No longer applicable where the taxpayer is able to claim the full input tax
- Where the taxpayer supplies both taxable and exempt sales, the RVAT is limited to the **ratio of exempt to taxable sales**

Excluded Input VAT

- **Passenger motor vehicles and parts used in their repair except where used exclusively in the supply of taxable goods and services**
- **Entertainment, restaurant & accommodation services**

“away from home” vs “outside usual place of work”?

- **Apportioned input is less than 10%**

Settlement of cases

- **Compounding cases:**
- Faster resolution of matters
- Imposition of fines - likely to increase
- **Time-bound appeal process...60 days limit**
- **Conclusion of cases within 6 months**

Rulings by the KRA

- **Commissioner can make binding public rulings on the application of various sections of the Act**
 - Summary of VAT Act, 2013
- **Taxpayers can apply to the Commissioner for non-binding private rulings on Sections of the VAT Act**

VAT Act, 2013

The Impact: Sectors

Impact on Tourism

Zero-rated/exempted supplies now VATable:

- **Tour operation and agency services**
- **Airport landing and parking fees**
- **Transportation of tourists**
- **Taxable supplies to ships**

A more expensive tourist destination?

Impact on Agriculture

Zero rated/exempt supplies now taxable:

- **Prime movers**
- **Tractors**
- **Fertilizers - now exempt**
- **Plant and machinery - now exempt**

A more expensive production base?

Business Process Outsourcing

Supplies to non-registered persons deemed to be made in Kenya:

- Services physically performed in Kenya
- Electronic services delivered in Kenya
- Computers - VATable
- Mobile telephone handsets

VAT Act, 2013

Re-writing practice?

Some provisions to watch

- **Sec 24** - Distraint & proclamation to recover taxes
- **Sec 26(1)** - 30 day ex-parte orders to preserve funds at risk
- **Sec 34(9)** - Group registration...a reality?
- **Sec 38** - electronic notices...iTax

Some provisions to watch

- **Sec 42(4)** - Certified copy invoices permitted for input VAT claim
- **Sec 46** - Amendment of self assessments
- **Sec 48(1)(c) & (4)** - Subpoena witnesses irrespective of duty of confidentiality

Some provisions to watch

- **Sec 49** - Unfettered access to premises and documents irrespective of privilege
- **Sec 49(14)** - Conclude audits in 6 months
- **Sec 50** - 60 day limit for Commissioner to respond to Objection
- **Sec 66** - General Anti-Avoidance Rule...sole and dominant purpose test

A parting thought...

“All taxes are disliked, and the more directly they are imposed, the more hateful they become”

- William Waterston

Open discussion



Caveat

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