



Amendments to the VAT Act – Changes since 2013

Presentation by:

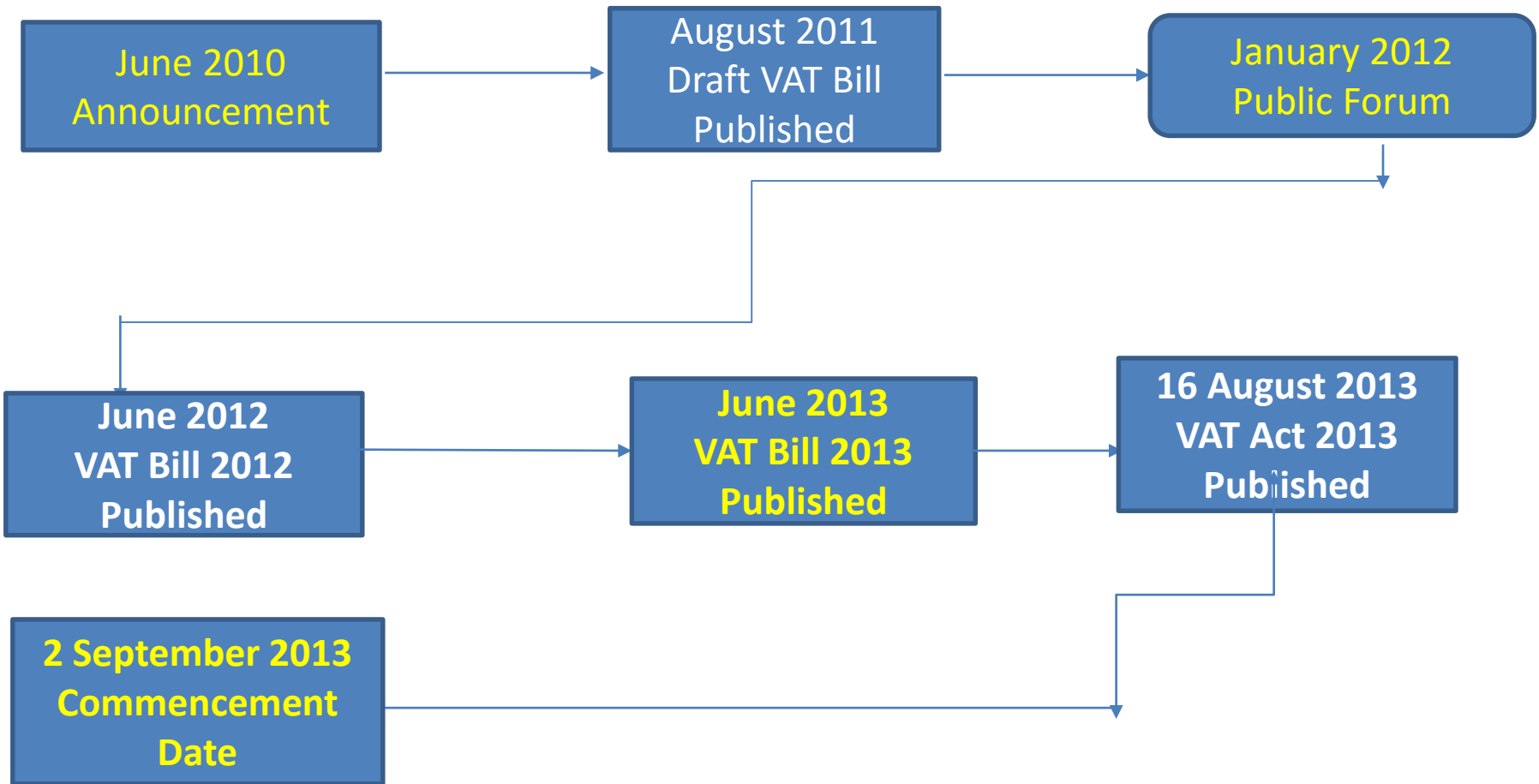
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Thursday, 25th October 2018

Presentation Outline



- The Journey to VAT Act, 2013
- Changes under the Finance Acts – 2014 to 2018
- Q&A

VAT Act 2010 -2013 – The Journey



Finance Act 2014



- ❑ Introduction of WHVAT on payments by Govt entities - to improve govt cash flows and track VAT evaders
- ❑ Remission of tax on taxable goods and services for official aid funded projects to apply retrospectively - an incentive to get more donor financing

