

DOMESTIC TAXES DEPARTMENT

VALUE ADDED TAX AT A GLANCE

2006/2007

“Kulipa Ushuru ni Kujitegemea”

OUR VISION

*To be the leading revenue
Authority in the world
Respected for our
Professionalism,
Integrity and
Fairness*

OUR MISSION STATEMENT

To promote compliance with Kenya's tax, trade and border legislation and regulation by promoting the standards set out in the Taxpayer's Charter and responsible enforcement by highly motivated and professional staff thereby maximising revenue collection at the least possible cost for the socio-economic well being of Kenyans.

1. INTRODUCTION

This booklet has been simplified to show at a glance what a newly registered taxpayer or a member of the general public needs to know about Value Added Tax. More detailed information may be obtained from the nearest Domestic Taxes office.

2. WHAT IS VAT

VAT is a consumption tax charged on both local sales and

importation of taxable goods and taxable services.

VAT Law is contained in the **Value Added Tax Act Cap 476 Laws of Kenya** and the regulations stemming from it. The Act may be purchased from either the Government Press or from DTD HQS Nairobi. There are also other free TAX Publications available at all DTD Offices.

3. WHO PAYS VAT?

VAT is paid by Consumers of Taxable goods and taxable services. It is collected by registered taxpayers (traders) who act as the agents of the Government. VAT on imported goods is collected by the Commissioner of Customs Services Department while local VAT and that on imported services is paid to the Commissioner of Domestic Taxes.

4. REGISTRATION FOR VAT

Any trader dealing in taxable supplies and whose sales turnover is Kshs 3. million or more or expects to attain this turnover shall register for VAT. (NB. Registration turnover will be 5 million from January 2007). Taxpayers with turnover of below Kshs, 5,000,000 will be required to pay turnover tax w.e.f. Jan. 2007. However the following businesses are not subject to the above turn over limit and therefore have to register even if annual sales are below Kshs. 3 million.

- Dealers in jewellery
- Dealers in timber
- Dealers in pre-recorded music
- Dealers in household or domestic electric or electronic apparatus and appliances.
- Dealers in motor vehicle parts and accessories
- Any person who sells four or more motor vehicles in any one year.
- Accountancy services including any type of auditing, bookkeeping or other similar services.
- *The provision of reports, advice, information or similar technical services in the following areas: -*
 - *management, financial and related consultancy services;*
 - *recruitment, staffing and training;*
 - *market research;*
 - *public relations;*
 - *advertising;*

- *actuarial services; or*
- *material testing services, excluding medical, dental or agricultural testing services.*
- *Computer services of any description, including the provision of bureau facilities, systems analysis and design, software development and training, but excluding training offered to students in the furtherance of education and which is not part of user training or other business training.*
- *Legal and arbitration services including any services supplied in connection therewith.*
- *Services supplied by architects (including landscape architects), draughtsmen and interior designers.*
- *Services provided by land and building surveyors, quantity surveyors, insurance assessors, fire and marine surveyors, loss adjusters or similar services.*
- *Services provided by consulting engineers.*
- *Services supplied by auctioneers, estate agents and valuers*
- *Services provided by agents, excluding insurance agents*
- *Services supplied by brokers, excluding services supplied by insurance brokers, stock exchange brokers and tea and coffee brokers dealing exclusively in tea and coffee for export.*
- *Services supplied by security and investigation organisations including rental of security equipment and installation.*
- *Advertising services, including the placement of notices and announcements in the print and electronic media and services connected therewith or incidental thereto, but excluding death and funeral notices and announcements.*
 - *Telecommunication services including rental of telecommunication equipment and installation services*
 - *Services supplied by contractors.*
 - *Services supplied by Clearing and forwarding agents.*
 - *Secretarial services Supplied by Certified Public Secretaries.*

5. LIABILITY OF SUPPLIES TO VAT

Liability of supplies to VAT is determined by referring to the relevant schedules in the VAT Act.

The VAT Act contains the following schedules: -

1) 1st Schedule

All taxable goods and services are subject to VAT at 16% other than Zero – rated supplies.

II) 2nd Schedule- Lists **EXEMPT GOODS-** (Non- Taxable Goods) Goods that are not taxable.

