

Indirect taxes - VAT

Presentation by:

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Outline



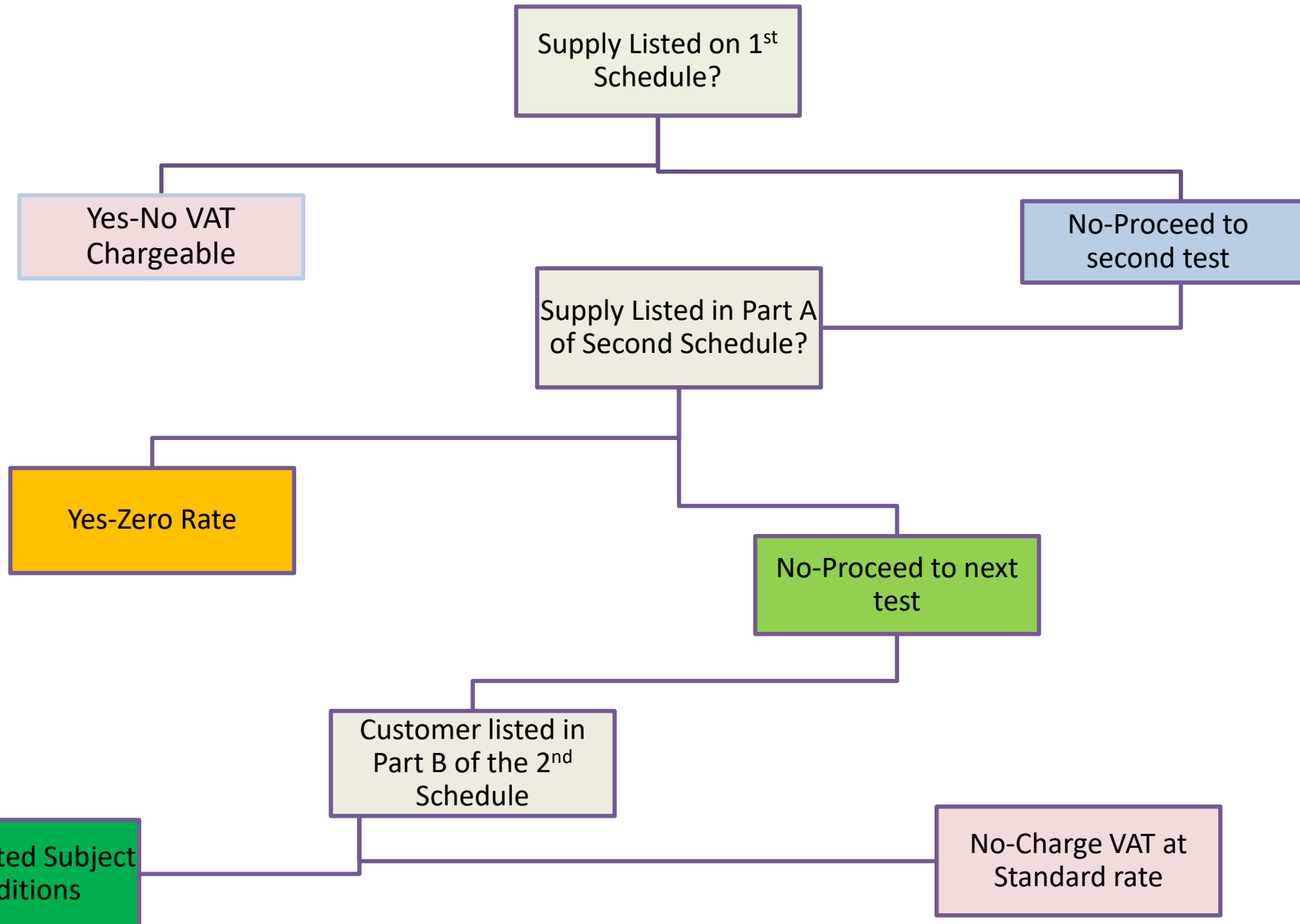
- Introduction
- General VAT provision
- Withholding VAT
- VAT Regulations 2017
- Finance Act 2018 Updates
- VAT planning and Current issues

Introduction



- VAT is a tax on consumption
- **Incidence** and **impact** of VAT is borne by the **final consumer** of goods and services
- Transactions entered into prior to 2 September 2013 are governed under the repealed VAT Act
- Generally input tax qualifies for deduction against output tax
- Special consideration required for business with mixed sales
- Exempt business are not required to register/account for VAT

Determining VAT status



VAT Status -



- Give examples of various incomes reported in a TB you are familiar with giving VAT status of each:

VAT Status -



- Samples issued to customers?