Finance Act 2014...Cont'd



- ❑ Exemption of the following supplies from VAT:
Aircraft parts of tariff code 8803.30.00, Tractors, supplies (raw materials and inputs) to solar equipment manufacturers, services in respect of goods in transit
- ❑ Exemptions costly to the suppliers as the input VAT incurred cannot be claimed

Finance Act 2015



- ❑ Section 17 amended to limit VAT refund claim time to 12 months from date of filing the VAT 3 return - a move to expedite lodging of claims
- ❑ Introduction of a Section 25(1) to allow KRA appoint any person as a WHVAT agent - move to broaden the WHVAT agency base

Finance Act 2015...Cont'd



- ❑ Amended First Schedule to move pharmaceutical products from the VAT exempt to zero rated status - a move to reduce cost of these products as manufacturers can claim input VAT incurred on inputs

Finance Act 2015...Cont'd



- ❑ Exempted from VAT items under tariff code 8407.10.00 (aircraft engines), 8409.10.00 (spares for aircraft engines), 8804 (parachutes), 4011.30.00 (tyres)
- ❑ Move was to reduce cost of aircraft parts to encourage the growing aircraft repair industry

Finance Act 2015...Cont'd



- ❑ Exempted taxable goods (excluding motor vehicles) purchased for use in the implementation of an official aid funded project – an incentive for more donor financing
- ❑ Exempted plastic bags biogas digesters from VAT, a move to encourage reliance on green energy

Finance Act 2015...Cont'd



- ❑ Exempted from VAT parts imported or purchased locally for assembly of primary school laptops – move to encourage local assembly of the laptops
- ❑ Exempted from VAT materials to be used in the local film industry - a move to promote the local film industry

Finance Act 2015...Cont'd



- ❑ Exempted from VAT materials and goods for construction of industrial and recreational parks - to encourage investment in industrial and recreational parks
- ❑ Exempted from VAT materials to be used in the local film industry - this is a move to promote the local film industry

Finance Act 2015...Cont'd



- ❑ Moves supplies of taxable services in respect of goods in transit from VAT exempt status to zero rated status. Suppliers can claim input VAT on purchases, thus improving their competitiveness

Finance Act 2016



- ❑ Amended Section 2 of the VAT Act to the effect that supplies to an SEZ are exports and purchases from an SEZ are imports
- ❑ Change accords SEZs similar treatment as EPZs, and harmonizes VAT Act 2013 with the SEZ Act

Finance Act 2016...Cont'd



Hotel definition

- ❑ Amends the definition of a hotel to include premises commonly referred to as: “service flats”, “service apartments”, “beach cottages”, “holiday cottages”, “game lodges”, “safari camps”, “bandas” or holiday villas” and other premises or establishments used for similar purposes

Finance Act 2016...Cont'd



Hotel definition...cont'd

- ❑ The same expands the hotel definition to include recent innovations such as homestay arrangements which were previously not explicitly captured

Finance Act 2016...Cont'd



Hotel tips..

- ❑ A service charge paid to a hotel *in lieu* of tips was exempted from VAT if distributed to employees in line with a written contract, and if it does not exceed 10% of the service value
- ❑ Incentive for hotel owners to collect tips in a way that benefits all employees

Finance Act 2016...Cont'd



Part 1 of the First Schedule

- ❑ VAT exemptions introduced to boost agriculture, tourism, manufacturing and health services include; park entry fees, commissions earned by tour operators, raw materials to manufacture of animal feeds; wheat seeds, garments and leather footwear procured from EPZs, supplies to construct specialized hospitals and tourism facilities...

Finance Act 2016...Cont'd



Exemption of petroleum products from VAT extended

- ❑ The exemption was extended for a further two years from 1 September 2016
- ❑ Effective 3 September 2018, VAT was introduced on petroleum products at 16% but the rate was later reduced to 8%

Finance Act 2016...Cont'd



Motor vehicles for use in aid funded projects exempt

- ❑ The VAT Act exempted from VAT, alongside other supplies, motor vehicles procured for exclusive use in aid funded projects. The same had been excluded from exemption by the Finance Act 2015

Finance Act 2016...Cont'd



Exemption of services procured by local film producers

- The amendment requires the recommendation by the Kenya Film Commission before the Cabinet Secretary to the National Treasury can approve the VAT exemption for services procured by local film producers or agents

Finance Act 2016...Cont'd



Second Schedule to the VAT Act – Zero rating

- ❑ The amendment to zero rate the following items -
LPG, medicaments consisting of tariff 3003.20.00
and taxable supplies to a SEZ
- ❑ The amendment increased the zero rated
medicaments to other antibiotics - Previously only
medicaments containing penicillin or streptomycin
and their derivatives were zero-rated

Finance Act 2017...



