Africa indirect tax guide

Covering various countries for the 2022/2023 period

Contents

Navigating the global VAT, GST and sales tax landscape

In the past two years we have seen events that have changed the way we work, and more importantly from an indirect tax point of view, the way we purchase and receive goods and services as consumers. As a result, Value Added Tax (VAT) and Goods and Services Tax (GST) is growing in its complexity and application, as the traditional goods and services model is replaced with digital content; virtual consumption and seamless international trade flows.

We are seeing many changes relating to registration requirements, digital reporting requirements, the approach to audits and compliance by tax authorities and the approaches to taxing the digital economy. There are numerous challenges facing businesses, and below we have set out some of the key international indirect tax trends that we and our clients are seeing and facing. Indirect tax has become a genuine commercial conversation now. Whilst there appears to be a trend for corporate income tax rates being lowered, VAT, GST and sales tax rates are generally increasing.

Tax authorities are realising that taxing revenue and actual transactions can raise more revenue than simply focusing in on profit, which can often be subjective and subject to manipulation. Put simply, it's easier to tax the transactions that create the outcomes, rather than the outcomes themselves. When the transaction tax base is expanded to move out of the 'physical' and into the 'virtual', the reach of the indirect tax is extended significantly, and revenue collections grow accordingly. It is no wonder that numerous territories are looking to introduce or re-shape existing VAT/GST systems.

Digitalisation of VAT compliance

The direction of travel for international indirect tax compliance is very clear, it's digital and near real-time. Historically, tax authorities accepted paper invoicing and adopted a 'post-audit' approach, where the taxpayer charged tax on an invoice and this would only be audited after the fact. Often by a tax inspector or auditor physically looking at invoices and records. This would often be based on sampling – a risk-based approach to compliance.

Taxpayers themselves may have only needed to physically submit a periodic summary VAT/GST return, often paper. However, the trends seen across the globe include a shift to mandatory electronic invoicing, and providing real-time information direct to the tax authorities through Standard Audit Files for Tax (SAF-T). Taxpayers across Africa are also faced with new requirements to submit VAT/GST returns electronically. The problem is that these are not standard or harmonised globally, and the format, contents and filing frequency differs between countries – for example, some are submitted periodically while others are only upon request or during an audit.

Tax authorities across the world are then making use of the tax data they receive by carrying out sophisticated data analytics, reviewing the full data set looking for anomalies and errors to form the basis for assessments of tax and penalties. Tax authorities are also comparing data submitted by different taxpayers, for example matching a customer's claim for input tax on a purchase against a supplier's declared output tax on the sale.

This all means that businesses need to make sure they have confidence in the quality and integrity of their data that the tax authorities now have access to. Businesses should not only guarantee the completeness of customer and supplier master data that may drive a tax determination decision, but also run proactive data analytics on historic transactions to highlight any systematic errors. How long is it before VAT and GST are administered every time a credit card or digital payment solution is entered at source and the VAT/GST is automatically populated to a return? Buying a coffee at the local café will never be the same!

The rise of e-commerce and digital services

The development in technology over the last decade has fueled a boom in e-commerce that has drastically changed the way consumers buy goods and services. Most of today's suppliers can sell to consumers without any local presence. This has led to an increasing number of businesses and online marketplaces, with little to no shop fronts or brick-and-mortar presence serving customers based all over the world.

In 2015 the Organisation for Economic Co-operation and Development (OECD) recommended that indirect tax regimes should be updated to cope with the ever-evolving digital economy to retain their purpose as a consumption tax. Following its initial report in 2015, numerous countries re-examined the scope of their indirect tax regime and extended them to subject digital services and Low-Value Goods supplied by non-resident businesses to tax.

In their report, the OECD also made recommendations on how countries should design and implement the rules to effect the taxation of digital services and Low-Value Goods. Whilst most countries extended the scope of their regime based on these recommendations, the detailed rules and mechanisms implemented differ country-to-country (eg definition of 'digital services', registration thresholds, definition of 'Low-Valued Goods' etc). These differences amplify the challenges that businesses and marketplaces face when identifying how to manage and mitigate their overseas registrations and compliance obligations.

We hope you enjoy the Africa edition Indirect Tax Guide coving key indirect tax areas through an easy to follow questions and answer format.

Algeria

What is the principal indirect tax?

VAT is the principal indirect tax.

VAT rates are:

- 9% (reduced rate) It applies to some products, goods, works and services mentioned in Article 23 of the Turnover Tax Code.
- 19% (normal rate) for transactions, services and goods that are not expressly subject to the reduced rate or exempted.
- 0% (Exemption) goods and services destined for some activities including petroleum activities and some cultural and social activities (Articles 08, 09, 10, 11, 12, 13 of the Turnover Tax Code).

Is there a registration limit for the tax?

No.

Does the same registration limit apply to non-established businesses?

N/A.

Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

No, but in accordance to article 83 of the Turnover Tax Code, when a sale or service is made by a taxable person established outside Algeria, the tax is self-assessed and paid by the purchaser or the beneficiary of the provision of services.

Does a non-established business need to appoint a fiscal representative in order to register?

Yes. In accordance with Article 63 of the Turnover Tax Code, any person who does not have an establishment in Algeria and carries out transactions subject to VAT must appoint a fiscal representative domiciled in Algeria who undertakes to complete the formalities to which the taxable persons are subject and to pay this tax in the place of the said person. The representative of the client who does not have an establishment in Algeria fills the tax return and pays the tax and related penalties on his behalf.

How often do returns have to be submitted?

Any person carrying out transactions subject to VAT is required to deliver or send within twentieth (20) days following the calendar month to the tax collector, where jurisdiction of residence or principal establishment is located, a statement indicating the amount of the turnover realized for all of its taxable transactions.

However, the taxpayers not having a centralized accounting management are authorized to deposit a statement of turnover, for each of their units, to the tax collector, according to the deadlines and forms quoted above.

When the filing deadline expires on a statutory holiday, the deadline is extended to the next business day.

If during a month, there has been no transaction giving rise to turnover taxes, the taxpayer must submit to the tax office a statement 'Nil'.

The payment of all the tax due for a taxable person according to the statement submitted, is made at the time of the delivery or sending of the statement.

Taxpayers registered under the Large Companies Tax Direction 'DGE' are required to make their declarations via the website relating to e-declaration and e-payment of taxes (JIBAYATIC).

Are penalties imposed for the late submission of returns/ payment of tax?

Yes. In the case of payments exceeding the required deadlines, penalties for late payment detailed in Article 402 of the Direct Taxes and Related Tax Code apply, taken from the date on which they should have been paid.

Are any other declarations required?

No.

Are penalties imposed in other circumstances?

Yes. When it appears that the annual turnover declared by a taxpayer is insufficient or in the case of deductions wrongly made, the amount of tax evaded is increased by:

- 10% when amount of tax evaded per year is less than or equal to 50,000 DA
- 15% when amount of tax evaded, per year, is greater than 50,000 DA and less than or equal to 200,000 DA
- 25% when amount of tax evaded per year is greater than 200,000 DA.

In the case of fraudulent maneuvers, a fine of 100% is applicable. (Article 116 of the Turnover Tax Code)

Can the VAT incurred by overseas businesses be claimed if they are not registered in Algeria?

No.

What information must a VAT invoice show?

A VAT invoice must show:

- mentions relating to the seller:
    - name of the person or corporate name
    - address, telephone and the e-mail address
    - legal form and nature of the activity
    - share capital
    - trade register number
    - Statistical Identification Number
    - method of payment and date of payment of the invoice
    - date of establishment and serial number of the invoice
    - denomination and quantity of goods sold or services provided
    - unit price excluding taxes of goods sold or services provided
    - total price excluding taxes of the goods sold or services provided
    - nature and rate of taxes/rights/contributions due, depending on the nature of the goods sold/ services provided
    - total price including all taxes, in numbers and letters.

- mentions relating to the buyer:
    - name or corporate name
    - legal form and nature of the activity
    - address, telephone, fax numbers and the e-mail address
    - trade register number
    - Statistical Identification Number.

If the buyer is a non-tax registered person (final consumer), the invoice must mention his name and address.

The invoice shall be stamped and signed by the seller, except when it is established by telematics.

When the transport costs are not invoiced separately or do not constitute an element of the unit price, they must be listed expressly in the margin of the invoice.

The price supplements, and in particular the interest due on forward sales and the expenses constituting an operating expense for the seller, such as the remuneration of intermediaries, commissions, brokerage and bonuses, are expressly listed on the invoice when paid by the seller and invoiced to the buyer.

Are there any current or anticipated Standard Audit File for Tax (SAF-T) or similar electronic/digital filing requirements eg invoice listing data file/real-time VAT reporting?

No, there is not a current or anticipated Standard Audit File for Tax (SAF-T).

Benin

What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in Benin.

Is there a registration limit for the tax?

The Beninese tax legislation does not provide any limit for this tax. However, to be able to invoice VAT, the annual turnover of the company must be over 50.000.000 XOF

Does the same registration limit apply to non-established businesses?

N/A.

Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

Value Added Tax due on sales of goods and services rendered through e-commerce platforms is liquidated, declared, and paid back by the operators of the said platforms on behalf of the suppliers.

The Value Added Tax due on commissions received on sales made in the Republic of Benin through e-commerce platforms is declared and paid back by the operators of the said platforms.

For fulfilling their tax obligations above, the operators of e-commerce platforms are required to apply for registration with the tax authorities.

Without prejudice to the tax penalties provided for, failure to comply with the obligations set out above shall result in the suspension of access to the platform from Beninese territory.

Does a non-established business need to appoint a fiscal representative in order to register?

When the taxable person is not domiciled in the Republic of Benin, he must designate a representative in the Republic of Benin who undertakes to carry out all the necessary formalities and to make all the payments due.

In the absence of a fiscal representative, the recipient of the service must self-assess and pay the VAT on behalf of the third party.

How often do returns have to be submitted?

VAT tax return must be submitted monthly, generally the 10th of each month.

Are penalties imposed for the late submission of returns/ payment of tax?

The late submission of declarations is sanctioned by a late payment penalty of 20% of the amount resulting from the late declaration.

The penalty rises to 40% of the amount of duties resulting from the declaration when the declaration has not been filed two (02) months after the filing date.

Are any other declarations required?

No.

Are penalties imposed in other circumstances?

Yes, in case of tax audits or fraud.

- Inaccuracies or omissions in a declaration or a document indicating elements to be retained for the assessment or liquidation of the tax lead to the application of a 20% penalty to the undeclared rights.
- This penalty is increased to 40%:
- in case of inaccuracy in the documents and written information provided in support of the declaration of actual profit.
- if the taxpayer does not establish his good faith.
- It is increased to 80%:
- in case of fraudulent maneuvers.
- in the event of automatic taxation for failure to file a declaration within eight (8) days of a formal notice.

Can the VAT incurred by overseas businesses be claimed if they are not registered in Benin?

No.

What information must a VAT invoice show?

- The order number and date of the invoice.
- The name or company name, address, unique tax identification number and trade registration number or the registration number in the roll of the professional association of the supplier.
- The name or company name, address, and unique tax identification number of the client.
- The nature and purpose of the transaction.
- The quantity and precise designation per unit of the goods and services sold.
- The unit and global price.
- The price excluding value added tax.

Are there any current or anticipated Standard Audit File for Tax (SAF-T) or similar electronic/digital filing requirements eg invoice listing data file/real-time VAT reporting?

The VAT declaration can be done online on the portal "e-services benin". Every taxable person for VAT purposes is required to file a return in accordance with the prescribed model, indicating:

a) the amounts of his taxable and non-taxable transactions.

b) the gross amount of the tax assessed.

c) the details of the deductions made.

d) the amount of tax due or, if applicable, the tax credit.

However, the tax authorities shall check the declarations submitted by the taxpayer in order to assess their accuracy and sincerity from the premises of the authorities without prior notice.

To this end, it may ask the taxpayer for any information, justification or clarification relating to the declarations made or the documents filed.

Botswana

What are the current rate(s) of indirect tax?

- Standard rate of 14% for most goods and services.
- Zero-rated are charged on the following supplies:
  - export of goods and services
  - petrol, diesel oil and illuminating paraffin
  - sorghum or maize for human consumption that is not cooked as a meal or prepared as a food
  - pesticides and fertilizers
  - basic food items such as brown bread, fresh vegetables and fruits (in natural state) rice (husked, milled, polished, glazed, parboiled or broken), samp (not further prepared/processed); cattle, sheep or goat milk not concentrated, condensed, evaporated, sweetened, flavored or cultured; bread flour (white, brown or whole wheat)
- Tractors used for farming business
  - goods or services for the personal or official use of the President or any dependent of the President's family
  - going concern.
- Supplies of residential accommodation, education services, financial services and prescription drugs are charged as 'exempt supplies'.

Are there any confirmed or anticipated changes to these rates?

On August 2022, the Government instituted measures to address the impact of rising inflation in Botswana. The measures include a reduction in the VAT rate through Statutory Instrument No. 96 of 2022 for a six-month period with effect from 3 August 2022.

For the period, the standard VAT rate on supplies of goods and services is reduced from 14% to 12%. The VAT rate on supplies of cooking oil and liquified petroleum gas is reduced from 14% to 0% from 3rd August 2022 and later charge to 12% with effect from 3rd February 2023. The period of reduction of the VAT standard rate was further extended to 31 March 2023.

What is the principal indirect tax?

In Botswana, Value Added Tax (VAT) is the principal indirect tax and it is charged and collected based on the invoices generated and issued by the business.

Is there a registration limit for the tax?

Yes. The registration limit is based on the taxable annual turnover. Once the threshold is met, a person is required to register. The threshold will be P1,000000 per annum. A person can also register voluntarily if their vatable turnover is above P500,000.

Does the same registration limit apply to non-established businesses?

A non-established business need not register for VAT.

Does a non-established person need to appoint a fiscal representative in order to register?

No. A non-established person is a person or business not situated in Botswana hence there is no need to appoint a representative.

How often do returns have to be submitted?

A registered person is required to submit VAT returns on a monthly or bi-monthly basis based on the annual turnover of the business.

Are penalties imposed for the late submission of returns/payment of tax?

Yes. There are penalties for late submission of VAT returns and interest for the late payment of VAT dues.

Are any other declarations required?

Yes. For goods or services entered in Botswana an 'import declaration' needs to be provided to the Commissioner General at the time of import.

Are penalties imposed in other circumstances?

Yes. Penalties can be imposed on false or misleading information or statements.

Can the tax incurred by overseas businesses be claimed if they are not registered in your country?

No. Tax can only be claimed by business registered in Botswana.