Yes if taxable

- Staff give away

Yes

- Operation of cafeteria

Yes

- Other miscellaneous incomes

Yes if not exempt or zero rated

- Rental income for owned or sub-leased Commercial property

Yes

- Self supply

As discussed

VAT Status -



- Short time parking charges

Yes

- Sale of assets where deduction of input tax was not allowed

No

- Consultancy or advisory fee and management fee

Yes

- Reimbursements

No

- Disbursement

Yes

- Toll manufacturing charges, sale of by-products and factory wastes

Yes

Deduction of Input Tax



- One is allowed to claim input tax, provide:
 - In possession of a tax invoice
 - Input tax is claimed within 6 months
 - Is business related
- Input tax on passenger cars and minibuses as well as spare parts and repairs is restricted
- Restaurant, entertainment and accommodation services –restricted, unless incurred when out for business

Apportionment of Input tax



- Sec. 17(6) of the VAT Act provides for apportionment of input VAT incase of both taxable and exempt supplies
 - Full deduction of input tax in relation to taxable supply
 - Full exclusion of input tax in relation to exempt supplies
 - Apportionment of shared input tax using the following ratio:

$$\text{Deductible VAT} = \frac{\text{Value of taxable supplies}}{\text{Value of Total Supplies}} \times \text{Input tax}$$

- No input tax is deductible where exempt supplies are more than 90% of the total supplies
- Full deduction of shared input tax where exempt sales is less than 10%

Apportionment of Input Tax



Scenario 1								
Sales			Input Tax					
Sales	Amount	%	Total Input Tax	Attributable to taxable	Attributable to Mixed supplies	Attributable to exempt supplies	Deductible input tax for mixed	Total Deductible input tax
Taxable 16%	2,500,000	60%	2,700,000	1,800,000	200,000		120,000	1,920,000
Zero Rated	3,500,000					700,000		
Exempt	4,000,000	40%						
Total	10,000,000		2,700,000	1,800,000	200,000	700,000	120,000	1,920,000
Scenario 2								
Sales			Input Tax					
Sales	Amount	%	Total Input Tax	Attributable to	Attributable to Mixed supplies	Attributable to exempt	Deductible input tax	Total Deductible
Taxable 16%	5,000,000	95%	2,300,000	1,800,000	200,000		-	2,000,000
Zero Rated	4,500,000					300,000		
Exempt	500,000	5%						-
Total	10,000,000		2,300,000	1,800,000	200,000	300,000	-	2,000,000
Scenario 3								
Sales			Input Tax					
Sales	Amount	%	Total Input Tax	Attributable to	Attributable to Mixed supplies	Attributable to exempt	Deductible input tax	Total Deductible
Taxable 16%	500,000	9%	2,100,000	600,000	400,000		-	600,000
Zero Rated	400,000					1,100,000		
Exempt	9,500,000	91%						-
Total	10,400,000		2,100,000	600,000	400,000	1,100,000	-	600,000

Imported Services



- **Imported services** – means a supply of services that:
 - Is made by a person who is not a registered person
 - Supply would have been taxable
 - Taxable person is not entitled to deduction of input tax
- Supply of imported services deemed as self supply
- VAT payable to the extent it relates to provision of exempt supplies
- VAT on imported taxable services is declared/paid online by generating PRN

Withholding VAT



- Withholding VAT system was reintroduced in 2014
- Appointed agents include government ministries, parastatals or any other person appointed by the Commissioner
- VAT withheld at 6% of taxable value of supply
- VAT to be withheld only where supplier has charged VAT
- Due for payment by 20th of the following month
- There are provisions for VAT exemption for business that end up in permanent VAT credit as a result of Withholding VAT

VAT Refund



- Tax payers allowed to claim for refund of VAT in regard to:
 - Making zero-rated supplies;
 - Tax paid in error, or
 - VAT relating to bad debts

(Withholding VAT not refundable) – Act provides for exemption
- Cumulative VAT credit should be reduced with claims lodged with KRA - **effective September 2011**

Changes under Finance Act 2018 - Taxable



- Supply of petroleum products classified as taxable supplies at the rate of 8%.
- Taxable value of cellular services to include excise duty
- Credit or debit note shall be in a prescribed form
- Extension of time to submit a return – Application should be 15 days to the due date
- Commissioner's response to the applicant - 5 days to due date

VAT Regulations - 2017



Some issues on VAT Regulations 2017

- Tax invoice to have the words “TAX INVOICE” at a prominent place
- Requirement of a Tax invoice does not include ETR/ESD
- Tax inclusive pricing of taxable supplies to unregistered persons – the retailer to state in the invoice that the taxable supply is inclusive of Tax.
- VAT Refund restricted to proportion of zero rated supplies
- Taxable supply made without charging VAT to be treated as VAT inclusive

Tax Planning Ideas



- Speedy collection of debts in view of the Tax Point
- Claim for relief of VAT on Bad debts
- Acceleration of input tax
- Deferral of input tax
- Compliance to minimize possible penalties by KRA

Current Issues



Some of the current issues on VAT include:

- Introduction of VAT Auto Assessment (VAA)
- Introduction of VAT on petroleum products previously on transition period
- Massive recruitment of Withholding VAT Agents
- Aggressive audits by KRA
- Plans to amend the law to allow for claiming of Withholding VAT
- Plans to introduce Tax Invoice Management System (TIMS)

Interactive Session

