KENYA REVENUE AUTHORITY

ISO 9001-2000 CERTIFIED

# DOMESTIC TAXES DEPARTMENT
# VAT OVERVIEW
## 2009/2010

*Tulipe Ushuru Tujitegemee*

## 1. WHAT IS VAT

VAT is a consumption tax (indirect Tax) charged on:-

- Local sales and importation of goods and services that are taxable.
- Registered traders play the role of agents while consumers are the actual VAT payers.
- VAT Law is contained in the VAT Act Cap 476 of the Laws of Kenya

## 2. REGISTRATION

- Minimum turnover requirement for registration is Kshs. 5 Million per year.
- All taxable goods and taxable services are subject to the turnover limit with effect from 15th June, 2007.
- Any person can also register voluntarily even if the turnover is below the threshold required.
- Persons with a turnover below Kshs.5,000,000 per year and above Kshs.500,000 per year fall under Turnover Tax (TOT). This excludes incorporated companies, management, professional and training fees, rental income and income subject to final withholding tax. **Registration for VAT is now through the KRA Online Services Partal:** http/www.kra.go.ke/portal.

## 3. RATES OF TAX

There are three rates of Tax;

- 16%...The general rate charged on taxable goods and services other than Zero-rated supplies.
- 12%...Charged on electrical energy, diesel oils and residual fuel oils with effect from 31st October, 2008.
- 0%...For Zero-rated supplies i.e Exports, Agricultural Machinery, Farm inputs, Pharmaceutical products etc.

## 4. ACCOUNTING FOR VAT

Accounting for VAT refers to computation, keeping of supporting records and declaration of the tax. VAT is accounted for by;

- Issuing tax invoices and/or Cash sale receipts which must be ETR generated or supported by ETR receipts;
- Keeping of records and evidence thereof;
- Input tax deduction and evidence thereof;

*In[illegible] tax deduction means deducting on the VAT 3 the VAT charged on purchase of stock, raw materials, assets & other expenses as long as they are directly attributable to the production of taxable goods and services. Input tax should be deducted within 12 months from the date of the purchase. Purchase invoice/Cash purchase receipt must be ETR generated or supported by ETR receipts. However the following input tax is prohibited from deduction:-*

- Oils for motor vehicles;
- Passenger vehicles, their parts and maintenance services except in car hire business or where vehicles have been redesigned or modified and purely used for supply of taxable supplies subject to prior approval of the commissioner.
- Loose furniture & fittings except in hotels and restaurants where deduction may take place with prior approval of the Commissioner;
- Domestic electrical/electronic appliances except where deduction is approved by the Commissioner;
- Entertainment services;
- Hotel & restaurant services;
- Accommodation services;
- Supplies to staff housing and other similar establishments for staff welfare;

**NB:** Input tax is however deductible where the aforementioned goods are purchased as stock-in-trade.

## 5. TAX POINT

Tax point means when tax becomes due and payable to the Commissioner. Tax is due and payable when:

- The Supply takes place;
- An invoice is issued;
- Part or full payment for the supply is made;
- A certificate is issued by an architect, surveyor or any person acting as a consultant or in a supervisory capacity, in respect of the service (in case of construction industry).

*Whichever comes earliest of the four.*

The taxpayer may however defer payment of the tax due up to 20th day of the month following that of sale.

## 6. SUBMISSION OF RETURNS

- The due date for submitting returns is on or before 20th of the month following that which the sales where made. Where 20th falls on a weekend, or on a Public Holiday, returns should be submitted on or before the last working day before the 20th. Failure to submit a return, late submission or submission of payment returns without payment of the tax due is liable to a default fine of Kshs.10,000 or 5% of the tax due, whichever is higher. An additional compounded interest of 2% per month is also levied on the tax due.
- **Returns can now be filed online through our KRA Online Services Portal:** http/www.kra.g.ke/portal.
- For payment returns, an e-slip is generated. The e-slip and the tax due is presented to the designated banks for payment.

## 7. OFFENCES AND PENALTIES

Offences committed under the VAT act attract heavy fines and penalties. Such offences include:-

- Failure to issue ETR generated tax invoices;
- Filling false/fraudulent returns;
- Failure to submit or late submission of returns;
- Late and/or non payment of the tax due;
- Failure to install and use ETR machines.

## 8. REFUNDS AND REMISSIONS

A taxpayer may get refund of tax on:

- Inventory on taxable goods and assets held at the time of registration provided that the tax was incurred 12 months prior to registration. The claim is lodged through form VAT5 within six months after the date of registration.
- Tax paid in error;
- Tax on Bad debts;
- Excess input tax arising from dealing in Zero rated supplies;
- Excess credit arising from withholding VAT system.

The Minister of finance may remit (exempt) VAT payment in respect of:-

- Oil exploration;
- Geo-thermal exploration;

- Manufacture of goods in custom bonded factories;
- Official aid funded projects;
- Construction or expansion of private Universities (excluding student hostels & staff housing) with the approval of the minister, on the recommendation of the Minister for education;
- Construction of not less then twenty housing units for low income earners with the approval by the Minister on the recommendation of the Minister responsible for housing;
- Capital goods (excluding motor vehicles) of over one million Kenya Shillings per investments imported or purchased locally for new investments or the expansion of investments.

## 9. WITHHOLDING VAT

Authorized withholding VAT agents are required to withhold VAT on any payment of supplies made to them except on Zero rated supplies, exempt supplies and supplies made by Turnover Tax (TOT) registered taxpayers.

A VAT registered taxpayer should declare and/or pay all the tax charged during the month including the amount subject to Withholding VAT.

To avoid double payment of VAT, the taxpayer is required to deduct the VAT withheld in the Current/subsequent return upon receipt of a VAT Withholding Certificate. Where there is a perpetual credit due to the Withholding VAT system, the taxpayer is entitled to claim the excess input tax from the Commissioner through a form VAT 4.

## 10. DEREGISTRATION

De-registration may take place:-

- If one ceases to trade in taxable goods and/or taxable services,
- If one closes the business,
- If the turnover limit falls below Kshs.5 Million in a year,
- Death of the sole trader,
- Insolvency,
- Leaving the country.

## 11. RIGHTS AND OBLIGATIONS OF A TAXPAYER

A taxpayer is entitled to a wide range of rights e.g. deduction of input tax, confidentiality, minimum interference, fair treatment, information etc. The taxpayer is however obliged to pay the tax charged, issue ETR generated tax invoices, keep records, make returns on due dates and fulfil any other requirement made by the Commissioner. Rights and obligations are contained in the KRA taxpayers charter.

## DISCLAIMER

This information is for guidance only. Any omissions do not absolve the taxpayer from making true and correct returns and statement of accounts.

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For further information,
Please visit the nearest DTD KRA office
Or
Contact Taxpayer Education Programme
On:-
Tel: 020 2812010/2816095/2813068.

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