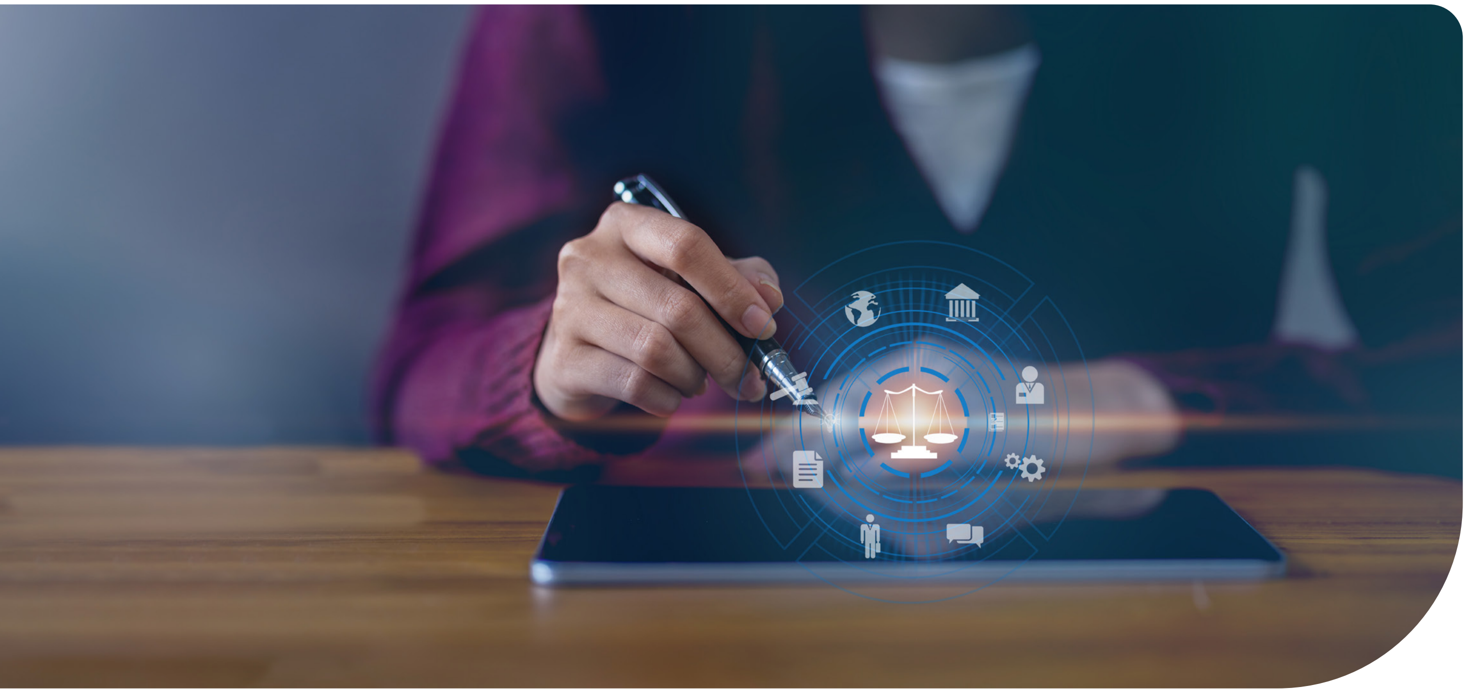
Deduction of VAT

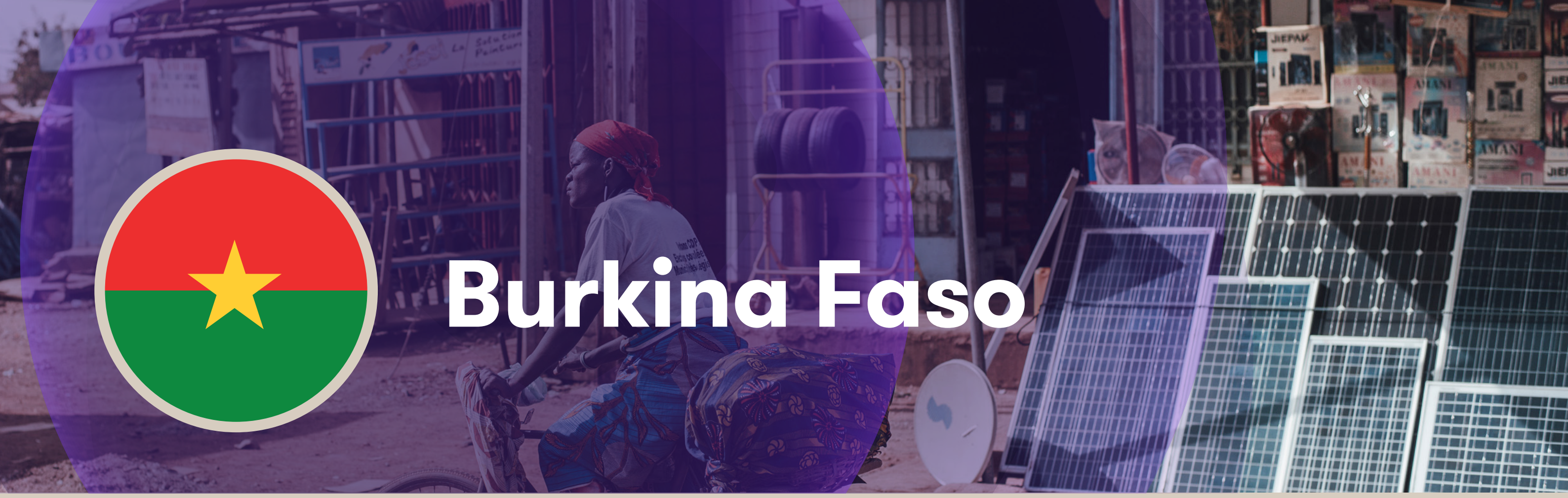
Supply or import of good or services for entertainment purposes or provision of entertainment are not allowed for VAT deduction.

Supply or import of passenger vehicle with seating capacity of nine or few including double cab vehicle.

Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

There is no specific provision to tax non-resident supplying electronic/digital services to private consumers. However, the recipient of import services shall be required to declare with the revenue authority import services received and pay the VAT on the value of import.





Burkina Faso

What is the principal indirect tax?

The principal indirect tax is VAT.

Is there a registration limit for the tax?

No, there is no registration limit. However, to be able to invoice VAT, the annual turnover of the company must be over 50.000.000 XOF.

Does the same registration limit apply to non-established businesses?

N/A.

Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

No.

Does a non-established business need to appoint a fiscal representative in order to register?

When a taxpayer is not established in Burkina Faso, he must have a representative domiciled in Burkina Faso accredited with a tax department who undertakes to complete the formalities incumbent on this taxpayer and to pay the tax in his place. Failing this, the tax and, where applicable, the penalties, are required of the recipient of the taxable transaction.

How often do returns have to be submitted?

VAT tax return must be submitted monthly, generally the 15th of each month.

Are penalties imposed for the late submission of returns/ payment of tax?

The late declaration is sanctioned by a penalty of 25% and increased by 1% per month or fraction of a month of late fees due.

Are any other declarations required?

No.

Are penalties imposed in other circumstances?

No.

Can the VAT incurred by overseas businesses be claimed if they are not registered in Burkina Faso?

No.

What information must a VAT invoice show?

The invoice must mention clearly:

1) the invoice number of an uninterrupted series;
2) the date on which the invoice was drawn up;
3) the precise purpose of the transaction;
4) the amount of the invoice:
   - for VAT taxable persons: the amount excluding VAT; the rate and amount of the tax due or, where applicable, the statement “exempt”; the total amount including all taxes due by the customer;
   - for those not subject to VAT: the total amount due by the customer;
5) the precise identification of the party responsible for issuing the invoice:
   - the surname and given name(s) in the case of a natural person, legal form and legal name in the case of a legal person;
   - Geographic, cadastral, PO box and telephone addresses;
   - the registration number in the Trade and Personal Property Credit Register, the Register of Civil Companies, Professions and Trades or the Register of Craft Trades;
   - bank account(s) references;
   - Unique Financial Identifier Number ;
   - the tax system and the tax service on which the person liable for payment depends;

6) customer identification:

- the surnames and given names in the case of a natural person, legal form and legal name in the case of a legal person;
- Geographic addresses, PO Box and phone number;
- where applicable, the registration number in the Trade and Personal Property Credit Register, the Register of Civil Companies, Professions and Trades or the Register of Craft Trades;
- Unique Financial Identifier Number for sales to legal persons or merchants.

Are there any current or anticipated Standard Audit File for Tax (SAF-T) or similar electronic/digital filing requirements eg invoice listing data file/real-time VAT reporting?

Yes returns are made online via the eSINTAX portal.

Congo DRC

What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in DRC.

Is there a registration limit for the tax?

No.

Does the same registration limit apply to non-established businesses?

N/A.

Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

No, there is no specific legislation for these operations.

Does a non-established business need to appoint a fiscal representative in order to register?

Yes, when a taxable person for value added tax is established or domiciled outside DRC, he is required to appoint a representative residing on the national territory. The appointment of the representative shall be made by a legalized or notarized letter addressed to the tax authorities.

How often do returns have to be submitted?

Most businesses are required to submit VAT returns monthly, on the 15th.

Are penalties imposed for the late submission of returns/payment of tax?

In case of late submission of returns/payment of tax, assessment penalties of 25% will be applied. A collection penalty of 2% per month of delay may also applies.

Are any other declarations required?

No.

Are penalties imposed in other circumstances?

Yes, penalties can be imposed in other circumstances. For instance, when the defaulting taxpayer regularizes his situation before receiving a formal notice to declare and within the time limit, a surcharge of 25 % will be applied to the amount of the declared tax.

- In the event of an adjustment, a surcharge equal to 20% of the amount of tax of the amount of tax evaded. This increase is raised to 40% of the same amount in case of recidivism.
- In the event of automatic taxation, the increase is 50% of the amount of the reconstituted tax. This increase is raised to 100% of the same amount in case of recidivism.
- In the event of an adjustment or automatic assessment, interest is charged at a rate of 2% per month of delay. Interest of 2% per month of delay, capped at 50% of the tax evaded or automatically reconstituted.

Can the VAT incurred by overseas businesses be claimed if they are not registered in DRC?

No.

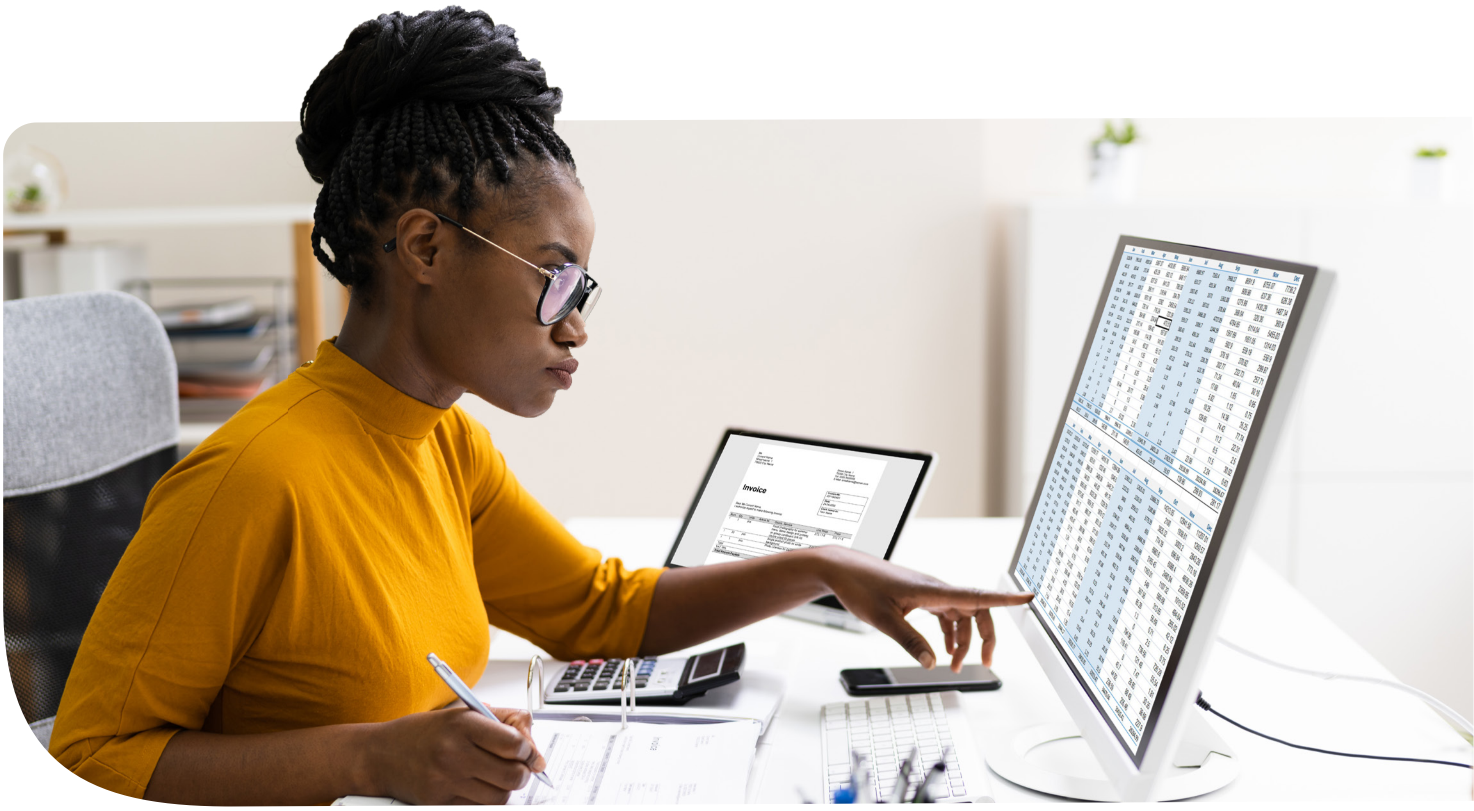
What information must a VAT invoice show?

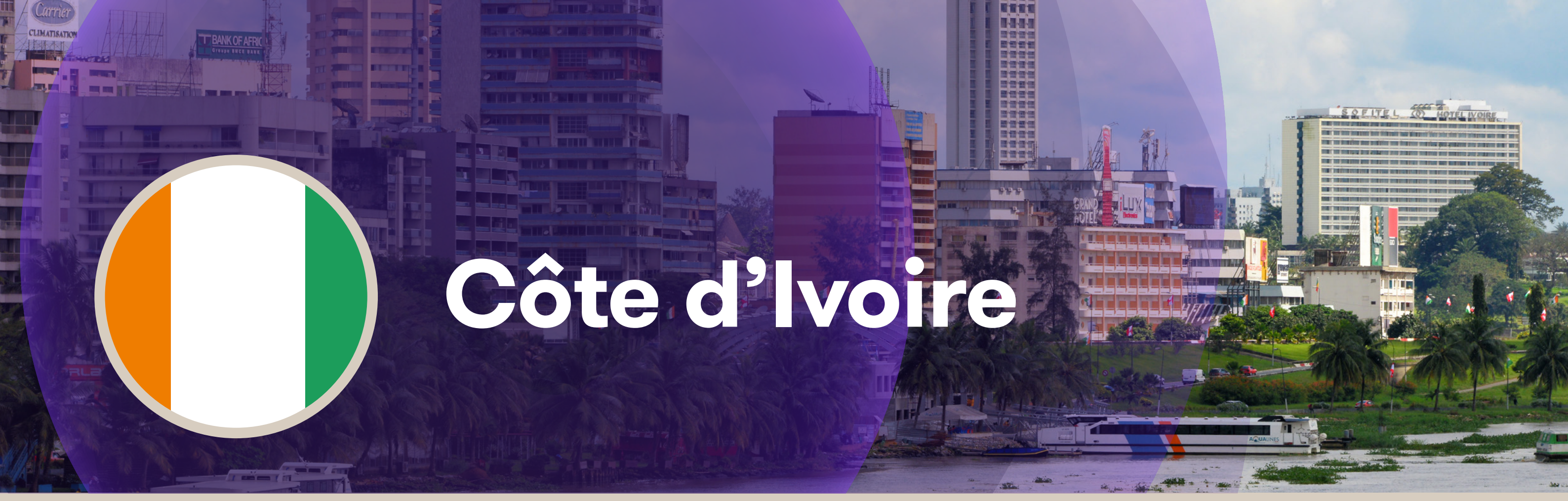
The invoice or the document must contain the following information:

- the name, surname, first name or company name, the exact address, the
- tax number of the seller or service provider.
- the name, surname, first name or company name, the exact address of the
- customer and his tax number; the date and serial number of the invoice.
    - the designation and the quantity of goods or services;
    - the unit price and the total price of each type of goods sold and/or
- goods sold and/or exported, services rendered or real estate works, making
- services rendered or real estate work, distinguishing, where applicable, between the amounts
- taxable amounts and those relating to duly justified non-taxable operations
- justified.
- the prices, exclusive of value-added tax, of the goods delivered or services
- rendered ;
    - the rate of value added tax applied and the corresponding amount of
- Tax rate applied and the corresponding amount of tax.
    - the non-taxable amount of the transaction.
    - the amount of the transactions including all taxes.

Are there any current or anticipated Standard Audit File for Tax (SAF-T) or similar electronic/digital filing requirements eg invoice listing data file/real-time VAT reporting?

To date, in the DRC, the remote declaration system that allows taxpayers to upload their declarations to the site that the Administration has made available has just been implemented, but as far as online control is concerned, it is not yet practical in DRC.





Côte d'Ivoire

What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in Côte d'Ivoire and in other French-speaking African countries. The supply of goods and services provided by a taxable person acting as such, are subject to VAT except for wages and agricultural activities. VAT is a tax on consumption which is applied during the production and distribution process to most goods and services. It is also applied to goods, certain services entering the country and also on commissions received by operator of online sale platforms or digital service. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting, and paying it to the Ivorian tax authorities at each stage of the process rests with the business performing the supplies or selling the goods.

An established business will charge VAT (output VAT) on its sales of goods or services and incur VAT (input VAT) on its purchases. The difference between the output VAT and the input VAT in each declarative period will be the amount of VAT payable by the established business to the Ivorian tax authorities. Where the input tax exceeds the output tax, a VAT refund can be claimed according to procedures defined by the tax authorities

Is there a registration limit for the tax?

The tax legislation does not provide any limit for this tax. However, to be able to invoice VAT, the annual turnover of the company must be over 100.000.000 XOF.

Does the same registration limit apply to non-established businesses?

N/A.

Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

No, there is no specific legislation. However, since 2022, non-resident suppliers of electronically/digital services to private consumers resident in Cote d'Ivoire are subject to VAT. The VAT is due, on online services purchased via the non-resident suppliers, but also on commissions paid or collected by these platforms.