III) 3rd Schedule - Lists **EXEMPT SERVICES-** (Non-taxable services). Services that are not mentioned in this list are taxable.

VI) 4TH schedule

Contains taxable services that are not subject to turn-over Limits required for registration. Suppliers should therefore be registered for VAT irrespective of their turnovers.

V) 5th Schedule

-Part A--Zero-rated Supplies

-Part B&C--Zero-Rated goods.

These are subject to 0% VAT.

V1) 8th Schedule

- Part A--Public Bodies, privileged persons and institutions with Zero-rated status on imports and purchases.

- Part B --Special goods subjected to zero-rating.

- Part C-- Zero-rating of goods and services imported or purchased by persons with diplomatic privileges.

6. VAT RATES

16%: This is the general rate of tax applicable to all taxable goods and services other than those that are Zero rated.

0%: *This applies to certain categories of goods and services, which includes exports, agricultural inputs, pharmaceuticals and supplies to privileged persons. The purpose of zero rating is to make the supplies cheaper as dealers in these goods and services can claim back input tax incurred in the course of their businesses.*

Zero rated supplies are taxable supplies but since the rate of tax is 0% no output tax is charged. Taxpayers supplying zero-rated goods and services are however entitled to input tax deduction, as it applies in other taxable supplies.

NB.

EXEMPT SUPPLIES: -These are goods and services that are not taxable. Persons dealing exclusively in such supplies are not required to register for VAT. However if a trader deals in both taxable and non-taxable supplies, he should be registered if he meets the registration requirement on taxable supplies.

Input tax incurred in production of exempt supplies is not deductible.

7. WHAT IS A SUPPLY?

Supply includes:

- The sale, supply or delivery of taxable goods to another person;
- The sale or provision of taxable services to another person;
- Gifts of any taxable goods or services;
- Letting of taxable goods on hire, leasing or other transfers
- Contractor supplying taxable services to himself in constructing a building or related civil engineering works for his own use, sale or renting to other persons
- The receipt of a sum of money by a registered person for loss of taxable goods or services;
- The appropriation by a registered person of taxable goods or services for his own use inside of the business where if supplied by another registered person, the tax charged on such goods or services is excluded from the deduction of input tax; e.g a Saloon car taken by a motor dealer for use in the business.
- The appropriation by a registered person of taxable goods or services for his own use outside of the business; e.g removal of goods from one's shop for home use.

- Any other disposal of taxable goods or provision of taxable services.

8. WHEN IS VAT DUE AND PAYABLE? (TAX POINT)

*The point at which VAT is deemed to be due and payable to the Commissioner is determined by four points referred to as **TAXPOINTS**. These are: -*

- Date of Supply / delivery, or
- Date of invoice, or
- Part or full payment for supply, or
- Certificate of completion incase of construction industry.

Whichever comes the earliest

For an Imported Taxable Service, the Tax Point is: -

- Date the imported service is received, or
- Date an invoice is received, or
- Part or full payment is made:

Whichever comes the earliest.

Registered taxpayers are allowed to defer the payment of VAT due to a date not later than 20th of the following month. VAT charged should be paid irrespective of whether or not the trader has been paid by his debtors.

However a registered taxpayer may claim back as bad debt any VAT declared to the commissioner if the debtor fails to pay him within a period of three (3) years from the date of the supply or becomes legally insolvent. The debt should however not be more than five (5) years old. Other conditions set out in the VAT Act must be fulfilled.

. HOW TO WORK OUT VAT PAYABLE.

VAT paid to the Commissioner is the difference between the **Output Tax** and the **Input Tax**. **Input tax** refers to the tax charged **on purchases** while output tax refers to the tax charged **on sales**. Any excess Input tax is carried over to the following month except where the excess arises from dealing with **zero-rated** supplies, withholding VAT system or physical capital investment where input tax deducted is Kshs 1,000,000 or more.

The excess input tax should be claimed from the Commissioner within **12 months from the date of the tax invoice** using a **form VAT 4**.

10. INVENTORY CLAIM

*Once registered for VAT, one may within 30 days after receipt of the certificate of registration lodge a relief claim on **VAT paid on stock held or business assets bought or buildings constructed 12 months prior to registration.** However the Commissioner is empowered to vary the 30 days to a longer period in any particular case. A VAT 5 form is used for Inventory Claims.*

The purpose of this tax relief is to off-load any VAT held in stock and such other assets in order to avoid double taxation.

