

Deduction of Input Tax

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Presentation agenda



- ☐ Introduction
- ☐ Input VAT Deduction
- ☐ Potential risks
- ☐ Q & A

Introduction....



- VAT Overview in a Kenya
- VAT registration
- Taxable supply?
- Time of supply
- VAT Tax Point

Introduction....



- What is input tax?
- What is output tax?
- Tax period for VAT accounting
- Extent of utilisation in making taxable sales

Introduction....



Section 17(1) provides that:

*“Subject to the **provisions of this section and the regulations, input tax on a taxable supply** to, or importation made by, a **registered person** may, at the end of the **tax period** in which the supply or importation occurred, be deducted by the registered person, subject to the exceptions provided under this section, from the tax payable by the person on supplies by him in that tax period, **but only to the extent that the supply or importation was acquired to make taxable supplies**”*

Deduction of input tax ...



➤ Eligibility for deduction

- Registered person
- Input tax incurred to make taxable supplies
- Input tax suffered within the last six months
- Six month determination

Documentation



What documents are required?



- An original valid tax invoice issued for the supply;
- A customs entry duly certified by the proper officer and a receipt for the payment of tax;
- A customs receipt duly signed;

Documentation...



What
documents
are
required?

- A credit note under section 16(2); and
- A debit note under Section 16(5).



Non-deductible input tax



Input Tax incurred from:

- Acquisition of passenger cars or mini buses
- repair and maintenance of passenger cars or mini buses
- Purchase of spare parts

Non-deductible input tax



Input Tax incurred for personal use from:

- Entertainment;
- Restaurant; and
- accommodation services.

Exceptions



Input VAT arising from passenger cars or mini buses acquired exclusively for:

- the purpose of making a taxable supply of that automobile in the ordinary course of a continuous and regular business of selling or dealing in or hiring of passenger cars or mini buses

Exceptions...



Input VAT arising from entertainment, restaurant and accommodation services is deductible when:

- Services are provided in the ordinary course of business and 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 or the recipient's employer:

Exceptions....



- VAT is not chargeable upon making a taxable supply where no input tax deduction was allowed on that supply under section 17.

Tax Credits and Refunds



- What is a Tax Credit?
- How does a tax credit arise?
- How is a tax credit utilised?
- When is a Tax Credit refundable?

When is a Tax Credit refundable?



- When the Commissioner is satisfied that such excess arises from making zero rated supplies; and
- the registered person lodges the claim for the refund of the excess tax within twelve months from the date the tax becomes due and payable

VAT Apportionment and Restriction



- Types of supplies:
 - Taxable supplies
 - Exempt supplies
- What does Apportionment mean?
- What does Restriction mean?

Input VAT Deduction



- Where the input tax relates partly to making taxable supplies and partly for another use, the input tax deductible shall be determined as follows:
- Full deduction of all input tax attributable to taxable supplies;
 - No deduction of any input tax which is directly attributable to other use; and

Input VAT Deduction



- Where you are unable to attribute the input tax that relates to taxable supplies and to exempt supplies, deductible input VAT is determined according to the following formula:

$$\frac{A \times B}{C}$$

Apportionment....



A - is the total amount of input tax payable by the person during the tax period on acquisitions that relate partly to making taxable supplies and partly for another use;

B - is the value of all taxable supplies made by the registered person during the period;

Apportionment....



C - is the value of all supplies made by the registered person during the period in Kenya.

Formula interpretation....



If the fraction of the formula in a tax period:

- is more than 0.90, the registered person shall be allowed an input tax credit for all of the input tax comprising component A of the formula;

Formula interpretation....



- is less than 0.10, the registered person shall not be allowed any input tax credit for the input tax comprising component A of the formula.

Potential risks



- Claiming input VAT **WITHOUT** proper documentation
- Non compliance with the VAT tax point
- Claiming input VAT used to make exempt supplies

Potential risks



- Wrong application of apportionment formula
- Overclaiming of input VAT
- Under payment of VAT
- Interest on the non paid VAT

Q & A