Does a non-established business need to appoint a fiscal representative in order to register?

When a person who does not have a permanent establishment or reside in Côte d'Ivoire but carries out or makes taxable transactions, the tax is paid by the person intervening in any capacity whatsoever for the non-resident, or, failing that, by the purchaser or the beneficiary of the provision of services who are jointly and severally liable for his payment.

The principle is that a non-established business has no obligation to designate a fiscal representative. If there is no fiscal representative, the tax is paid by the client or the beneficiary of the service.

How often do returns have to be submitted?

VAT tax return must be submitted monthly, generally the 15th of each month if the amount of the tax to paid exceed 25,000 FCFA (38,11 €).

Big companies and medium companies must submit their tax return on the following dates:

- no later than the 10th of the following month, for industrial enterprises, oil and mining companies
- no later than 15 months for trade companies
- no later than the 20th of the following month for service providers.

Where the monthly tax is less than 25,000 francs CFA (€38,11), the tax return may be submitted on a quarterly basis.

Are penalties imposed for the late submission of returns/ payment of tax?

A default surcharge penalty may be imposed by the tax authority if VAT returns are not submitted on time, or the related tax is not paid by the due date. For the late submission or payment, a late interest rate of 10% on the unpaid VAT. Each month or fraction of a month of additional delay gives rise to the payment of an additional interest of 1%.

When no duty is due, the delay in filing the declarations is sanctioned by a fine of 20,000 Francs plus 10,000 Francs per month of additional delay. The fine is increased to 1,000,000 Francs plus 100,000 Francs for companies under the authority of the Department of Large Companies; 500,000 Francs plus 50,000 Francs per month of delay for companies under the authority of the Department of Medium-sized Companies; 100,000 Francs plus 10,000 Francs per additional month of delay for companies under the authority of the Regional Departments.
For operators of online sales platforms or digital services not established in Ivory Coast, in addition to the sanctions mentioned above, access to the platform from Ivory Coast will be suspended.

In the event of insufficient declaration, the amount of the rights evaded is liable in addition to the interest for late payment, an increase of:

- 30% if the amount of the rights corresponding to the insufficiencies, inaccuracies or omissions does not exceed one quarter of the rights actually due
- 60% if this amount is more than a quarter of the rights actually due
- 150% in case of fraudulent practices.

Are any other declarations required?

Yes, it must be attached to the VAT return, the statement of input VAT deductible (VAT invoiced by suppliers when buying goods or services) imputed by the taxpayer on its output VAT. If the statement is not produced, contains incorrect information or incomplete mentions resulting in penalties and the reinstatement of the deductions made.
Are penalties imposed in other circumstances?
Yes, in case of tax audits or fraud.

Can the VAT incurred by overseas businesses be claimed if they are not registered in Côte d'Ivoire?

No.

What information must a VAT invoice show?

- The precise identification of the person who issues the invoice, including his/her company name, address, trade registration number, bank references, taxpayer account number assigned by the Tax Authorities, his/her tax regime and the tax department of the Tax Authorities which it depends on for its professional tax obligations.
- The customer's name, address and taxpayer account number assigned by the administration.
- The date of the invoice.
- The price excluding VAT of goods delivered or services rendered.
- The rate of VAT.
- The amount of VAT payable.
- If it's a company it must have: the legal form of the company, its share capital, the method of administration and management of the company.

Are there any current or anticipated Standard Audit File for Tax (SAF-T) or similar electronic/digital filing requirements eg invoice listing data file/real-time VAT reporting?

The VAT declaration is completely digitalized and is made online via the portal "e-impôts". An online control of the tax deduction duty has been instituted since 2022.

To be able to deduct, the taxpayer must ensure that:

- The VAT declaration has been exclusively subscribed on the "e-impots" portal
- Suppliers are registered in the file of the tax administration.
- Suppliers are subject to VAT.
- Existence of the supplier's VAT declarations for the last twelve (12) months

Ethiopia

What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in Ethiopia. It is a tax on consumption which is applied during the production and distribution process to most goods and services. It is also applied to goods and services, entering the country. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority at each stage of the process rests with the business making the supply ie the sale.

A business registered for the tax will charge VAT (output tax) on its sales, and incur VAT (input tax) on its purchases (including any VAT paid at importation). The difference between the output tax and the deductible input tax in each accounting period will be the amount of VAT payable by the business to the tax authority. Where the input tax exceeds the output tax, a refund can be claimed.
A transaction is within the scope of Ethiopia VAT if the following conditions are met:

- it is a supply or import of goods or services
- it takes place in the Ethiopia
- it is made by a taxable person. For these purposes, a taxable person is a person or entity who is registered for VAT in Ethiopia, or has an obligation to be registered
- it is made in the course or furtherance of any business carried on by that person or entity.

There are two rates of VAT that are applied to goods and services in Ethiopia; the standard rate, and the zero rate. In addition, some goods and services are exempted from the tax. Businesses that make exempt supplies are unable to claim all of the input tax that they incur, so the VAT paid to suppliers will be a 'real' cost. Most goods imported into Ethiopia are subject to VAT. The tax will have to be paid by the importer at the time of importation. Where the importation is for business purposes and the importer is registered for VAT, it is possible to reclaim the tax.
It is also important to note the interaction between VAT and Customs duty. Customs duty is levied in Ethiopia at the place where goods are imported into the community and VAT is charged on the value of the importation, including any custom duty.

Is there a registration limit for the tax?

A 'person' who either makes or intends to make taxable supplies of goods or services in the course or furtherance of a business must register for VAT if the value of its taxable supplies in the Ethiopia exceeds the annual registration limit of ETB 1,000,000.00 or is expected to exceed the limit in the near future. A business can register on a voluntary basis even if the registration limit has not been exceeded. For these purposes, a 'person' includes any legal entity. Therefore, once a person is registered for VAT, all of his business activities will be covered by the registration – even if the nature of some of those activities are very different.

A penalty may be imposed by the tax authority if a business fails to register at the correct time.

Does the same registration limit apply to non-established businesses?

No, there is no registration requirement to non-established businesses in Ethiopia.

Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

There is no specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in Ethiopia and practically there is no tax on supplies of electronically supplied/digital services to private consumers resident.

Does a non-established business need to appoint a fiscal representative in order to register?

No. The non-established business are not required to appoint a fiscal representative in order to register for VAT as there is no registration requirement for non-established businesses.

How often do returns have to be submitted?

VAT returns should be filled and cover an accounting period.

Accounting period shall mean:

a) In the case of taxpayers whose turnover in any 12 months is ETB 70,000,000 and over, every month;

b) In the case of taxpayers whose turnover in any 12 months is less than ETB 70,000,000 every three months, ending on the last day of a calendar month.

All VAT returns have to be submitted within 30 days of the end of the relevant accounting period, together with any tax due.

Are penalties imposed for the late submission of returns/ payment of tax?

A default surcharge penalty may be imposed by the tax authority if VAT returns are not submitted on time, or the related tax is not paid by the due date.

Are any other declarations required?

There is no other declaration required in Ethiopia.

Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.

Penalties and interest can be applied for errors and omissions made on tax returns, or where the tax is paid late. Penalties can also be applied where the business has failed to maintain adequate records and provide information. A penalty is also imposed for failure to use cash register machine or VAT sales invoice for sells transactions. Criminal proceedings may be brought in the case of more serious issues.

Can the VAT incurred by overseas businesses be claimed if they are not registered in Ethiopia?

No, it is not possible to reclaim a VAT incurred by unregistered business.

What information must a VAT invoice show?

- A VAT invoice must show:
- an invoice number which is sequential
- the seller's name and address
- the tax identification number of the seller's and customer's
- the seller's VAT registration number and date of registration
- the issue date of the invoice
- the customer's name and address
- a description sufficient to identify the goods or services supplied to the customer
- the amount of taxable transaction
- the total amount of VAT charged expressed in ETB.

For each different type of item listed on the invoice, the following must be shown:

- the unit price or rate, excluding VAT
- the quantity of goods or the extent of the services
- the rate of VAT that applies to what's being sold
- the total amount payable, excluding VAT.

Where a VAT invoice includes zero-rated or exempt goods or services, it must:

- show clearly that there is no VAT payable on those goods or services
- show the total of those values separately.
- VAT invoices should be issued using a cash register machine or manual sells invoice.

Are there any current or anticipated Standard Audit File for Tax (SAF-T) or similar electronic/digital filing requirements eg invoice listing data file/real-time VAT reporting?

No. There is no current or anticipated Standard Audit File for Tax (SAF-T) or similar electronic/digital filing requirements.

Gabon

What is the principal indirect tax?

Value Added Tax (VAT) and Special Solidarity Contribution (CSS) are the main type of indirect taxation in Gabon.

Value Added Tax (VAT)

Value Added Tax (VAT) is a cumulative tax levied on:

- sale of and provision of services rendered or used in Gabon, or through foreign or local e-commerce platforms;
- ommissions received by operators of foreign or local e-commerce platforms.

It is a tax on consumption which is applied during the production and distribution process to most goods and services. It is also applied to goods, and certain services, entering the country. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority at each stage of the process rests with the business making the supply ie the sale.

A business registered for the tax will charge VAT (output tax) on its sales, and incur VAT (input tax) on its purchases (including any VAT paid at importation). The difference between the output tax and the deductible input tax in each accounting period will be the amount of VAT payable by the business to the tax authority. When the input tax exceeds the output tax, a refund can be claimed under certain conditions.

There are four rates of VAT that are applied to goods and services in Gabon: the standard rate (18%), the reduced rates (10% and 5%), and the zero rate. In addition, some goods and services are exempted from VAT.

Taxable persons who do not exclusively carry out transactions giving entitlement to VAT recovery are allowed to deduct the VAT which has encumbered the goods and services they acquire by application of a deduction pro rata.

Most goods imported into Gabon are subject to VAT. The tax will have to be paid by the importer at the time of importation. Where the importation is for business purposes and the importer is registered for VAT, it may be possible to reclaim the tax (subject to certain rules). Note that specific regimes for oil and gas companies, mining companies, socio-economic building companies, diplomatic missions, consular posts and representations of international organizations settled in Gabon exist.

Special Solidarity Contribution (CSS)

Special Solidarity Contribution (CSS) is a tax levied on the supply of goods or services rendered or used in Gabon based on similar principles as VAT.

CSS is calculated based on the amount invoiced, out of taxes. The applicable rate is 1%.

Note that some goods and services are exempted from CSS for oil and gas companies and mining companies.

Is there a registration limit for the tax?

Taxable persons to Value Added Tax (VAT) are individuals or legal entities carrying out, usually or occasionally, in an independent manner, taxable operations in the scope of an economic activity and for an onerous consideration.

These persons, whatever their legal status and their position with regard to other taxes (subject to Corporate Income Tax (CIT) or Personal Income Tax (PIT)), the form or the nature of their operations, being registered or not, are liable to VAT since their turnover out of taxes reach XAF 60 million per financial year or XAF 500 million per financial year for lumbering activities.

A specific application for VAT registration needs to be introduced in order to obtain a VAT tax registration number. New taxpayers likely to achieve a turnover equivalent to this threshold for the first year of their operations are notably allowed to apply for VAT registration.

Taxable persons to **Special Solidarity Contribution (CSS)** are individuals or legal entities carrying out, usually or occasionally, taxable operations in the scope of an economic activity and for an onerous consideration, with a yearly turnover out of taxes which is equal, at least, to XAF 30 million.

No specific CSS application (apart regular tax registration of the company) is needed for CSS.

Does the same registration limit apply to non-established businesses?

Physical and legal entities with no permanent establishment in Gabon, but which engage in taxable transactions there, are subject to VAT in the same manner as residents, through their clients or a fiscal representative.

Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

No.

Does a non-established business need to appoint a fiscal representative in order to register?

Businesses established outside Gabon, with no permanent establishment in Gabon, must, in principle, appoint a Gabonese tax representative which is jointly and severally liable for the VAT and CSS obligations, including their payment. Generally, the Gabonese client is chosen as the fiscal representative.

How often do returns have to be submitted?

VAT and CSS returns normally cover the operations of the previous month, ending on the last day of a calendar month.

All VAT and CSS returns have to be submitted within 20 days of the end of the relevant period, together with any tax due. Even if no business has been carried out during the month, 'NIL' VAT returns needs to be filled.

Are penalties imposed for the late submission of returns/ payment of tax?

A default surcharge penalty may be imposed by the tax authority if returns are not submitted on time or the related tax is not paid by the due date.

Taxpayers that file their returns late are subject to a 5% penalty before receiving a notice, and to a 10% penalty within seven days following a notice from the tax authorities. Those who fail to file their tax returns within seven days following the notice are subject to automatic (estimated) taxation and a 100% penalty (150% for second and future offenses).

Lack of filing of a VAT return giving rise to estimated taxation results in the loss of the right to deduct VAT and of the VAT credit related to the previous period.

If the declaration does not show any VAT due, the penalty for lack or late filling is XAF 100,000 brought to XAF 200,000 by month of delay as from a notice has been issued by the tax authorities, capped at XAF 2,000,000.

Late payments are subject to a 10% penalty for the first month and a 3% penalty thereafter.

Are any other declarations required?

VAT and CSS declared and paid by Gabonese companies on behalf of foreign service suppliers need to be filled in the same timeframe as normal VAT and CSS returns.

Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.

Penalties and interest can be applied for errors and omissions on tax returns, or where inaccuracies affect the tax base.

Penalties can also be applied in case of bad faith (100%) and case of fraudulent practices (150%).

Previously missed deductions may be made good and taken into account until the twelfth month following the month in which the entitlement arose.

Can the VAT incurred by overseas businesses be claimed if they are not registered in Gabon?

No. A company must be registered for VAT before it is entitled to any input tax credits.

What information must a VAT invoice show?

A VAT invoice must show:

- seller's name and corporate details (corporate name, form of the company, amount of the share capital), address, Trade Office Register registration number and VAT identification number
- customer's name, address and, where applicable, tax or VAT identification number
- designation of the good or service invoiced
- applicable VAT rate
- price excluding VAT and corresponding tax expressed in XAF.

For partially taxable entities, transactions subject to Value Added Tax must be distinguished from those not subject to it. For each transaction giving rise to an invoice, the non-taxable amount, the taxable amount of the operation, the applicable VAT rate and the amount of the VAT must be indicated.

Are there any current or anticipated Standard Audit File for Tax (SAF-T) or similar electronic/digital filing requirements eg invoice listing data file/real-time VAT reporting?

No.

Guinea

What is the principal indirect tax?

The Value Added Tax (VAT) is the main indirect tax in Guinea.

Is there a registration limit for the tax?

The limit to be subject VAT in Guinea is GNF 1,000,000,000.

Does the same registration limit apply to non-established businesses?

For non-established companies there is no limit mentioned by law.

Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

No, there is no specific legislation. The different provisions are provided by the common tax law.

Does a non-established business need to appoint a fiscal representative in order to register?

The Guinean Tax Authority designates the local beneficiary of the service as the representative of the foreign company.

How often do returns have to be submitted?

The VAT return must be made no later than the 15th of each month, relating to VAT of previous month.

Are penalties imposed for the late submission of returns/ payment of tax?

Late payment of VAT gives rise to late interest which is set at 2% by month late and an increase of 10% of the amounts of the duties charged to the taxpayer with a minimum of GNF100,000.

Are any other declarations required?

Telephone companies, and Internet access providers, etc., which are registered for VAT in Guinea must provide, non-taxable turnover as an annex to their declaration.

Are penalties imposed in other circumstances?

All companies that do not respect the VAT rules are exposed to sanctions such as:

- where the declaration reveals incomplete and insufficient information, amount of duties charged to the taxpayer is subject to the interest of late payment and an increase penalties
- violation of the VAT rules can give rise to legal proceedings.

Can the VAT incurred by overseas businesses be claimed if they are not registered in Guinea?

No.

What information must a VAT invoice show?

An invoice must have:

- the exact name and address with mention of its tax identification number, of both supplier and customer.
- the amount of duty free transactions
- the amount of VAT and the rate applied
- the amount of all taxes included.
- the date and number of the invoice
- Informations related to the regime and rate of VAT applied

Are there any current or anticipated Standard Audit File for Tax (SAF-T) or similar electronic/digital filing requirements eg invoice listing data file/real-time VAT reporting?

No.

Kenya

What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in Kenya. Value added tax (VAT) shall apply to:

- the taxable supplies of goods and services provided by a registered person in Kenya
- the importation of taxable good
- a supply of imported taxable services.

A VAT taxable event is to be considered at the time and place of supply for goods or service.