Section 11(b) – place of supply of goods

- ❑ Place of supply amendment - place of supply of goods is in Kenya if the goods are **delivered in Kenya**, or the supply involves **assembly or installation of goods at a place in Kenya**, or the goods were in Kenya when their transportation **commenced**, if they were delivered outside Kenya
- ❑ Previously, all above three conditions had to be met

Finance Act 2017...Cont'd



First Schedule to VAT Act - VAT Exemptions

- ❑ Exempts supplies to construct specialized hospitals with a bed capacity of at least 50
- ❑ Supplies, including motor vehicles, intended for the educational, scientific or cultural advancement of the disabled for the use by an organization approved by the national government - previously VATable at 16%

Finance Act 2017...Cont'd



First Schedule to VAT Act– VAT Exemptions...cont'd

- ❑ Unused postage, revenue or similar stamps with a recognized face value, stamp-impressed paper, bank-notes, cheque forms and documents of title such as stock, share or bond certificates

- ❑ Previously subject to VAT at 16%

Finance Act 2017...Cont'd



First Schedule to VAT Act– VAT Exemptions...cont'd

- ❑ Expansion of the list of exempt aircraft parts to include propellers and related parts and aircraft under-carriage together with related parts. Importers should obtain approval from KCAA to benefit from the exemption

Finance Act 2017...Cont'd



First Schedule to VAT Act - VAT Exemptions...cont'd

- ❑ Inputs for the manufacture of pesticides upon recommendation by the Cabinet Secretary for Agriculture.
- ❑ Previously subject to VAT at 16%

Finance Act 2017...Cont'd



First Schedule to VAT Act– VAT Exemptions...cont'd

- ❑ Specially designed locally assembled motor vehicles for transportation of tourists upon recommendation by the competent authority responsible for tourism
- ❑ The vehicle must only be used to transport tourists and the operating company must be registered

Finance Act 2017...Cont'd



Part II of the First Schedule to VAT Act - Exempt Services...

- ❑ Asset transfers and other transactions related to the transfer of assets into Real Estate Investment Trusts and Asset backed Securities

Finance Act 2017...Cont'd



The 2nd Schedule to VAT Act – Zero rated supplies

- ❑ Goods and services supplied to international and regional donor bodies and other diplomatically accredited bodies are zero rated
- ❑ Previously, the Act provided for zero rating of goods. This was a welcome move as the affected entities spent a lot on services

Finance Act 2017...Cont'd



The 2nd Schedule to VAT Act – Zero rated supplies cont'd

- These are as follows: Supply of **maize (corn) flour**, cassava flour, wheat or meslin flour and ordinary bread, Taxable goods supplied to marine fisheries and fish processors upon recommendation of relevant state departments, Milk and milk cream products, Inputs for manufacturing of pest control products, and Pest control products

Finance Act 2018



Tax on petroleum products...

- ❑ Introduction of a new VAT rate at 8% on petroleum products. Taxable value excludes excise duty, fees and other charges
- ❑ The tax will negatively affect key industries such as transportation and the agricultural sector whose supply is exempt

Finance Act 2018...Cont'd



Taxable value of mobile cellular services...

- ❑ The Act deletes the definition of the taxable value of mobile cellular services which excluded excise duty
- ❑ Following the change the taxable value will include applicable fees and taxes such as excise duty

Finance Act 2018...Cont'd



Debit and credit notes...

- ❑ The Act states that any credit/debit notes issued should be in the prescribed form
- ❑ The amendment aligns the VAT Act with the proposed VAT Regulations, 2017 that prescribe the format for credit/debit notes

Finance Act 2018...Cont'd



Application of IT and submission of returns...

- ❑ Deletion of provisions relating to unauthorized access or improper use of a tax computerized system and interference with tax computerized system offences under the law, as well as process of application for extension of time to submit a return
- ❑ Removes duplication as the procedures are covered under the TPA

Finance Act 2018...Cont'd



Zero rating & exempted supplies – exempt services

- ❑ Postal services provided through the supply of postage stamps, including rental of post boxes or mail bags and any subsidiary services thereto
- ❑ Asset transfer and other transactions related to the transfer of assets into real estate investment trusts and asset backed securities

Finance Act 2018...Cont'd



Zero rating & exempted supplies – exempt services cont'd

- ❑ Postal services provided through the supply of postage stamps, including rental of post boxes or mail bags and any subsidiary services thereto

- ❑ Services imported or purchased locally for direct and exclusive use in the implementation of projects under special operating framework arrangements with the Government

Interactive Session

