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TMT & IP - TAX ALERT

VAT on Electronic Services supplied in
Uganda by Non – Resident Persons

By Margaret Kabanyoro Nyakusemera

The Uganda Revenue Authority (URA), in October 2020 issued a Public Notice regarding payment of Value Added Tax (VAT) on Electronic Services supplied in Uganda by Non – Resident Persons.

This Public Announcement was derived from Section 16 of the VAT Act which sets out what amounts to a “Place of supply of services”. This Section, under sub – section (2) (d) states that, “...A supply of services shall take place in Uganda if the recipient of the supply is not a taxable person and; (d) the services are electronic services delivered to a person in Uganda at the time for supply...”

Ordinarily, non – residents are only subject to tax on income derived from sources in Uganda. However, with this announcement, a non – resident is subject to tax in the absence of a place of business in Uganda, provided the electronic service is delivered to a non – taxable person in Uganda.

Background

Electronic Services and the VAT Act

The VAT Act, under Section 16 (5) defines electronic services to mean any of the following, when provided on or through a telecommunications network:

- a) Websites, web – hosting or remote maintenance of programs and equipment;
- b) Software and the updating software;
- c) Images, text and information (including advertising);
- d) Access to data bases;
- e) Self – education packages;
- f) Music, films and games including games of chance; or
- g) Political, cultural, artistic, sporting, scientific and other broadcasts and events including television.

Therefore, a non – resident person who supplies such electronic services as stated above, in Uganda, is required to register for VAT and account for VAT on the transactions supplied in Uganda by filing a tax return in compliance with the Tax Procedure Code Act.

What does this mean for you?

A non – resident becomes a taxable person i.e. a person registered or required by law to register for VAT purposes; when supplying electronic services to a non – taxable person in Uganda because such supply is deemed to be taking place in Uganda. This applies to you regardless of whether or not you have a place of business in Uganda.

You will be required to register for VAT purposes and charge 18% VAT on the total consideration received for your services. This also means that you will be eligible to claim input tax (this is the VAT you incur) credit for VAT incurred in Uganda for the services supplied.

Note that if you are unable to register directly for instance, due to an absence of a place of business in Uganda, you may appoint a local tax representative who will be personally liable for your filing and payment obligations. Alternatively, The Commissioner General, URA, may, at your cost, appoint another person to prepare and furnish the return on your behalf however, this person does not become your tax representative.

Further note that the enforcement of this provision is still an on – going debate with URA especially with regard to the uncertainties surrounding imported services and whether enforcement will extend to them given that, with imported services, VAT is accounted for under the reverse charge mechanism by the recipient of the service.

How can you comply?

1. Register directly for VAT with URA.
2. Appoint a local tax representative to register on your behalf.
3. Ensure to keep account of all the VAT incurred in order to file a return.

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