VAT in Kenya is taxed at a standard rate of 16%. The Act provides for zero rating of:

- exportation of taxable goods
- supply of taxable good under services to an export processing zone (EPZ)
- ship stores supplied to international sea or air carrier on international voyage
- supply of coffee and tea for export to auction centers
- transportation of passengers by air carriers on international flight
- transfer of natural water by National or County Government
- supply of taxable goods and services to public bodies, privileged persons and institutions.

The VAT Act also exempts a number of goods from VAT (list of items is provided in The Act).

Exempt Services include:

- financial services (operation of accounts, issuing card, ATM ..)
- insurance and reinsurance services excluding actuarial services, services of assessors and loss adjusters and management of insurance consultancy services
- educational services
- medical, veterinary, dental and nursing services
- agriculture, animal husbandry and horticultural services;
- burial and cremation services
- transportation of passengers excluding international air transport and hired or chattered services
- sale, lease, hire or letting of land or residential
- exportation of vatable services

Place of supply

A supply of service is made in Kenya if the place of business of the supplier is in Kenya. A supply is also considered to be made in Kenya if the recipient of the supply is not a registered person but the services are physically performed in Kenya or the supply relates to immovable property in Kenya or when the supply is the transfer of: right to use, a copyright, patent or trademark.

Time of supply

The time of supply for the purpose of VAT is the earlier of the date on which the supply is made, the date upon which a certificate is issued by a consultant, the date an invoice is issued or when payment for the supply either in part or whole is received.

Treatment of imported services (Reverse Charge VAT)

This is no longer applicable when a registered person receives services from a non-resident supplier.
A non-registered person should account for VAT on these imported services.

Is there a registration limit for the tax?

Yes, the VAT regime in Kenya provides that any person making or expecting to make annual taxable supplies of KShs 5,000,000 or more is required to register for VAT. Penalties and interest on VAT may be incurred in the event that a person making the minimum taxable sales fails to register for VAT.

Does the same registration limit apply to non-established businesses?

Yes, a non-resident person making taxable sales in Kenya amounting to the set minimum is expected to appoint, in writing, an agent who will register and account for VAT on their behalf.

When a non-established person making the minimum taxable supplies fails to appoint a tax representative within the first month after making the supplies, then the commissioner will appoint a tax representative on their behalf.

How often do returns have to be submitted?

All taxpayers are required to file a VAT return electronically every month. The due date for VAT return filing is 20th of the following month.

Are penalties imposed for the late submission of returns/ payment of tax?

Yes, a fixed penalty of KShs 10,000 is applicable on each instance of late filing of the VAT return.

Late payment of VAT attracts 1% interest compounded monthly.

Are any other declarations required?

Yes, upon submitting a VAT return, a person is required to include details of all the supplies made, standard VAT rate supplies, exempt supplies and zero rated supplies during that VAT period.

The person also includes details of the standard rate, exempt and zero rated purchases made during the same period.

Are penalties imposed in other circumstances?

Yes, a fine not exceeding KShs 1,000,000 or imprisonment for a term not exceeding 3 years or both is applicable when one is convicted of the offences below:

- falsification of VAT documents
- failure to do the requirements under the Act
- interfering with other persons or processes so as to contravene the VAT Act
- breach of one's duties as specified in the VAT Act
- failure to prevent or report offences committed under the VAT Act to the relevant auyhorities.

Can the VAT incurred by overseas businesses be claimed if they are not registered in Kenya?

No. An overseas business can only claim VAT in Kenya if they have a tax representative who registered and accounts for VAT on their behalf.

Refund of taxes

The legislation has given more emphasis on refund of VAT. A registered person will only be entitled to a refund arising from zero rated supplies for persons making both taxable at the general rate and zero rate.

Refund of taxes paid erroneously to the KRA will be applied in accordance with the Tax Procedures Act where the commissioner shall apply the overpayment of any other taxes under the tax law in payment of a tax owing to any other tax law. Any remainder shall then be refunded to the tax payer.

On the matter of refund of output tax paid on bad debts, the legislation has given emphasis that, such refunds shall be allowed, however if the the supplier had issued a credit note to the recipient of the supply, such refunds shall not be allowed.

The legislation also states that, any persons who had been refunded output tax paid on bad debts and recovers the amounts hall issue a debit note to the recipient of the taxable supply with a debit note specifying the amount of tax refunded to the Commissioner.

We list below what the tax invoice furnished by the supplier to a purchaser must contain:

- the words 'TAX INVOICE' in a prominent place
- the name, address, and PIN of the supplier
- the name, address, and PIN, if any, of the recipient
- the individualized serial number of the tax invoice
- the date on which the tax invoice is issued and the date on which the supply was made, if different from the date of issue of the tax invoice
- the description of the goods supplied including quantity or volume or services provided
- the description of the goods supplied including quantity or volume or services provided
- the details of any discount allowed at the time of supply ix the consideration for the supply and the amount of tax charged.

For the suppliers who provide electronically generated receipts, this must contain:

- the name, address, and PIN of the supplier
- the serial number of the receipt
- the date and time of issue of the receipt
- a brief description of the goods supplied (including quantity or volume)
- the tax payable
- the total amount payable for the supply inclusive of tax.

We list below what a tax invoice for supplies of imported services must contain:

- the name, address, and PIN of the recipient
- the name and address of the supplier
- the individualised serial number of the tax invoice and the date on which the tax invoice is prepared
- a description of the services supplied and the date of the supply
- the extent to which the supply has been applied other than to make taxable supplies
- the consideration for the supply and the amount of tax charged.

The VAT Act provides for issuance of credit notes and debit notes to reduce value of credit notes and increase value of supply. We discuss below details that should be contained in a credit note raised to a purchaser:
A credit note shall contain:

- the words 'CREDIT NOTE' in a prominent place
- the name, address, and PIN of the supplier
- the name, address, and PIN of the recipient
- the individualised serial number of the credit note and the date on which the credit note is issued of tax that relates to the difference
- a brief description of the circumstances giving rise to the issuing of the credit note, including the invoice details to which the credit note relates
- the consideration shown on the tax invoice for the supply vii the correct amount of the consideration, the difference between those two amounts, and the amount.

A debit note shall contain:

- the words 'DEBIT NOTE' in a prominent place
- the name, address, and PIN of the supplier
- the name, address, and PIN of the recipient
- the individualised serial number of the debit note and the date on which the debit note is issued
- a brief description of the circumstances giving rise to the issuing of the debit note, including the invoice details to which the debit note relates
- the consideration shown on the tax invoice for the supply vii the correct amount of the consideration, the difference between those two amounts, and the amount of tax that relates to the difference.

Exportation of taxable services

The Act seeks to reclassify the exportation of services from exempt status to standard rate at 16%. However, exportation of taxable services in respect of business process outsourcing is now zero-rated.
This amendment is bound to cause confusion as the VAT Act does not define what constitutes "Business Process Outsourcing" services. The term business process outsourcing is only defined under the Special Economic Zones Act (SEZ Act) where it is defined as the provision of outsourcing services to business for specific business functions or processes such as back office support services in human resources, finance, accounting and procurement among other services. This definition is ambiguous and in recent decisions the court has been reluctant to import definitions from other legislation. The issue of exported services has been contentious in the past few years. Given the current changes, the disputes are only going to increase.

Recent changes

Value Added Tax on Digital Supplies

The Act has introduced a series of amendments effective from 1 July 2022 in relation to VAT on digital supplies as follows:

Definition of digital market place

"Amend the definition of a digital market place by deleting the expression "sell or provide services, goods or other property" and substituting it with the words **"sell goods or provide services".**

The amendment seeks to provide clarity on the scope of the tax on digital supplies as it removes the ambiguity created by the broad use of the term 'other property'.

VAT on imported digital service

Exclude an import of services made over the internet or an electronic network or through a digital marketplace from Reverse VAT under Section 10 of the VAT Act.

The exemption from reverse VAT means that all non-resident persons shall be required to register and account for VAT irrespective of the recipient of the goods or services is.

Registration threshold for digital supplies

The amended VAT Act excludes persons supplying imported digital services over the internet or an electronic network or through a digital marketplace from meeting the KES 5 million VAT registration threshold.

The exemption from the registration threshold means that all persons providing digital supplies over a digital market place shall be required to register and account for VAT on the digital supplies regardless of the value of the supplies made to persons located in Kenya.

Reduced VAT on Liquified Petroleum Gas Enacted amendment:

The Act seeks to reduce VAT on Liquefied Petroleum Gas (LPG) including propane from 16% to 8%. The Finance Act, 2020 had introduced VAT on LPG, however, the implementation was suspended for a year and the change took effect as from 1s' July 2021. The introduction of VAT on LPG which is an alternative source of energy increased the price of this commodity hence reducing its accessibility to the common mwananchi.

The change will help reduce the cost of cooking gas which is a cleaner and more environmental friendly energy source.

Sealing loophole on claiming of input VAT

The Act has amended Section 17 of the VAT Act that provides for deduction of input VAT to the extent that the input VAT was acquired to make taxable supplies.

The Act has also provided that input VAT is only claimable by a registered person if the input VAT was declared in a return for the period. Further the Act has sought to provide clarity on the documentation required to claim input VAT by the Oil Marketing Companies (OMCs) participating in the Open Tender System for the importation of petroleum products that have been cleared through a non-bonded facility, The documents will include; the custom entry showing the name and PIN of the winner of the tender and the name of the other oil marketing companies participating in the tender.

NB: Any input tax that may have been incurred by an oil marketing company participating in the Open Tender System before the coming into force of this provision shall be claimed within twelve months after this provision comes into force.

This amendment clarifies that input VAT is only claimable if it has been declared in the VAT return.

Further, the amendment on documentation required by the OMCs to claim input VAT is intended to ensure that there is accountability in the Open Tender System. This amendment has been enacted to take care of private cargo imports under the Open Tender System where the import cargo for different oil marketers is declared under the PIN of the winner of the tender.

Aligning the VAT Act and TPA provisions on imported goods

The Act has amended Section 22 of the VAT Act by adding the following provisions under subsection (4):

- The Tax Procedures Act, 2015 shall apply with regard to imposition of interest and penalties; and
- in cases where interest becomes payable it shall not, in aggregate, exceed the principal tax.

This amendment brings clarity on the applicable penalties and interest on VAT on imported goods which are subject to customs control as there has been confusion on whether the penalties stipulated in EACCMA were applicable or the provisions under the TPA.

The Act has deleted Section 30 of the VAT Act which provided for refund of tax paid in error. This is a clean-up to align the VAT Act with the TPA with respect to refunds for overpaid taxes/taxes paid in error.

More tokens and grants for manufacturers

The Act has amended Section 17 (5) by providing that registered manufacturers may apply for a refund of excess input VAT incurred in the provision of taxable supplies to an official aid funded projects.

Official aid funded projects are specified to have an exempt VAT status as provided for under Paragraph 51 of Section A of Part 1 of the First Schedule to the VAT Act. The Government through the Tax Amendments Act of 2020 allowed manufacturers who deal with these projects to claim input VAT despite the exemption status.

The amendment to further allow the manufacturers to seek a refund of the excess input VAT is a welcome move as it will ensure that the local manufacturers are not put at a competitive disadvantage when competing against foreign imports.

VAT on exported services

The Finance Act has amended the VAT Act by deleting the provision on exemption of export of service and introducing a provision on the exportation of services in respect of business process outsourcing as a zero-rated supply. This means that any service, which does not fall within the definition of business process outsourcing, shall be subject to VAT at the standard rate of 16%.

Exemption from VAT on local passenger vehicles.

The Act seeks to exempt from VAT inputs and raw materials used in the manufacture of passenger vehicles and locally manufactured passenger motor vehicles.

Based on this provision, locally manufactured means a motor vehicle for the transportation of passengers which is manufactured in Kenya and whose total value comprises at least 30% of parts designed and manufactured in Kenya by an original equipment manufacturer operating in Kenya.

The change is intended to encourage investment in the automotive sector. This is likely to spur manufacturing of passenger motor vehicles. Thus, it will make locally manufactured motor vehicles affordable, consequently reducing the dependence of second-hand motor vehicles. In addition, this will increase employment opportunities and impact the environment positively.

Overpaid VAT Error

The provision of the VAT Act relating to VAT paid in error was deleted and its administration was moved to the Tax Procedures Act with effect from 1 July 2022. Currently, a taxpayer may apply for a refund of VAT paid in error within 12 months of making the error. This effectively reduces the period for application for VAT refunds for amounts paid in error to six months.

The reduced period within which a person can apply for VAT paid in error means that taxpayers need to be more vigilant to identify instances where VAT is paid in error and lodge applications for refund in good time. At the same time, this proposal may require taxpayers to institute better controls within their system to reduce instances of VAT paid in error.

Malawi

What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in Malawi

It is a tax on consumption which is applied during the production and distribution process to most goods and services. It is also applied to goods, and certain services, entering the country. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority at each stage of the process rests with the business making the supply in the value chain i.e manufacturers, wholesalers, retailers and service providers.

A business registered for the tax will charge VAT (output tax) on its sales, and incur VAT (input tax) on its purchases (including any VAT paid at importation). The difference between the output tax and the deductible input tax in each accounting period will be the amount of VAT payable by the business to Malawi Revenue Authority. Where the input tax exceeds the output tax, a refund can be claimed after every three months

A transaction is within the scope of Malawi VAT if the following conditions are met:

(a) it is a supply of goods and services made in Malawi.

(b) it is an importation of goods and services, other than exempt goods and services

(c) supply of goods and services where the supply is taxable supply and made by a taxable person during his or her business.

There are three rates of VAT that are applied to goods and services in Malawi; the standard rate, the zero rate and exemption on certain goods and services.
Businesses that make exempt supplies are unable to claim all of the input tax that they incur, so the VAT paid to suppliers will be a 'real' cost.

Most goods imported into Malawi from outside are subject to VAT. The tax will have to be paid by the importer at the time of importation. Where the importation is for business purposes and the importer is registered for VAT, it is possible to reclaim the tax (subject to certain rules).

It is also important to note the interaction between VAT and Customs duty. Customs duty is levied across the Malawi at the place where goods are imported into the country It is levied in order to bring the cost of goods produced outside Malawi up to the same level as those produced within it. Once duty (and VAT) has been paid by the importer, the goods are in 'free circulation' and they can then be released for use in the home market. Unlike other indirect taxes, such as Excise, once duty has been paid it is not usually recoverable by the importer. It therefore represents a bottom line cost to the importing business if it cannot be passed on in higher prices. It is therefore very important to ensure that the correct rate of duty is applied. VAT is charged on the value of the importation, including any custom duty.

Is there a registration limit for the tax?

A 'person' who either makes or intends to make taxable supplies of goods or services in the course or furtherance of a business must register for VAT if the value of its taxable supplies in Malawi exceeds the annual registration limit of MK25,000,000.00, or is expected to exceed the limit in the near future. A business can also register on a voluntary basis even if the registration limit has not been exceeded.

For these purposes, a 'person' includes any legal entity. Therefore, once a person is registered for VAT, all of his business activities will be covered by the registration - even if the nature of some of those activities are very different.

Two or more corporate bodies can be registered together as a VAT group if:

(a) All companies are incorporated in Malawi
(b) one of them controls each of the others.
(c) one person, whether a company or an individual, controls them all: or
(d) two or more individuals carrying on a business in partnership control them all.

A corporate body cannot be treated as a member of more than one VAT group at a time.

The main advantage of VAT group registration is that, apart from a few limited exceptions, any supply of goods or services by a member of the group to another member of the group is disregarded for VAT purposes. This reduces the risk of VAT being accidentally omitted on supplies between separately registered connected companies.

However, there are some disadvantages and any decision on whether to group register should be taken with care. For example, all VAT group members (including former members) are jointly and severally liable for the VAT debt of the group during the period of their membership.

A penalty may be imposed by the tax authority if a business fails to register at the correct time.

Does the same registration limit apply to non-established businesses?

The normal VAT registration limit does not apply to businesses who are not established in Malawi, but for the purposes of the tax are making taxable supplies there. Those businesses will need to register for VAT as soon as they commence trading in the Malawi when they reach the expected level of turnover.

Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

All transactions are covered under the VAT Act and there is no any specific legislation to tax non resident supplies of electronically supplied/digital services.

Does a non-established business need to appoint a fiscal representative in order to register?

The VAT Act has a provision that requires a non-established business to appoint an agent to act on its behalf in Malawi for VAT purposes where the person:

a) is a taxable person or makes taxable supplies or acquires goods in Malawi
b) is not established, and does not have a 'fixed establishment' in Malawi
c) in the case of an individual, he does not have his 'usual place of residence' in Malawi.

How often do returns have to be submitted?