11. IS THERE DOUBLE TAXATION IN VAT?

VAT does not result in double taxation as registered taxpayers are allowed: -

- a) to claim on **VAT 3 returns** any input tax incurred in furtherance of their taxable businesses*
- b) to get relief through inventory claims on VAT paid on stocks, assets and buildings as stated earlier.*

12. PROHIBITED INPUT TAX

Input VAT incurred in purchase of the following supplies is not deductible/claimable in the VAT return.

- *All oils for use in vehicles, ships, boats and other similar vehicles and vessels except oil for use in railway and tram-way locomotives.*
- *Passenger motor vehicles and minibuses and the cost of their maintenance. Where such vehicles have been specifically designed or modified and primarily used for the supply of taxable goods or services, the Commissioner may approve deduction of input tax thereof. Input tax is also deductible where such vehicles are purchased for sale (stock in trade).*
- *All motor vehicles (other than passenger cars and minibuses), bodies, parts and services for repair and maintenance of such vehicles except where the goods are used primarily for the supply of taxable goods and services; or purchased as stock in trade;*
- *Furniture, fittings and ornaments or decorative items in buildings other than items permanently attached to buildings; or such goods for use in hotels and restaurants subject to the approval of the Commissioner;*
- *Household or domestic electrical appliances other than those approved by the Commissioner for use in the manufacture of taxable goods or services e.g. in hotels and restaurants;*

- *Entertainment services;*
- *Restaurant services;*
- *Accommodation services*
 - *Taxable Supplies for use in Staff housing and other similar establishments for the welfare of staff.*

13. **HOW TO APPORTION COMMON INPUT TAX**

The Input tax deductible should only be that directly attributable/related to taxable supplies. Where it applies to both taxable and non-taxable supplies, the formula below may be used to apportion the input VAT: -

Deductible input tax =

Value of taxable supplies x Input tax to be apportioned

Total supplies (Taxable supplies and Non-taxable supplies)

NB: Please note that taxable supplies include zero rated supplies

Any taxpayer wishing to use any other formular must apply for approval by the Commissioner.

14. **KEEPING OF RECORDS**

Registered taxpayers are required by Law to keep full and true records, written up-to-date covering all their business transactions.

These records are: -

- 1) Copies of serially numbered invoices/cash sale receipts i.e. Tax invoices,**
- 2) Copies of all credit notes & debit notes issued in a chronological order,**
- 3) Original copies of all credit notes & debit notes received and filed chronologically,**
- 4) All original purchase invoices & cash sale receipts,**
- 5) Original copies of Customs entries to support VAT paid on imports,**
- 6) Receipt issued on payment of customs duty & VAT,**
- 7) A VAT account showing totals of output and input tax and the net tax payable or excess tax carried forward at the end of each tax period,**

- 8) Stock records,
- 9) Journals, ledgers, cash/petty cash books, audited accounts, Bank statements, and
- 10) Any other relevant records.

NB. The records should be kept for a minimum period of five years and should be availed to an authorized officer whenever demanded. Records must be kept in either Kiswahili or English.

15.1 HOW TO PAY VAT

- VAT is declared on a monthly VAT 3 return form which may be obtained from any DTD office. Payments are made to National Bank of Kenya, Kenya Commercial Bank Co-operative Bank of Kenya or their branches.
- Payments should be made in banker's cheques, bank guaranteed cheques or cash, payable to Commissioner of Domestic Taxes Department.
- Taxpayers may also authorize their banks to make **Electronic Fund Transfers (EFT)** to the **Central Bank of Kenya Account No. 04-010-0115**.

NB. The receiving Commercial Bank is responsible for stamping all the copies of the returns and forwarding the original (upper portion) and the duplicate VAT 3 to the Central Bank of Kenya.

15.2 WHERE ARE VAT 3 RETURNS SUBMITTED?

- **Payment returns** are forwarded to the above mentioned banks at the time of payment.
- **Credit and NIL returns** should be forwarded to the **nearest DTD office**.

