



Tax Management for Public Benefit Organization – Kisii

Presentation by: CPA Eric Misiani

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VAT compliance



❑ VAT is defined as a tax on supply of vatiable goods and services introduced in Kenya in Jan 1990 to replace sales tax.

Definition of supply

Supply of goods;

(a) a sale, exchange, or other transfer of the right to dispose of the goods as owner; or

(b) the provision of electrical or thermal energy, gas or water;

VAT compliance



- ❑ **Supply of service:** means anything done that is not a supply of goods or money, including:
- (a) the performance of services for another person;
 - (b) the grant, assignment, or surrender of any right;
 - (c) the making available of any facility or advantage;
 - or
 - (d) the toleration of any situation or the refraining from the doing of any act;

Types of supply



- ❑ **Taxable supply:** means a supply, other than an exempt supply, made in Kenya by a person in the course or furtherance of a business carried on by the person, including a supply made in connection with the commencement or termination of a business
- ❑ **Exempt supply:** means supplies specified in the First Schedule which are not subject to tax

Imposition of VAT



Sec. 5(1); a tax, to be known as value added tax, shall be charged in accordance with the provisions of this Act on:

- (a) a taxable supply made by a registered person in Kenya;
- (b) the importation of taxable goods; and
- (c) a supply of imported taxable services.

Place of supply



Services

- ❑ Sec. 8(1); A supply of services is made in Kenya if the place of business of the supplier from which the services are supplied is in Kenya
- ❑ Sec. 8(2) If the place of business of the supplier is not in Kenya, the supply of services shall be deemed to be made in Kenya if the recipient of the supply is not a registered person and

Place of supply



- (a) the services are physically performed in Kenya
- (b) the services are directly related to immovable
- (c) the services are radio or television broadcasting services received at an address in Kenya;
- (d) the services are electronic services delivered to a person in Kenya at the time of supply; or
- (e) the supply is a transfer or assignment of, or grant of a right to use, a copyright, patent, trademark, or similar right in Kenya.

Place of supply



Goods

- ❑ Sec. 11; A supply of goods occurs in Kenya if:
- (a) the goods are delivered or made available in Kenya by the supplier;
 - (b) the supply of the goods involves their installation or assembly at a place in Kenya; and
 - (c) the goods are delivered outside Kenya, the goods were in Kenya when their transportation commenced.

Time of supply of goods and services



- ❑ Sec. 12(1): Subject to subsection (3), the time of supply, including a supply of imported services, shall be the earlier of:
 - (a) the date on which the goods are delivered or services performed;
 - (b) the date a certificate is issued by an architect, surveyor or any other person acting as a consultant;
 - (c) the date on which the invoice for the supply is issued; or
 - (d) the date on which payment for the supply is received, in whole or in part

Taxable value



Sec 13(1); Subject to this Act, the taxable value of a supply, including a supply of imported services, shall be:

- (a) the consideration for the supply; or
- (b) if the supplier and recipient are related, the open market value of the supply

Taxable value



- ❑ Sec 13(3); Subject to subsections (4) to (6), the consideration for a supply, including a supply of imported services, shall be the total of:
- (a) the amount in money paid or payable, directly or indirectly, by any person, for the supply; or
 - (b) the open market value at the time of the supply of an amount in kind paid or payable, directly or indirectly, by any person, for the supply; and
 - (c) any taxes, duties, levies, fees, and charges (other than value added tax) paid or payable on, or by reason of the supply,
- reduced by any discounts or rebates allowed and accounted for at the time of the supply.

Taxable value



- ❑ Sec 13(4); The consideration for a supply shall include the amount charged for:
 - (a) any wrapper, package, box, bottle, or other container in which goods are supplied;
 - (b) any other goods contained in or attached to the wrapper, package, box, bottle or other container referred to in paragraph (a); or
 - (c) any liability that the purchaser has to pay to the vendor by reason of or in respect of the supply in addition to the amount charged as price.

Claiming of Input tax



- ☐ Registered taxpayer entitled to claim input tax
- ☐ Tax invoice
- ☐ Customs entry duly certified by the proper office
- ☐ Sale already declared by the seller

Restricted input VAT claim

- ☐ VAT on passenger cars or mini buses
- ☐ Entertainment, restaurant & accommodation services

Value Added Tax Regulations, 2020 (Electronic Tax Invoice)



- ❑ Commonly known as Electronic Tax Invoice Regulations
- ❑ Amended regulation 9 of VAT Regulations, 2017
- ❑ Daily sales transactions to be relayed to KRA database
- ❑ All tax invoices to display KRA PINs of both seller and purchaser
- ❑ Unique invoice identifier and QR code
- ❑ All persons registered under section 34 of VAT Act, 2013 to comply with these regulations
- ❑ Compliance deadline is 10 September 2021 with a further extension of 6 months (taxpayer to apply for extension)

Comparison with Uganda EFRIS System



Embedded with four modules

- ☐ Registration of taxpayers
- ☐ Stock management
- ☐ Fiscal document management (e-receipts & e-invoices)
- ☐ Reports management

Benefits of EFRIS System

- ☐ Reduced compliance cost
- ☐ Ease of doing business
- ☐ Elimination of fraudulent VAT input claims & refunds

VAT compliance for PBOs



- ☐ Yes, if they engage in taxable supplies
- ☐ Expected to comply with all VAT requirements

Reverse VAT implications

- ☐ PBOs to account for reverse VAT under section 10 of VAT Act, 2013

VAT exemption



- ❑ To apply for and obtain VAT exemption in order to procure goods and services net of VAT

THE END



Q& A