VAT returns are submitted monthly from the end of each month as an accounting period. A business with seasonal income can make a special request to the Commissioner General to file returns when they are in season.
All VAT returns must be submitted within 25 days from the end of the relevant accounting period, together with any tax due.

Are penalties imposed for the late submission of returns/ payment of tax?

A default surcharge penalty is imposed by the Malawi Revenue Authority if VAT returns are not submitted on time, or the related tax is not paid by the due date.

For the first late submission or payment, the tax authority will issue a notification to the taxpayer confirming that a penalty would be imposed in the future. In Malawi if a return is filed late, a penalty of MK300,000.00 for companies and MK75,000.00 for individuals is imposed and a further penalty of MK50,000.00 for companies and MK10,000.00 for individuals for each month or part thereof the return remains unfiled. Late remittance of tax attracts an outright penalty of 20% of the tax due if not remitted by the due date and a further penalty of prevailing Central Bank lending rate currently at 12% plus additional 5% per annum on the tax due for any month or part thereof the tax remains due.

Are any other declarations required?

Any other declarations only relate to those who are importing services. Other entities like the banks and not for profit organizations are not registered for VAT and upon importation of any service, they need to make special declarations and pay the VAT that is due as reverse VAT.

Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.

Penalties and interest can be applied for errors and omissions made on tax returns, or where the tax is paid late. Penalties can also be applied where the business has failed to maintain adequate records, provide information (including additional declarations), or makes repeated mistakes.

Criminal proceedings may be brought in the case of more serious matters as provided for under the VAT Act.

Can the VAT incurred by overseas businesses be claimed if they are not registered in Malawi?

No. The reason is that Malawi does not have a fully fledged refund system the way things are in South Africa and other countries in the SADC region.

What information must a VAT invoice show?

A VAT invoice must show:

- an invoice number which is unique and sequential
- the seller's name and address
- the seller's VAT registration number
- the invoice date
- the time of supply (also known as tax point) if this is different from the invoice date
- the customer's name and address
- a description sufficient to identify the goods or services supplied to the customer
- the rate of any cash discount
- the total amount of VAT charged expressed in sterling
- the invoice is supported by an ETR receipt, fiscal electronic signature or a letter from Malawi Revenue Authority that the supplier is unable to issue an ETR or fiscal electronic generated receipt.

For each different type of item listed on the invoice, the following must be shown:

- the unit price or rate, excluding VAT
- the quantity of goods or the extent of the services
- the rate of VAT that applies to what's being sold
- the total amount payable, excluding VAT

Where a VAT invoice includes zero-rated or exempt goods or services, it must:

- show clearly that there is no VAT payable on those goods or services
- show the total of those values separately

Where a business makes retail sales and makes a sale of goods or services for MK12,000,000.00 or less including VAT, are required to register for turnover tax and pay 2% of the total turnover.

VAT invoices can be issued, received and stored in electronic format. The same information is transmitted to Malawi Revenue Authority as the electronic fiscal tax registers are connected to the authority's servers. Electronic invoices must contain the same information as paper invoices. The method used to ensure the authenticity of origin, the integrity of content and legibility of the invoices is a business choice and can be achieved by any business controls which create a reliable audit trail between an invoice and a supply of goods or services.

Are there any current or anticipated Standard Audit File for Tax (SAF-T) or similar electronic/digital filing requirements eg invoice listing data file/real-time VAT reporting?

Yes. The implementation of the electronic fiscal devices such as the ETR, and EFDs has ensured real-time VAT reporting as transmission of information to the Malawi Revenue Authority is instant.

Mali

What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in Mali.

Is there a registration limit for the tax?

The Malian tax legislation does not provide any limit for this tax. However, to be able to invoice VAT, the annual turnover of the company must be over 50.000.000 XOF.

Does the same registration limit apply to non-established businesses?

N/A.

Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

No.

Does a non-established business need to appoint a fiscal representative in order to register?

When the taxable person is not domiciled in Mali, he must designate a representative in Mali who undertakes to carry out all the necessary formalities and to make all the payments due.

How often do returns have to be submitted?

VAT tax return must be submitted monthly, generally the 15th of each month.

Are penalties imposed for the late submission of returns/ payment of tax?

Yes, penalties are imposed for the late submission of returns/ payment of tax.

- Omissions and reductions in the taxable amount are subject to a penalty of 50%. In the event of bad faith on the part of the taxpayer, this rate is 100%.
- Late payment leads to an increase in interest at a rate of 2% per month of delay, limited to a maximum of 20%.
- A fine of 25% if the declaration is made spontaneously after the legal deadline and provided that the delay exceeds one month.
- A fine of 5% if the delay does not exceed one month and provided that no reminder has been sent.
- A fine equal to 50% of the due amount in the case of omissions and inaccuracies found in the declarations.
- The rate of this fine is increased to 100% when the good faith of the taxpayer cannot be admitted.

Are any other declarations required?

Yes, other declarations are required for the withheld of VAT.

Are penalties imposed in other circumstances?

Yes, in case of tax audits or fraud.

Can the VAT incurred by overseas businesses be claimed if they are not registered in Mali?

No.

What information must a VAT invoice show?

A VAT invoice must contain the following information:

- Company name
- Address
- NIF
- Bank account number
- RCCM number

Are there any current or anticipated Standard Audit File for Tax (SAF-T) or similar electronic/digital filing requirements eg invoice listing data file/real-time VAT reporting?

The VAT declaration can be done online on the portal “e-services Mali”.

Mauritania

What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in Mauritania.

Is there a registration limit for the tax?

The Mauritian tax legislation does not provide any limit for this tax. However, to be able to invoice VAT, the annual turnover of the company must be over 3 Million MRU.

Does the same registration limit apply to non-established businesses?

N/A.

Usually, non-established business are subject to a 15% withholding tax which replace all direct and indirect Tax it should be subject to.

In case a non-double taxation agreement exists between the country where the business is established and Mauritania, the WHT will not apply but VAT will then be due. In such case, the registration limit cannot apply as there is no possibility for the Tax department to know the level of turnover of the said non established business.

Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

No.

Does a non-established business need to appoint a fiscal representative in order to register?

In case a non-established business needs to pay VAT or other taxes, it should appoint a Tax representative to execute the payment on its behalf. Failing this, the tax and, where applicable, the penalties, are required of the recipient of the taxable transaction.

How often do returns have to be submitted?

VAT returns must be submitted on a monthly basis by or before the 15th of the month following the one the turnover has been generated / invoiced.

Are penalties imposed for the late submission of returns/ payment of tax?

A 10% penalty is due for any late declaration. In the absence of declaration (when NIL for exemple) a 2.000 MRU penalty is due.

Are any other declarations required?

A return showing the details of VAT deducted needs to be sent together with the Vat declaration every Month.

Are penalties imposed in other circumstances?

Yes, for instance in case of tax audits.

Can the VAT incurred by overseas businesses be claimed if they are not registered in Mauritania?

No.

What information must a VAT invoice show?

To be valid, an invoice must mention the following information:

1) the precise identification of the person liable who issues the invoice:

- the surname and first name(s) if it is a natural person, legal form and company name if it is a legal person;
- the tax identification number;
- the geographical addresses, cadastral, post office box and telephone number;
- the registration number in the commercial register;
- the references of the bank account(s).

- 2) the invoice number of an uninterrupted series;

3) the date of issue of the invoice;

4) the specific purpose of the transaction;

5) the amount of the invoice:

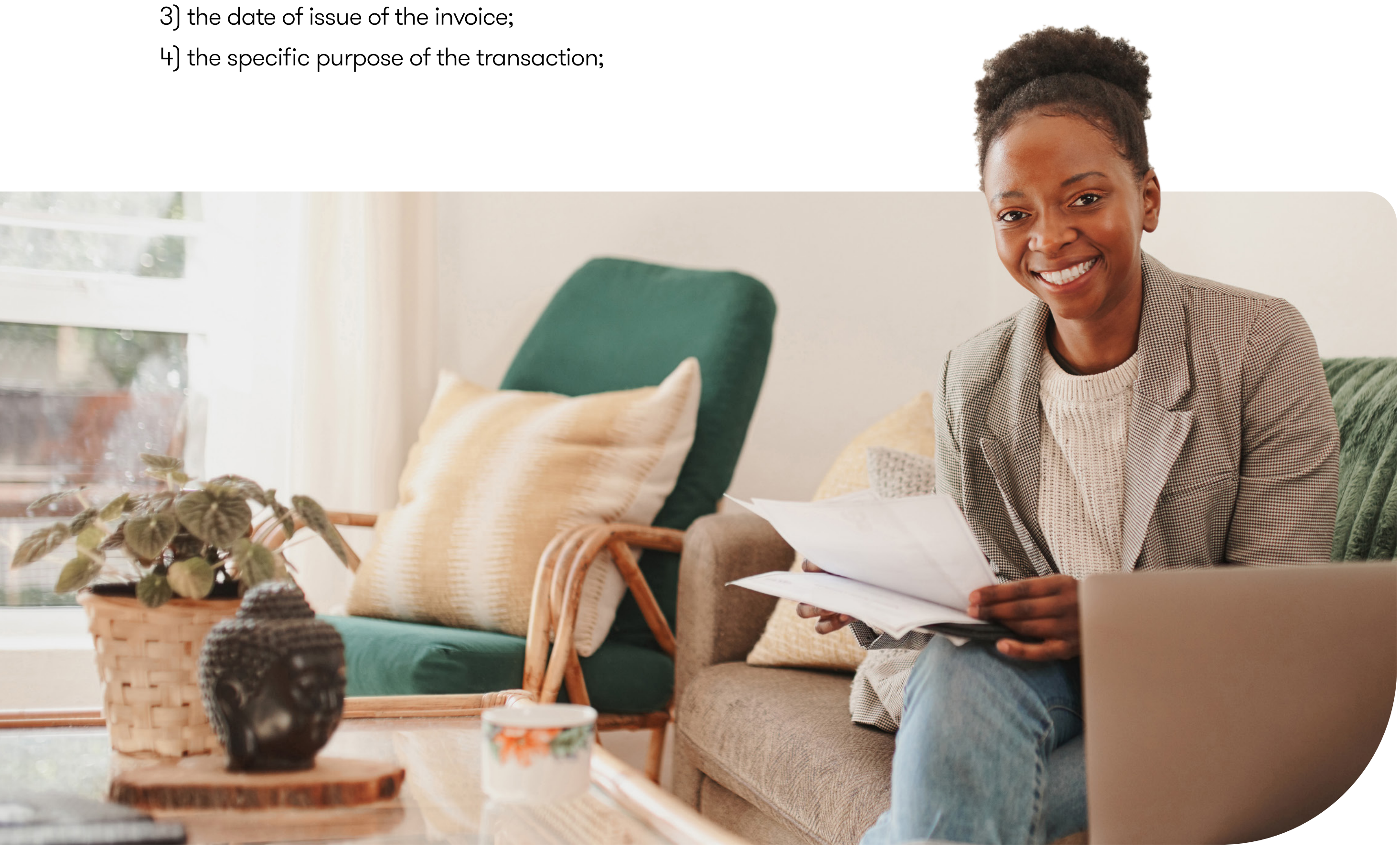
- for those subject to value added tax: the amount excluding value added tax; the rate and amount of the tax due or, where applicable, the indication "Exempt"; the total amount, all taxes included, owed by the customer.
- for those not subject to value added tax: the total amount owed by the customer.

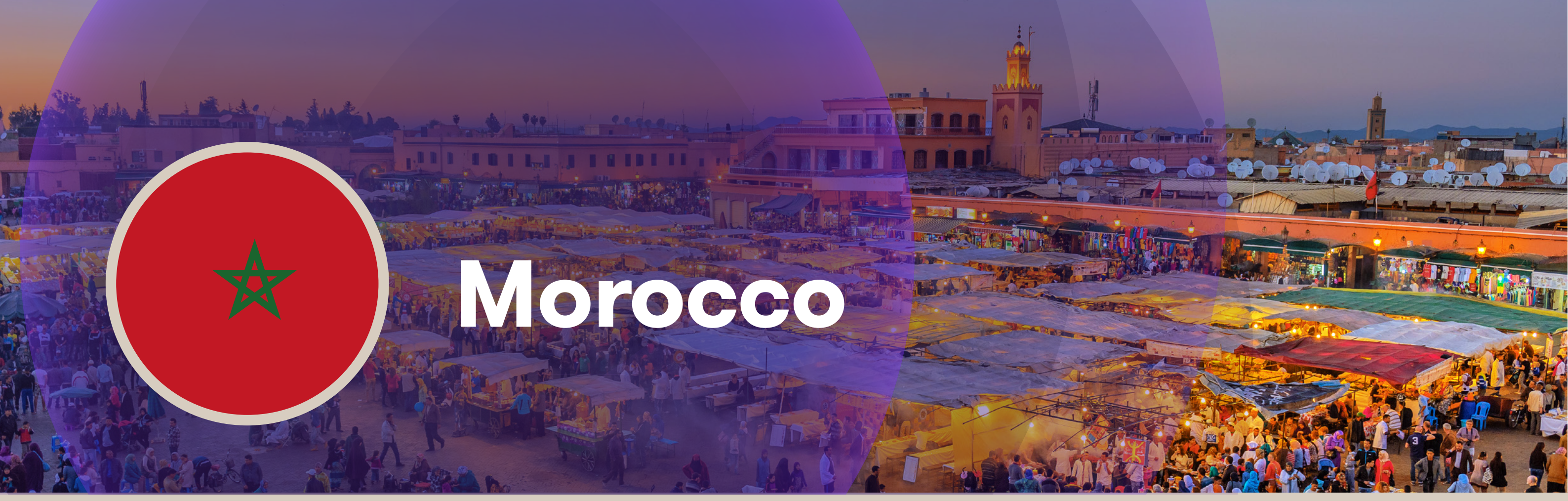
6) the identification of the customer:

- the surname and first names if it is a natural person, legal form and company name if it is a legal person;
- the tax identification number for sales to legal persons or traders;
- the geographical address

Are there any current or anticipated Standard Audit File for Tax (SAF-T) or similar electronic/digital filing requirements eg invoice listing data file/real-time VAT reporting?

Not at the moment.





Morocco

What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in Morocco. VAT is levied on transactions carried out in Morocco by persons who, either habitually or occasionally, purchase goods for resale or engage in an activity of an industrial, commercial, artisan or professional nature, as well as in importation transactions.

VAT is a non-cumulative tax levied at each stage of the production and distribution cycle. Thus, suppliers of goods and services must add VAT to their net prices. Where the purchaser is also liable for VAT, input VAT may be offset against output VAT. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority at each stage of the process rests with the business making the supply.

For the moment, four VAT rates are applied in Morocco (one standard and three reduced rate). The Moroccan government's goal is to set only two rates: a standard rate (20%) and a reduced rate (10%). A zero rate applies to goods supplied and services rendered for export by the taxpayer.

Is there a registration limit for the tax?

There is no registration limit for the tax. The following bodies are subject to VAT:

- the legal entities who habitually or occasionally, whether as part of their main business or as an ancillary activity, manufacture, extract or process goods or change their form or handle them (packaging, putting into containers, shipment, storage or display), irrespective of whether these operations involve the use of other materials or the goods are sold under the producer's name or trademark.
- the persons who take part in any stage of the above- mentioned activities, either by providing a manufacturer with all or part of the materials or raw materials necessary for the production of goods or with patents, designs, plans, processes, formulas or trademarks to which they have the rights.

Does the same registration limit apply to non-established businesses?

Individuals and legal entities with no permanent establishment in Morocco, but which engage in taxable transactions there, are subject to VAT in the same manner as residents. VAT rules require the submission of monthly declarations of turnover.

Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

There is no specific legislation to tax non-resident supplies of electronically supplied/digital services.

According to the principle of territoriality, the private consumers resident in Morocco should be liable to VAT.

Does a non-established business need to appoint a fiscal representative in order to register?

All non-residents must register, with the Minister of Finance, an accredited representative domiciled in Morocco who will be responsible for the taxpayer's compliance with the VAT regulations. In the event of non-payment, VAT and penalties will become due by the Moroccan representative of the non- resident taxpayer.

Finance Law 2014 introduced an optional reverse charge mechanism. Under this regime, in case no accredited VAT representative was appointed, the Moroccan resident client becomes the legal taxpayer.

How often do returns have to be submitted?

The filing of VAT returns may be on a monthly or quarterly cycle based on certain criteria.

Businesses with an annual turnover above MAD 1 million are required to submit VAT returns on a monthly basis. Otherwise, the returns can be submitted covering three months accounting periods.

All taxpayers must file VAT returns and make VAT payments within one month after the end of the relevant month or quarter by internet system.