NB: *A VAT 3A form analysing the input tax incurred within the month should accompany any credit returns. A VAT 3A form should also be completed for any payment return where the input tax incurred is 3 million or more for a Nairobi trader or 1.5Million in other Districts, the VAT 3A form should be completed and submitted to the nearest DTD office by 30th.*

A VAT 3B form analysing all Zero rated supplies should also be submitted where zero-rated sales are made.

15.3 WHEN TO SUBMIT VAT 3 RETURNS

- Returns should be submitted **on or before 20th** of the month following that which the sales were made. **If the 20th falls on a Saturday, Sunday or a public holiday a return must be submitted before the last working day prior to the 20th.**
- Where returns are **sent by post**, they shall be deemed to have been received by the Commissioner on the postmark date on the envelope provided that the return is sent **on or before the 15th of the month succeeding that which the sales were made.**

NB.

Failure to submit a return and pay the tax due by the due date is liable to a default penalty of Kshs. 10,000 and a further 2% additional tax (interest) per month on the unpaid tax.

16. RIGHTS OF A REGISTERED TAXPAYER.

A taxpayer has a wide range of rights including the following among others: -

- To claim Input Tax incurred for the furtherance of the registered business,
- To claim all types of refunds where applicable,
- To get VAT Information,
- To be treated fairly and with impartiality,
- Privacy and confidentiality,
- Courtesy and consideration,
- Presumption to honesty,
- To object to any disputed assessment,
- To demand identification of visiting KRA officers.

17. OBLIGATIONS OF A REGISTERED TAXPAYER.

- Register for VAT if qualified to do so,

- Display the VAT certificate of registration in a conspicuous place within the business premises,
- Charge VAT in all taxable supplies made,
- Issue serially numbered tax invoices or cash sales receipts on every sale made,
- Disclose and avail any relevant information, records or documents demanded by authorized officer,
- Declare true and correct VAT returns and file the same within the stipulated period.
- Accord full cooperation to authorised officers,
- Pay immediately any undisputed assessment raised

NB. *If one fails to fulfil any of the above obligations, one will be liable to penalties as stipulated in the Law. Business records will also be subjected to an audit and any assessment made demanded with interest.*

18. WITHHOLDING VAT SYSTEM

If you supply to a withholding VAT Agent, he will deduct VAT you charged him and will give you a certificate of withheld VAT at the time of payment.

You will however be required to submit a return on the due date and pay all Tax you have charged during the month including the amount that has been withheld.

In order to prevent double payment of VAT due to the system, you will be required to deduct the withheld VAT supported by withholding VAT certificates in your subsequent return. Where there is perpetual credit due to withholding VAT you may claim the excess through form VAT4 direct from the Commissioner.

19. DEREGISTRATION:

Deregistration means the removal of a registered taxpayer from the VAT register. Once de-registered, a taxpayer is not required to charge VAT. Charging VAT when not registered is an offence.

The circumstances that may lead to deregistration include: -

- Ceasing to make taxable goods and services; The taxpayer should without delay notify the Commissioner of the cessation date and furnish him with a return showing details of all goods in stock within thirty (30) days from the date of cessation.
- Value of taxable goods and services falling below **Kshs. 2 Million** in any period of **twelve (12) Months** and no increase in such supplies is expected in the next **12 Months. However this does not affect businesses that do not require any threshold for registration.**
- Other causes of de-registration include death of the sole trader, Insolvency, leaving the country and Legal incapacitation, or goods or services becoming non-taxable.

NB. Any changes affecting the business should be notified to the commissioner in writing.

NB: Please note that Domestic Taxes department would wish to have a good and friendly working relationship with its esteemed taxpayers. Taxpayers are therefore advised to meet their tax obligations as required by the VAT law. You are welcome to consult the Department on any matter not clear to you.

Further enquiries

DTD Customer Care Desk-Times Tower - Tel. No. 310900 or any DTD office countrywide.

DISCLAIMER

This information is for guidance only and is subject to changes when Law is ammended. Any omissions do not absolve the taxpayer from making true and correct returns and **statement of accounts.**

Revised on 26th Jan., 2006

DGW/S

TAXPAYER INFORMATION & EDUCATION SERVICES

PROGRAMME