As of 1 January 2017, internet filing and payment system is mandatory for all taxpayers.

Are penalties imposed for the late submission of returns/ payment of tax?

A default surcharge penalty may be imposed by the tax authority if VAT returns are not submitted on time, or the related tax is not paid by the due date.

Are any other declarations required?

Besides the VAT return, taxpayers must file to the tax administration a detailed statement of deductions with the reference of bills, the exact description of the goods, services or works, their value, the amount of tax on the invoice or memory and the mode of payment and references.

Furthermore, taxpayers performing taxable transactions and transactions outside the scope of the VAT or exempt transaction without right of deduction are required to deposit in local tax which they depend a statement of prorate.

Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.

Civil penalties and interest can be applied for errors and omissions made on tax returns, or where the tax is paid late. Penalties can also be applied where the business has failed to maintain adequate records or provide information (including additional declarations). Criminal proceedings may be brought in the case of more serious matters.

Can the VAT incurred by overseas businesses be claimed if they are not registered in Morocco?

VAT only applies to transactions which are deemed to have been carried on in Morocco where:

- in the case of a sale of goods, delivery is accomplished in Morocco
- in the case of all other activities, the services provided, the item leased or the rights transferred are used in Morocco.

What information must a VAT invoice show?

A VAT invoice must show for example:

- an invoice date and number which is unique and sequential
- the seller's name, address and VAT registration number and his ICE (Identifiant Commun de l'Entreprise or common identifier of the company)
- the customer's name and address and his ICE
- the quantity of goods or the extent of the services
- the total amount of VAT charged and the references and mode of payment relating to the invoice.

Where a VAT invoice includes zero-rated or exempt goods or services, it must show clearly that there is no VAT payable on those goods or services.

Are there any current or anticipated Standard Audit File for Tax (SAF-T) or similar electronic/digital filing requirements eg invoice listing data file/real-time VAT reporting?

In Morocco taxpayers must only file, at the same time as the VAT return, a detailed statement of deductions with the reference of bills, the exact description of the goods, services or works, their value, the amount of tax on the invoice or memory and the mode of payment and references.

Namibia

What is the principal indirect tax?

Value-Added Tax (VAT) is the main type of indirect taxation in Namibia. It is a tax on consumption which is applied during the production and distribution process to most goods and services. It is also applied to goods entering the country. VAT on imported services is only payable by the importer if he does not utilise the service in the making of taxable supplies. Although VAT is ultimately borne by the 'end user' by being included in the price paid, the responsibility for charging, collecting and paying the tax to the tax authority at each stage of the process rests with the registered person making the supply.

A registered person must charge VAT (output tax) on his taxable supplies and pay VAT (input tax) on his purchases (including any VAT paid on goods imported). The difference between the output tax and the deductible input tax in each tax period will be the amount of VAT payable by the business to the tax authority. Where the input tax exceeds the output tax, a refund can be claimed.

A transaction is within the scope of Namibian VAT if the following conditions are met:

- it is a supply of goods or services to any other person for consideration;
- it takes place in or partly in Namibia;
- it is made by a registered person;
- it is made in the course or furtherance of any taxable activity carried on by the person.

Businesses that make exempt supplies are unable to claim the input tax related to making the exempt supplies, so the VAT paid to suppliers will be an actual cost to the business.

Most goods imported into Namibia are subject to VAT. The tax must be paid by the importer at the time of importation or in the month following importation if the importer has been granted a VAT import account. Where the import is directly connected with the making of taxable supplies, the registered person is allowed a claim for the import VAT paid (subject to certain rules).

Is there a registration limit for the tax?

A 'person' who either makes or intends to make taxable supplies of goods or services must register for VAT if the value of his taxable supplies in Namibia exceeds or is expected to exceed an annual threshold of N$ 500 000. A business can register on a voluntary basis if it expects that its taxable supplies will exceed N$ 200 000 annually.

A 'person', as defined, includes any legal entity. Once a person is registered for VAT, all of his business activities will be covered by the registration - even if the nature of those activities are different. A registered person can make taxable as well as exempt supplies.

Each company in a group of companies must register separately for VAT in Namibia.

A penalty may be imposed by the tax authority if a business fails to register at the correct time.

Does the same registration limit apply to non-established businesses?

Yes.

Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

No.

Does a non-established business need to appoint a fiscal representative in order to register?

All taxpayers need to appoint a public officer in Namibia, who must be a natural person resident in Namibia.

How often do returns have to be submitted?

VAT returns normally cover a tax period of two months, ending on the last day of a calendar month, A businesses can request a specific accounting cycle to coincide with its financial or management reporting. A registered person who conducts farming activities only, may choose to be registered for a two, four, six or twelve month tax period.

All VAT returns must be submitted not later than the 25th of the month following the end of the tax period, together with any tax due.

A registered person who imported goods and who is in possession of a VAT import account, must submit a return together with the payment of the VAT by not later than the 20th of the month following the month of import.

Are penalties imposed for the late submission of returns/ payment of tax?

A penalty will be imposed by the tax authority if VAT returns are not submitted on time, or the related tax is not paid by the due date.

The late submission of the return carries a penalty of N$ 100 for each day that the return is late.

Late payment of the tax due carries a penalty of 10% for every month or part of a month during which the payment is made late. The penalty imposed may not exceed the tax amount due.

The late payment of the VAT also attracts simple interest of 20% per annum. The interest charged may not exceed the tax amount due.

Are any other declarations required?

No.

Are penalties imposed in other circumstances?

Yes. Penalties can be imposed where businesses do not comply with the VAT rules.

Criminal proceedings may be brought in the case of more serious matters.

Can the VAT incurred by overseas businesses be claimed if they are not registered in Namibia?

No. Only persons registered for VAT in Namibia can claim input tax paid by them.

What information must a VAT invoice show?

A VAT invoice must show:

- the words “tax invoice” in a prominent place;
- the name, address and VAT registration number of the registered person making the supply;
- the name and address of the recipient of the supply;
- the individualised serial number and the date on which the invoice is issued;
- a description of the goods or services supplied;
- the quantity or volume of the goods or services supplied;
- the total amount of the tax charged, the consideration for the supply, and the consideration including tax.

Only one ‘original’ tax invoice may be issued. Any copy supplied, must be marked ‘copy’.

Are there any current or anticipated Standard Audit File for Tax (SAF-T) or similar electronic/digital filing requirements eg invoice listing data file/real-time VAT reporting?

The only document which must be submitted with the VAT return is the proof of payment of the tax due.

Niger

What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in Niger.

Is there a registration limit for the tax?

The tax legislation does not provide any limit for this tax. However, to be able to invoice VAT, the annual turnover of the company must be over 100.000.000 XOF.

Does the same registration limit apply to non-established businesses?

N/A.

Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

No, there is no specific legislation.

Does a non-established business need to appoint a fiscal representative in order to register?

When the taxable person is not domiciled in Niger, he must designate a representative in Niger who undertakes to carry out all the necessary formalities and to make all the payments due. Failing this, the tax and, where applicable, the penalties, are required of the recipient of the taxable transaction.

How often do returns have to be submitted?

VAT tax return must be submitted monthly for people under normal regime and quarterly for people under simplified regime.

Are penalties imposed for the late submission of returns/ payment of tax?

Yes late fees of 10% plus 1 point per month of additional delay on the rights or fixed of 25.000 F CFA when there are no rights.

Are any other declarations required?

In case of mixed activities, the taxpayer is required to file an annual pro rata return.

Are penalties imposed in other circumstances?

100 % in case of bad faith or fraudulent practices.

Can the VAT incurred by overseas businesses be claimed if they are not registered in Niger?

No.

What information must a VAT invoice show?

- The date and the order number of the invoice;
- The quantity, the precise denomination per unit of the goods and services sold;
- The unit and global price;
- The amount of the invoice including VAT;
- The identification number of the machine;
- The signature and the electronic code;
- The invoice number in an unbroken series;
- Name or company name and Tax Identification Number (NIF).

Are there any current or anticipated Standard Audit File for Tax (SAF-T) or similar electronic/digital filing requirements eg invoice listing data file/real-time VAT reporting?

Yes with the certified electronic invoicing system and the remote declaration and remote payments.

Nigeria

What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in Nigeria. Value Added Tax (VAT) is a tax levied on goods and services consumed in Nigeria. It is an indirect tax wherein the burden of the payment is borne by the final consumer of the goods and services.

The tax was created by the VAT Act No. 102 of 1993 which became effective from January, 1994. The tax is collected only by Federal Inland Revenue Service at the rate of 5% of the value of the goods and services supplied.
Business owners are made compulsory agents (non-commission-earning agents) to the Federal government in the collection and rendition of the returns.

VAT is invoiced-based. That is, the computation and payment of VAT is not done on cash receipt but rather on the total invoices raised.

Nigeria operates a VAT exclusive system. This system requires that the VAT element of transaction is openly stated on the face of the invoice.

The VAT Act (VATA) requires all taxable persons to register for VAT within six months of the commencement of the Act (in 1993) or within six months of the commencement of business, whichever is earlier, with the Federal Inland Revenue Service for the purpose of the collection of the tax. All taxable persons are required to register for VAT notwithstanding that they may be dealing in exempt items. In this connection, it should be pointed out that exemption status as contained in the VAT law is conferred on goods and services and not on persons or institutions.

'Taxable person' includes an individual or body of individuals, family, corporations sole, trustee or executor or a person who carries out in a place an economic activity, a person exploiting tangible or intangible property for the purpose of obtaining income there from by way of trade or business or a person or agency of government acting in that capacity.

Vat-able goods imported into Nigeria through the custom area are subject to VAT at the rate of 7.5%.
The VAT is payable by the importer at the port of importation, where the imports are goods for sale or form the stock-in-trade used for the production of any new product on which output tax is chargeable, such VAT paid on import is an allowable input tax to be deducted by the importers registered for VAT purpose in Nigeria on its output VAT.

The 7.5% of the value of goods and services sold is called the Output VAT while 7.5% of the goods bought for resale is called the Input VAT. The following principles must be observed in arriving at the VAT payable:
The input VAT to be allowed as deduction from the output VAT shall be limited to the tax on goods purchased or imported directly for resale and goods which form the stock-in-trade used for the production of any new product on which output tax is charged.
VAT incurred on administrative expenses or overheads does not qualify as allowable input VAT. Such VAT are expensed in the profit or loss account with the appropriate expense heads.

VAT paid on purchases of capital items or assets does not qualify as input VAT; rather they are capitalized (taken as part of the capital expenses of the business and capital allowances claimed).

There is no provision in the VAT Act for input tax claims on supplies of services. VAT on inputs for the production of exempt goods is written off to profit or loss accounts. VAT on input for the production of zero-rated products is reclaimed from FIRS through refund claims application.

Where allowable input tax exceeds the output tax, a refund can be claimed from the FIRS upon application. Reimbursable expenses (where applicable) not forming part of the fees should be clearly and separately disclosed on the invoice and VAT would not be applicable to it.

VAT rendition and payment is monthly and this has to be done not later than the 21st day of the month following the month in which the transaction occurred. In any month where there is no transaction, the law requires that a nil return is rendered.

Is there a registration limit for the tax?

No.

An individual or a corporate body intending to or carry on business in Nigeria is required to register within six months of the commencement of business.

A penalty shall be imposed if a business fails to register for VAT at the stipulated time frame provided by the tax law. A penalty of N10, 000 for the first month and N5,000 for every subsequent month the failure continues.

Does the same registration limit apply to non-established businesses?

No.

The Nigerian customer is required to register the non-resident company it deals with using its address for the purpose of corresponding with the tax authority. This can also be done through a representative.

Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

Not exactly, although there is a provision in the Finance Act 2021 recognizing non-resident companies having significant economic presence in Nigeria for taxation purposes.

Does a non-established business need to appoint a fiscal representative in order to register?

Prior to the Finance Act 2021, the VAT Act gave NRCs the leverage to skip the registration process by appointing a Nigerian representative for compliance. However, by the amendment via FA 2021, registration is compulsory even with the presence of a representative. Non-Resident Company (NRCs) are now required to account for the Value Added Tax (VAT) on their transaction with customers in Nigeria whether by themselves or through an agent. A resident receiver of such services can also self-charge the VAT and remit to the Nigeria tax authority.

How often do returns have to be submitted?

VAT rendition and payment is monthly and this has to be done not later than the 21st day of the month following the month in which the transaction occurred.

Are penalties imposed for the late submission of returns/ payment of tax?

Yes. Failure to submit VAT return attracts a penalty of N5,000 for every month in which failure continues.

Are any other declarations required?

Yes.

- Schedule of Turnover.
- Schedule of Allowable Input VAT.
- Schedule of VAT Returns.

Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.

- Failure to register for VAT: N10, 000 for the first month and N5,000 for every subsequent month.
- Failure to remit VAT: 7.5% per annum of the amount of tax not remitted plus interest at bank lending rate.
- Failure to issue tax invoice: Fine of 50% of the cost of the goods or services for which tax invoice was not issued.
- Failure to register is an offence liable upon conviction to a fine of N5, 000 and sealing of the business premises if no registration is done after one month.
- Failure to keep proper records: Fine of N2, 000 for every month in which failure continues.
- Failure to collect VAT: penalty of 150% of the amount not collected plus 5% interest above the CBN Monetary Policy Rate.

Can the VAT incurred by overseas businesses be claimed if they are not registered in Nigeria?

No.

What information must a VAT invoice show?

A VAT invoice must show:

- A Taxable person who makes a taxable supply shall in respect of that supply, furnish the purchaser with a tax invoice containing the following:
  - taxpayer Identification Number (TIN)
  - name and address
  - VAT Registration Number (VRN)
  - date of the supply
  - name of the purchaser or client
  - gross amount of the transaction
  - tax charged and rate applied

Are there any current or anticipated Standard Audit File for Tax (SAF-T) or similar electronic/digital filing requirements eg invoice listing data file/real-time VAT reporting?

Nigeria – Yes. VAT returns are now done through e-filing on monthly basis.

Uganda

What is the principal indirect tax?

Value Added Tax (VAT) is the main indirect tax in Uganda. It's a tax on consumer expenditure and is collected on business transactions and imports.

This tax on consumption is applied during the production and distribution process to most goods and services. It's also applied to goods, and certain services, entering the country. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting, and paying it to the tax authority at each stage of the process rests with the business making the supply, i.e., the seller.

A business registered for the tax will charge VAT (output tax) on its sales and incur VAT (input tax) on its purchases (including any VAT paid at importation). The difference between the output tax and the deductible input tax in each accounting period will be the amount of VAT payable by the business to the tax authority. Where the input tax exceeds the output tax, a refund can be claimed.
A transaction is within the scope of Uganda VAT if it subscribes to any of the below:

- a taxable supply made by a taxable person in Uganda.
- an import of goods other than an exempt import.
- an import of service other than exempt service.

For these purposes, a taxable person is a person or entity who is registered for VAT in Uganda, or who is required to have been registered in Uganda.

There are two rates of VAT in Uganda. The standard rate – 18% and the zero rate. In addition, some goods and services are exempted from the tax.

Input tax credit is allowed if the VAT is incurred in the course or furtherance of the business. Input tax credit incurred on taxpayers who solely deal in the supply of exempt items is not allowed.

Importers of services in the country will incur VAT at import on the services being imported (if such services are not exempt). The importer of such services is required to self-charge and account for the VAT to the tax authority. The VAT incurred on importation of services into Uganda is not allowed as credit to the importer (except in a few categories). It is therefore a real cost to the importer.

Is there a registration limit for the tax?

A 'person' who either makes or intends to make taxable supplies of goods or services in the course or furtherance of a business must register for VAT if the value of its taxable supplies in Uganda exceeds the annual registration limit or is expected to exceed the limit in the near future. A business can register on a voluntary basis even if the registration limit has not been exceeded.

There is no group registration in Uganda.
A penalty may be imposed by the tax authority if a business fails to register at the correct time.

Does the same registration limit apply to non-established businesses?

Yes, whether a business is established in Uganda or not, registration is based on taxable turnover made in Uganda.

Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

The VAT Act denotes that a supply of services shall take place in Uganda if the recipient of the supply is not a taxable person, and the services are electronic services delivered to a person in Uganda at the time of supply.

The definition of electronic services includes:

- websites, web-hosting or remote maintenance of programs and equipment
- software and the updating of software
- images, text, and information
- access to databases
- self-education packages
- music, films, and games including games of chance
- political, cultural, artistic, sporting, scientific and other broadcasts and events including television.

Does a non-established business need to appoint a fiscal representative in order to register?

No, a non-established business is not under obligation to appoint a representative in Uganda to register.

How often do returns have to be submitted?

VAT returns normally cover a tax period of one calendar month. All VAT returns must be submitted within 15 days after the end of the tax period (month). All returns are required to be submitted electronically. The taxable person may apply for an extension of time to file the return and the tax authority may approve the extension where good cause for the delay is shown.

A special consideration is accorded to business which supplies the following services to non-taxable persons in Uganda.

- Services in connection with immovable property
- Radio or television broadcasting services received at an address in Uganda
- Electronic services delivered to a person in Uganda
- Transfer, assignment, or grant of a right to use a copyright, patent, trademark, or similar right in Uganda
- Telecommunication services initiated by a person in Uganda other than a supply initiated by a supplier of telecommunication services or a person who is roaming while temporarily in Uganda

The taxable person providing the above supplies are required to lodge a return with URA within fifteen (15) days after the end of three (3) consecutive months

Are penalties imposed for the late submission of returns/ payment of tax?

A late VAT return submission will see a penalty of 2% per month compounded or US$55, whichever is higher. Late payment of tax will also see interest at 2% per month compounded.

Are any other declarations required?

There may be a request from the tax authority for a return of information, as and when the tax authority deems it necessary.

Are penalties imposed in other circumstances?

Yes. There are penalties when a return of information is not provided within the timelines prescribed by the tax authority, as well penalties for information deemed misleading.

Can the VAT incurred by overseas businesses be claimed if they are not registered in Uganda?

No, VAT incurred outside Uganda cannot be claimed in Uganda.

What information must a VAT invoice show?

The electronic VAT invoice must show:

A. Seller's details

- VAT registration number and Taxpayer Identification Number (TIN)
- Name and address of the seller

B. URA information

- Date of issue of the invoice
- Device number from which the invoice was issued
- Fiscal Document number

C. Buyer's details

- Taxpayer Identification Number (TIN)
- Name of the buyer

D. Details of goods and services

- Details of item sold such as quantity, unit of measure, and unit price.

Are there any current or anticipated Standard Audit File for Tax (SAF-T) or similar electronic/digital filing requirements eg invoice listing data file/real-time VAT reporting?

The VAT regime in Uganda is currently aligned with the EFRIS (Electronic Receipting and Invoicing System). Through this system, the Uganda Revenue Authority (URA) requires all invoices and receipts issued by taxpayers to get channeled through the same.

Recent updates

Uganda Revenue Authority (URA) started collecting Value Added Tax (VAT) from registered non-resident electronic services provider companies operating in the Ugandan economy, effective July 1, 2022. URA issued a public notice on January 27, 2022, notifying all non-resident suppliers of electronic services to collect, file and pay this tax on a quarterly basis i.e., by 30th September 31st December 31st March and 30th June.

While filing a quarterly return, non-residents will be required to segregate between sales made to taxable persons and sales made to non-taxable persons. Sales made to taxable persons shall not attract VAT.
Electronic services include all services offered digitally or through an electronic platform. The services include the following when offered remotely; online advertising, online music streaming, movie streaming services, websites, web- hosting or remote maintenance of programs and equipment, supply of software and software updates, supply of images, text and information, access to databases, self-education packages, music, films, and games of chance, political, cultural, artistic, sporting, scientific and other broad casts and events including television etc.

While many countries around the world implement this measure, Uganda becomes the fourth African country to take this up after South Africa, Nigeria, and Kenya.
URA has made initial contact with many of the non-resident services providers such as Google, Microsoft, Netflix, Meta, Spotify, Zoom, Amazon, Apple, Bolt, Uber etc., and some of these entities have registered and paid the tax due. The tax man expects to collect at least UGX 5Bn in taxes from this measure.

This development is one of the steps Uganda is making toward collecting taxes from the e-Commerce economy. Like most countries around the world, Uganda is considering levying income tax on Non-resident entities targeting the income they source in Uganda, a discussion that is still ongoing on the global stage spearheaded by Organization for Economic Co-operation and Development (OECD).

Changes to the VAT Return filling template

Under schedule 3 of the VAT Return against the VAT deferred at importation to only permit amounts that exist in ASYCUDA and are supported by fiscalised import receipts from EFRIS. EFRIS refers to Electronic Fiscal Receipting and Invoicing Solution introduced by URA, it ensures that URA has real-time visibility of invoices and receipts issued by taxpayers mandated to connect to the system, currently, it is VAT registered taxpayers required to transact via this system.

This change affects VAT registered taxpayers who have imported goods and have been granted a VAT deferment facility when importing plant and machinery. The persons that may apply for VAT deferment are those who have imported plant and machinery for use in the manufacture of goods or the provision of value-added services, and the tax due is at least USD 4,000.

Senegal

What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in Senegal. It is a tax on consumption which is applied during the production and distribution process to most goods and services. It is also applied to goods, and certain services, entering the country. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority at each stage of the process rests with the business making the supply ie the sale.

A business registered for the tax will charge VAT (output tax) on its sales, and incur VAT (input tax) on its purchases (including any VAT paid at importation). The difference between the output tax and the deductible input tax in each accounting period will be the amount of VAT payable by the business to the tax authority. Where the input tax exceeds the output tax, a credit of VAT is registered and refund can be claimed.

A transaction is within the scope of Senegal VAT if the following conditions are met:

- it is a supply of goods or services. Although the term 'supply' is not defined in the legislation, it has a broad interpretation
- it takes place in the Senegal(territory)
- it is made by a taxable person. For these purposes, a taxable person is a person or entity who is registered for VAT in the, or has a liability to become registered
- it is made in the course or furtherance of any business carried on by that person or entity
- service provided and taxable is used or exploited in Senegal
- service provided and taxable is done in order or in benefit of a Senegalese tax payer.

There are three rates of VAT that are applied to goods and services in Senegal; the standard rate, the reduced rate, and the zero rate. In addition, some goods and services are exempted from the tax.

Businesses that make exempt supplies are unable to claim all of the input tax that they incur, so the VAT paid to suppliers will be a 'real' cost.

Most goods imported into Senegal from outside are subject to VAT. The tax will have to be paid by the importer at the time of importation. VAT is collected by custom duty officers. Where the importation is for business purposes and the importer is registered for VAT, it may be possible to reclaim the tax (subject to certain rules).

VAT is collected at the same time than Customs duty. Once the duty (and VAT) has been paid by the importer, the goods are in 'free circulation' and they can then be released for use in the home market. Unlike other indirect taxes, such as VAT, once the duty has been paid it is not usually recoverable by the importer. It therefore represents a bottom line cost to the importing business if it cannot be passed on in higher prices. It is therefore very important to ensure that the correct rate of duty is applied. VAT is charged on the value of the importation, including any custom duty.

Is there a registration limit for the tax?

Not applicable.

Does the same registration limit apply to non-established businesses?

Not applicable.

Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

Not applicable.

Does a non-established business need to appoint a fiscal representative in order to register?

Yes they do. They have to appoint a VAT representative to act on his behalf for VAT purposes where the person:

- is a taxable person or makes taxable supplies in Senegal
- is not established, and does not have a 'fixed establishment' in Senegal.

If the fiscal representative is not appointed, the Senegalese partner (client) is liable for payment of VAT as they are considered as the default representative.

How often do returns have to be submitted?

VAT returns have to be submitted each month and the latest on 15th of the following month.
For some tax payers, returns and payments have to be submitted electronically.
Electronic submission system is not yet general.

Are penalties imposed for the late submission of returns/ payment of tax?

A default surcharge penalty may be imposed by the tax authority if VAT returns are not submitted on time, or the related tax is not paid by the due date.
For the late submission or payment, the tax authority will issue a notification to the taxpayer confirming that a fixed percentage penalty may be imposed considering the lack of compliance. If there is no VAT return for the taxable period (month) a lump sum fee penalty is applicable in case of a delayed declaration.

Are any other declarations required?

Not applicable.

Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.

Civil penalties and interest can be applied for errors and omissions made on tax returns, or where the tax is paid late. Penalties can also be applied where the business has failed to maintain adequate records, provide information (including additional declarations), or makes repeated mistakes.

Criminal sanctions can also be applied to VAT collected hijacking attempts, the action is considered a misappropriation of public funds.

Can the VAT incurred by overseas businesses be claimed if they are not registered in Senegal?

No.

What information must a VAT invoice show?

A VAT invoice must show:

- an invoice number which is unique and sequential
- the seller's name and address
- the seller's VAT registration number
- the invoice date
- the time of supply (also known as tax point) if this is different from the invoice date
- the customer's name and address
- a description sufficient to identify the goods or services supplied to the customer
- the rate of any cash discount
- the total amount of VAT charged expressed in XOF.
- For each different type of item listed on the invoice, the following must be shown:
- the unit price or rate, excluding VAT
- the quantity of goods or the extent of the services
- the rate of VAT that applies to what's being sold
- the total amount payable, excluding VAT.
- Where a VAT invoice includes zero-rated or exempt goods or services, it must:
- show clearly that there is no VAT payable on those goods or services
- show the total of those values separately
- show an official stamp of exoneration (only in case of conventional exoneration).

Are there any current or anticipated Standard Audit File for Tax (SAF-T) or similar electronic/digital filing requirements eg invoice listing data file/real-time VAT reporting?

Not applicable.

South Africa

What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in South Africa.

The generally accepted essential characteristics of a VAT-type tax are as follows:

- the tax applies generally to transactions related to goods and services
- it is proportional to the price charged for the goods and services
- it is charged at each stage of the production and distribution process where there is a supply between parties
- the taxable person (vendor) may deduct the tax paid during the preceding stages as input credit against output VAT collected from customers. The burden of the tax is ultimately on the final consumer.

VAT is only charged on taxable supplies made by a vendor. Taxable supplies include supplies for which VAT is charged at either the standard rate or zero rate, but does not include:

- salaries and wages
- hobbies or any private recreational pursuits (not conducted in the form of a business)
- occasional private sale of personal or domestic items
- exempt supplies.

The mechanics of the VAT system are based on a subtractive or credit input method, which allows the vendor to deduct the tax incurred on enterprise inputs (input tax) from the tax collected on the supplies made by the enterprise (output tax). There are, however, some expenses upon which input tax is specifically denied, such as the acquisition of motor cars and entertainment-related expenses.

The vendor reports to the SARS at the end of every tax period on a VAT 201 return, where the input tax incurred for the tax period is offset against the output tax collected for the tax period and the balance is paid to the SARS, normally by no later than the 25th day after the end of the tax period concerned. However, a vendor registered on SARS' efiling system may submit and pay their VAT liability up to the last business day of the month (excluding public holidays, Saturdays and Sundays).

A person who is registered, or who is obliged to register is referred to as a 'vendor'.

A person must carry on an enterprise to be liable to register as a VAT vendor in South Africa.
An enterprise is inter alia defined as:

- any enterprise or activity
- which is carried on continuously or regularly
- by any person
- in, or partly in, South Africa
- in the course or furtherance of which goods or services are supplied
- to any other person for a consideration (payment for the supply)
- whether or not for profit.

VAT at the standard rate of 15% is only charged on taxable supplies made by a vendor, unless it is zero rated, (i.e. 0% VAT is levied), or it is exempt. Taxable supplies include supplies where VAT is charged at either the standard rate or zero rate. Vendors can claim VAT only to the extent that taxable supplies are made and where all the requirements of a tax invoice are complied with.

Businesses that only make exempt supplies are unable to register for VAT and cannot claim the VAT that they incur. It follows that the VAT paid to suppliers will be a 'real' cost.

Most goods imported into the South Africa are subject to VAT. The VAT has to be paid by the importer at the time of importation of the goods into South Africa when the goods are cleared for home consumption. Where the importation is for business purposes and the importer is registered for VAT and for customs purposes, it may be possible to reclaim the VAT on importation subject to the general input tax rules.

It is also important to note the interaction between VAT and customs duty. Customs duty is levied where goods are imported into South Africa or the Southern African Customs Union (SACU). It is levied in order to bring the cost of goods produced outside South Africa or SACU up to the same level as those produced within it. Once duty (and VAT) has been paid by the importer, the goods are in 'free circulation' and they can then be released for use in the home market. Unlike other indirect taxes, such as VAT, once duty has been paid it is not usually recoverable by the importer. It therefore represents a cost to business. It is therefore very important to ensure that the correct rate of duty is applied. VAT is charged on the value of the goods on importation, including any custom duty and where the goods originate outside SACU an upliftment of 10% is added to the customs value.

Is there a registration limit for the tax?

Every person who carries on an enterprise is liable to register for VAT when the total value of taxable supplies of goods and services exceeds, or will in terms of a contractual obligation in writing exceed, R1 million within any 12 month period. Suppliers of e-commerce services are liable to register if the total value of its taxable supplies exceed R50,000. Voluntary registration is generally allowed where the total value of taxable supplies will exceed R50,000, but is less than R1 million for any 12 month period.

For these purposes, a 'person' includes any public authority, any company, a body of persons (corporate or unincorporated), the estate of any deceased or insolvent person, any trust fund and any foreign donor funded project. Therefore, once a person is registered for VAT, all of his business activities will be covered by the registration.

Separate registration for separate enterprises, branches and divisions is allowed where separate independent systems of accounting are maintained, and the enterprises/branches/ divisions are separately identifiable. This means that it is possible for a vendor to have more than one VAT registration number if the enterprise is carried on in separate branches or divisions.

A penalty may be imposed by the tax authority if a business fails to register at the correct time.

Does the same registration limit apply to non-established businesses?

The normal VAT registration limit also applies to businesses that are not established in South Africa, but conduct business in South Africa.

From 1 June 2014, non-established businesses that supply e-commerce services to South African customers should register compulsory for VAT if their turnover from such supplies exceeds R1 million in a 12 month period.

Does a non-established business need to appoint a fiscal representative in order to register?

A non-established business is required to appoint a representative, who is a resident of South Africa, to act on their behalf for VAT purposes and to assume the duties and obligations prescribed by VAT legislation.

Furthermore, a non-established business must open a South African bank account.

How often do returns have to be submitted?

- Bi-monthly tax period – this is the default tax period generally allocated for VAT registration where turnover is less that R30 million in any consecutive 12-month
- Monthly tax period – where turnover exceeds or is likely to exceed R30 million in any consecutive 12-month
- Six-monthly tax period – for farming businesses with turnover that is less than R1.5 million in any 12-month consecutive
- Twelve-monthly tax period – for inter-group letting or administration companies or trust funds.

Are penalties imposed for the late submission of returns/ payment of tax?

Late payments of VAT attract an administrative penalty of 10% of the outstanding tax. An understatement penalty ranging from 5-200% depending on the behavioural levels may also be imposed. Interest is also charged at the prescribed rate (currently 7.50% per annum) on any late payments.

Are any other declarations required?

Where goods are imported, but not entered through Customs Controlled Areas (CCAs), for example electronic goods, and users are required to pay VAT on a reverse-charge mechanism and to complete and submit a special return. Vendors that will be entitled to claim input VAT on goods or services imported for application in course of carrying on their enterprise are exempt from the reverse-charge declarations.

Are penalties imposed in other circumstances?

Yes. Over and above the administrative 10% penalties, understatement penalties of between 5%-200% can be imposed where businesses do not comply with the VAT rules.

Administrative penalties

An administrative 10% late payment penalty is levied where a vendor pays its VAT liability after the due date.

Understatement penalties

SARS may also impose these penalties, having regard to nature and seriousness of the non-compliance and/or the period of non-compliance and/or any repeat of the non-compliance.

The understatement penalty is normally imposed (but not limited to) when SARS makes adjustments to vendors VAT declarations as a result of an audit or investigation.

The understatement penalty percentage table is as follows:

Behaviour	Standard case	If obstructive, or if it is a 'repeat case'	Voluntary disclosure after notification of audit	Voluntary disclosure before notification of audit
'Substantial understatement'	10%	20%	5%	0%
Reasonable care not taken in completing return	25%	50%	15%	0%
No reasonable grounds for 'tax position' taken	50%	75%	25%	0%
Gross negligence	100%	125%	50%	5%
Intentional tax evasion	150%	200%	75%	10%

Are there any current or anticipated Standard Audit File for Tax (SAF-T) or similar electronic/digital filing requirements eg invoice listing data file/real-time VAT reporting?

Vendor registered on SARS' efiling platform have to submit their VAT returns via efiling based on the prescribed format and tax fields. In the instance where SARS selects the VAT return for verification audit, the vendor is required to submit certain accounts/schedules as well as documentation supporting the relevant transactions included in the VAT return. Although not in a specified format, these accounts/schedules should contain sufficient information relating to the transactions for SARS to verify whether the VAT treatment appears appropriate.

Recent updates

Withdrawal of section 72 rulings bring certainty to the Vat treatment of certain supplies

The withdrawal of the decisions issued in terms of section 72 of the VAT Act with effect from 31 December 2021, necessitated SARS to make certain amendments in the VAT Act in order to bring within the parameters of the law clarification with the treatment of certain transactions which had presented anomalies, difficulties or incongruencies when applying the relevant requirements of the VAT Act. We highlight amendments which have been made in the VAT Act to bring certainty to the application of the law in certain cases where anomalies existed.

Flash Title Sales

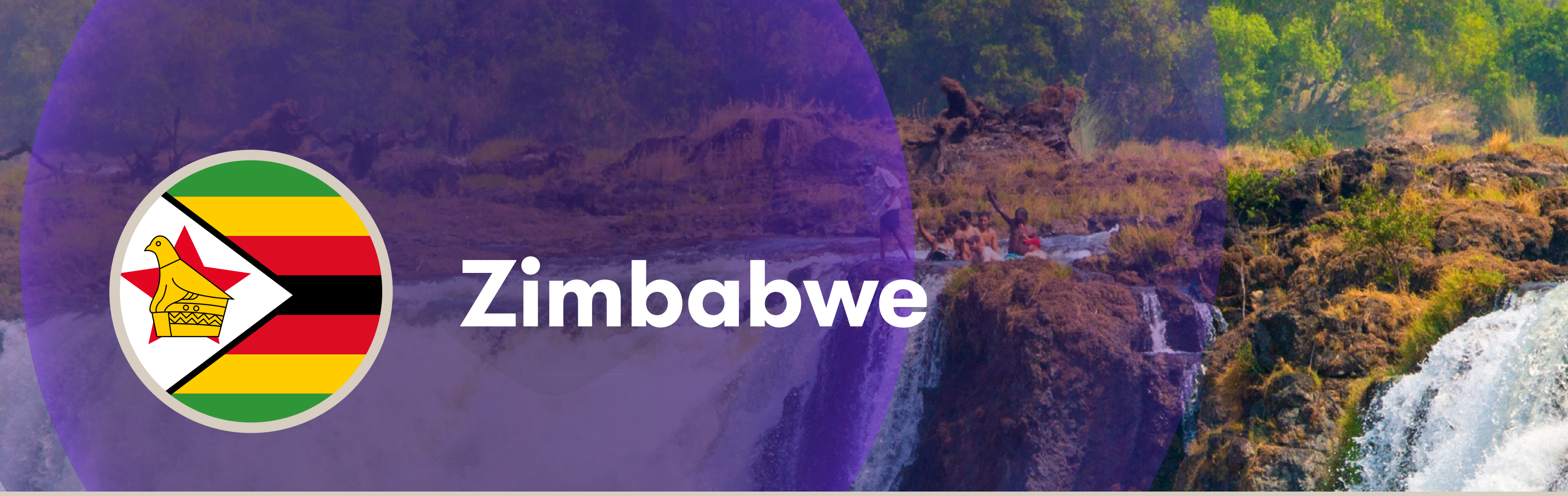
With effect from 1 January 2023, a non-resident who acquires goods from a vendor with the intention of supplying such goods to a non-resident 3rd party while the goods are in South Africa will not be regarded to be carrying on an enterprise in South Africa provided such goods are intended for export purposes. Provision (xiv) has been inserted to the definition of enterprise to bring into effect this exemption. The amendment will ease the administrative burden to the non-resident who would be required to register for VAT without any commercial interests in South Africa. Principally, on the basis that such goods are destined to an export country, these changes do not in anyway result in a loss to the fiscus since consumption would be in an export country.

Registration of foreign entities

With effect from 1 January 2023, foreign entities belonging to the same "group of companies" as defined in the Income Tax Act and who are required to be registered for VAT purposes in South Africa, may apply to SARS to be registered under the branch of the foreign entity. Effectively, it means the group entities with the VAT registration requirements in South Africa will submit their VAT returns using the same VAT registration number and the same VAT return to ease the administrative burden of multiple VAT returns. The same will also apply to non-residents supplying electronic services where multiple entities are required to be registered for VAT purposes in South Africa within the same group. The supplies made in the Republic between the persons within the same branch will be regarded as normal supplies between separate persons and be accounted for in the branch registration. It is further important to note that the separate persons will have to comply with the requirements as prescribed in section 50 of the VAT Act, i.e. that the activities are carried on separately by each person or enterprise.

Repossession and Surrender

The VAT law deems the debtor to have made a supply to the lender in respect of the goods repossessed. Consequently, the lender is entitled to recover notional input tax on the deemed supply made to it subject to documentary requirements. Where the debtor is a registered VAT vendor, the lender may self invoice and recover the VAT claimed, however, where the debtor is not registered for VAT, the vendor may not be in a possession to obtain all the requisite documentation from the debtor for the purposes of recovering notional input tax. However, the Commissioner appreciates that the debtor may in certain instances not provide the information to the lender for the purposes of input tax recovery, i.e. the VAT 264 declaration form signed by the debtor. Consequently, section 20(8A) has been inserted to prescribe the alternative documentation that the lender is required to obtain in order to be entitled to the notional input tax.



Zimbabwe

What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in Zimbabwe.

It is a tax on consumption which is applied during the production and distribution process to most goods and services. It is also applied to goods, and certain services, entering the country. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority at each stage of the process rests with the business making the supply, that is the sale.

A business registered for the tax will charge VAT (output tax) on its sales, and incur VAT (input tax) on its purchases (including any VAT paid at importation). The difference between the output tax and the deductible input tax in each accounting period will be the amount of VAT payable by the business to the tax authority. Where the input tax exceeds the output tax, a refund can be claimed.

A transaction is within the scope of Zimbabwean VAT if the following conditions are met:
Value Added Tax is charged on:

1. the supply of by any registered operator of goods or services supplied by him during the furtherance of trade carried on by him; or

- it is a supply of goods or services. The term 'supply' is defined in the legislation, and includes all forms of supply irrespective of where the supply is effected, (even including things that happen by law, e.g expropriation) and any derivative of supply is construed accordingly
- it takes place in Zimbabwe
- it is made by a registered operator. For these purposes, a registered operator is a person or an entity that is registered for VAT in Zimbabwe, or has a liability to become registered under the VAT Act
- it is made in the course or furtherance of any business carried on by that person or entity.

2. the importation of any goods into Zimbabwe by any person; or

- Most goods imported into Zimbabwe are subject to VAT at the standard rate. The tax is paid by the importer at the time of importation. Where the importation is for business purposes and the importer is registered for VAT, it is possible to reclaim the input tax using the bill of entry as the supporting document.
- The time of supply for goods imported into Zimbabwe is the date on which the goods are deemed to have been imported in terms of the customs and excise legislation. Where the goods are entered for home consumption in terms of the customs and excise act, they are deemed to have been imported on the date on which they are so entered. In the case of goods that are imported and are entered into a bonded warehouse; no VAT is chargeable until they are released for home consumption.
- The value of supply for goods imported into Zimbabwe is the value for duty purposes. The value for duty purposes will include insurance charges and transport charges.

3. the supply of any imported services by any person/recipient of imported services; and

- VAT is also charged on imported services. An imported service is a supply of services by a non-resident to a resident of Zimbabwe to the extent that such services are used for making non-taxable supplies.
- The time of supply for imported services is the earlier of an invoice being issued or any payment being made for the supply of the service at the time an invoice is issued by the supplier or the recipient in respect of that supply or at the time the service is performed.
- The responsibility to pay VAT on imported services lies with the recipient of the imported service. This must be declared and paid by the 25th of the month following the month of supply.

4. Goods sold through an auction by an auctioneer

Taxable Supplies

There are two rates of VAT that are applied to goods and services in Zimbabwe; the standard rate of 14.5% and the zero rate. In addition, some goods and services are exempt from VAT.

Businesses that make exempt supplies are unable to claim all of the input tax that they incur, so the VAT paid to suppliers will be a cost to entity.

Deemed sales

The act provides for both actual and deemed supplies of goods or services. The deeming provisions widen the range of transactions subject to VAT and clarify the fact that certain transactions are indeed taxable. Some of the deemed transactions that are deemed to be taxable supplies include:

sales in execution of a debt deregistration, door-to-door credit sales, subsidies by the local or public authority, sale of a going concern, receipt of an insurance indemnity and repossession of goods.

The general time of supply

(a) At the time an invoice is issued by the supplier or the recipient in respect of that supply; or

(b) the time any payment of consideration is received by the supplier in respect of that supply; or

(c) in case of a supply of an immoveable good, at the time the recipient takes possession of it; or

(d) in the case of a supply of moveable goods, at the time of its removal from the place of sale; or

(e) in the case of a supply of a service at the time the service is performed. whichever time is earlier.

Note: Section 8 of the VAT Act has special time of supply for certain supplies.

The general value of supply

It is the value of the consideration for such supply less so much of such value as represents tax.

Note: section 9 of the VAT Act provides value of supply of selected supplies.

Is there a registration limit for the tax?

A 'person' who makes or intends to make taxable supplies of goods or services in the course or furtherance of a business must register for VAT if the value of its taxable supplies in Zimbabwe meets or exceeds the annual registration threshold or is expected to exceed the limit in the near future.

However, a business can register on a voluntary basis even if the registration limit has not been exceeded under certain conditions. A penalty may be imposed by the tax authority if a business fails to register at the correct time.

In terms of the VAT Act a 'person' includes:

- a sole proprietor, ie an individual carrying on business in his own name or under a trade name
- a company
- a partnership or joint venture
- a deceased estate or insolvent estate
- trusts
- an incorporated body of persons, eg an entity established under its own enabling act of parliament
- an unincorporated body of persons, e.g. club, society or association with its own constitution
- local and public authorities.

Requirements for voluntary registration

The following are the requirements for voluntary registration:

- the person should be carrying on any trade
- the person should have a fixed place of residence or business
- the person should have a bank account
- the person should maintain proper books of accounts.

Does the same registration limit apply to non-established businesses?

Yes.

There is no differentiation between an established business and a non-established business.

Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

Yes. Section 13 of the Value Added Tax Act (Chapter 23:12) requires a registered operator to account for VAT on imported services.

However, in terms of Section 13A of the Value Added Tax Act (Chapter 23:12) the supply of radio and television services from outside Zimbabwe to an address in Zimbabwe or of electronic services by an electronic commerce operator domiciled outside Zimbabwe to a person resident in Zimbabwe at the time of supply shall be deemed to be a supply made in Zimbabwe.

Does a non-established business need to appoint a fiscal representative in order to register?

The tax authority in Zimbabwe requires that every company applying for VAT registration appoints a person to represent the company on VAT and all other tax affairs.

How often do returns have to be submitted?

The general rule is that all registered operators will account for VAT on the invoice basis, unless the commissioner, on written application by the registered operator, has directed otherwise. Returns together with the payments are submitted on or before the 25th of the following month after the end of the tax period.

A tax period is two calendar months for most registered operators, while for large, registered operators it is a monthly tax period. Therefore, a registered operator accounts for both cash and credit transactions.

Payment basis

The Act also provides for an alternative accounting basis namely the payment basis. Registered operators in this category will account for VAT only to the extent they have received payment from such sales and claim input tax to the extent of payments made on purchases and expenses. The payment basis is only limited to public authorities, local authorities and not-for-profit associations. These registered operators, who wish to account for VAT on the payments basis, must apply to the commissioner in writing.

Are penalties imposed for the late submission of returns/ payment of tax?

- Yes.
- Penalties relating to late submission of returns are ZWL $30 per return.
- Late payment of tax when due attracts a penalty of any amount equal to the said amount of tax plus 10% interest per annum.
- Where a taxpayer fails to pay tax in the currency of trade attracts a civil penalty for breach of payment equal to double the amount of tax payable in the foreign currency concerned.

Are any other declarations required?

Businesses that are registered for VAT in Zimbabwe are required to submit input tax schedules to accompany each VAT return submitted. The input tax schedule must show:

- the name of supplier
- a description of goods/services supplied
- amount excluding VAT
- amount of VAT charged
- invoice number/bill of entry number in the case of a bill of entry being used
- date of supply of the goods or services.

Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.

Civil penalties and interest can be applied for errors and omissions made on tax returns, or where the tax is paid late. Penalties can also be applied where the business has failed to maintain adequate records, provide information (including additional declarations), or makes repeated mistakes.

Criminal proceedings may be brought in the case of more serious matters.

Where a taxpayer fails to pay tax in the currency of trade attracts a civil penalty for breach of payment equal to double the amount of tax payable in the foreign currency concerned.

Can the VAT incurred by overseas businesses be claimed if they are not registered in Zimbabwe?

- No.
- VAT incurred in Zimbabwe can only be claimed by a resident operator.
- The tax authority will not refund VAT that has been incurred in other tax jurisdiction even where the goods are eventually consumed in Zimbabwe.

What information must a VAT invoice show?

A Fiscal VAT invoice must show:

- the words 'Fiscal tax invoice' in a prominent place
- an invoice number which is unique and sequential
- the seller's name and address
- the seller's VAT registration number
- the invoice date
- the customer's name and address
- a description of goods or services supplied to the customer
- the customer's VAT number
- amount excluding VAT
- the total amount of VAT charged.

For each different type of item listed on the invoice, the following must be shown:

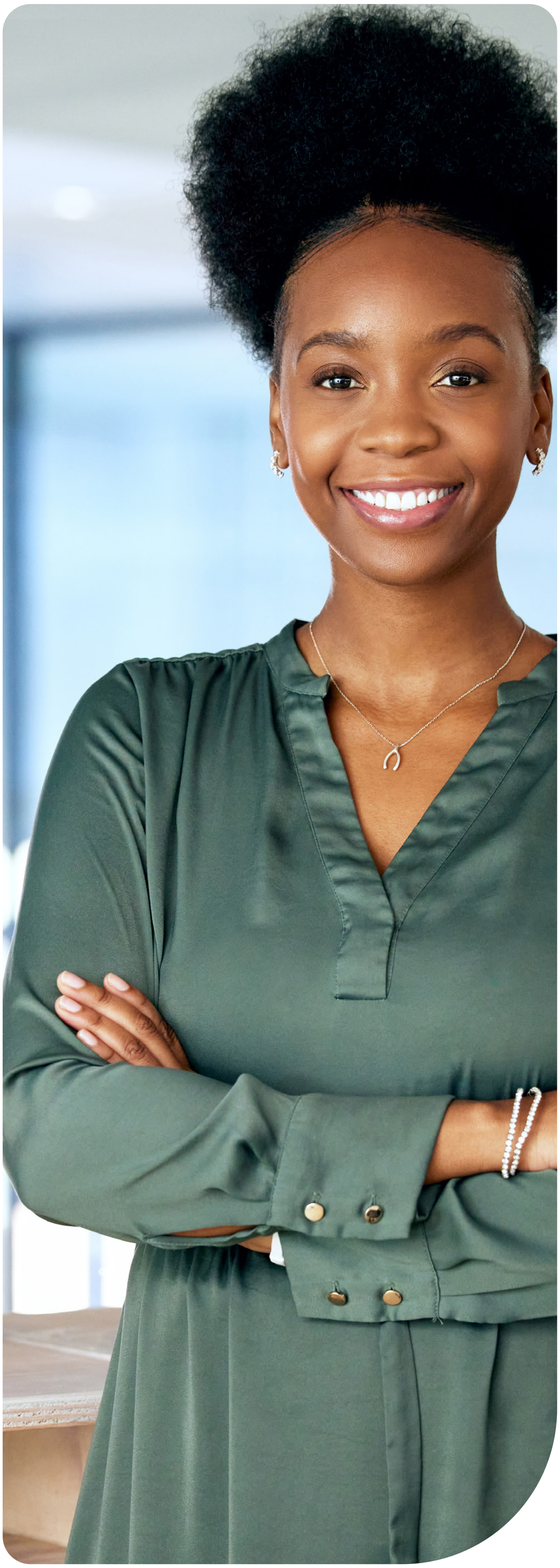
- the unit price or rate, excluding VAT
- the quantity of goods or the extent of the services
- the rate of VAT that applies to what's being sold
- the total amount payable, excluding VAT.

Where a VAT invoice includes zero-rated or exempt goods or services, it must:

- show clearly that there is no VAT payable on those goods or services
- show the total of those values separately.
- Where a business makes retail sales, a simplified VAT invoice can be issued.

Are there any current or anticipated Standard Audit File for Tax (SAF-T) or similar electronic/digital filing requirements eg invoice listing data file/real-time VAT reporting?

There are no SAF-T requirements. However, registered operators are required to file their VAT returns online. All VAT registered operators are mandatorily required to have a fiscalized gadget for recording of sales. The fiscal gadget must be interfaced with the tax authority's servers for recording of sales in real time.



grantthornton.com