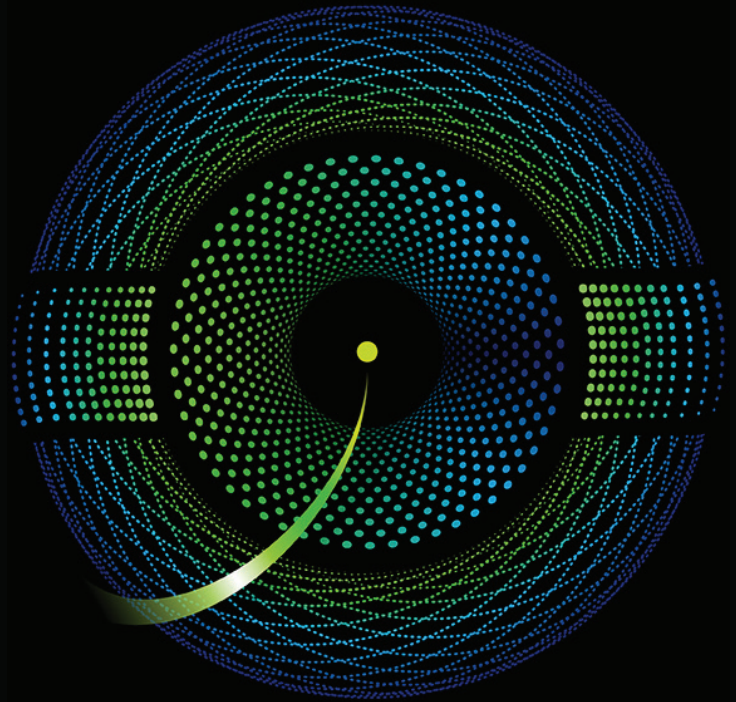


Ghana Indirect Tax Updates



1. VAT exemption conditions for Civil Engineering Public Works

In brief

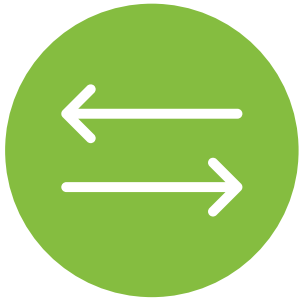
The Commissioner-General (C-G) of the Ghana Revenue Authority (GRA) has published a Practice Note to provide guidance on interpreting what constitutes “Civil Engineering Public Works” as a VAT exempt supply and the conditions for exemption of such works.

The C-G of the GRA has published a Practice Note to bring clarity to the conditions needed to guarantee VAT exemption status for Civil Engineering Public Works (“CEPW”).

In summary, the GRA interprets a CEPW to include *“construction, maintenance, reconstruction, demolition, repair or innovation of a building, structure, surface or system, and includes site preparation, excavation, erection, assembly, installation of plant, fixing of equipment, laying out of materials, decoration and finishing in relation to infrastructure projects for public use and paid for with public funds”* as defined in the Ghanaian Constitution.

Civil engineering projects that do not meet the above definition would therefore attract VAT as taxable supplies.

Services incidental to CEPW such as architectural designing and drawings, consultancy and supervision of works have been excluded from the definition to make them taxable even where they are supplied to public institutions.



2. VAT treatment of supplies exempt at importation but taxable in domestic market

In brief

The C-G of the GRA has published a Practice Note to provide guidance on treatment of goods with different VAT status when imported and supplied within the domestic market.

The C-G of the GRA has published a Practice Note to clarify the taxability of domestic supplies of goods exempt at importation. The Practice Note identified three (3) categories of supplies with their respective treatment as follows:

- a. Supply of goods that are exempt at both importation and within the domestic market**
Goods specifically exempted under the Customs Harmonized Code and the VAT Act are considered exempt for VAT at both importation and in the domestic market
- b. Supply of goods that are exempt at importation but taxable in the domestic market**
Goods that are specifically exempted under the Customs Harmonized Code but not specified as exempt in the VAT Act are taxable when supplied in the domestic market.
- c. Supply of goods that are taxable both at importation and in the domestic market**
Goods that are neither exempted under the Customs Harmonized Code nor the VAT Act are taxable both at importation and when supplied in the domestic market.



3. Guidance on VAT treatment and documentation for supplies to and from Free Zones Enterprises

In brief

The C-G of the GRA has published a Practice Note to provide guidance on VAT implications and documentations required for supply of goods and services to and from Free Zone Enterprises/Developers ("FZEs").

The C-G of the GRA has published a Practice Note to specify the documentation taxpayers should maintain for supplies to and from FZEs in Ghana. The Practice Note covers the following transactions:

- a. Supply of goods, services, and utilities from the domestic market to the free zones**

The supply of goods or services from a domestic supplier to an FZE is ordinarily zero-rated for VAT if done in accordance with relevant legislation and guidelines. The domestic supplier should obtain and maintain the following documents:

- A completed and duly signed Form 9 from the Free Zones Enterprise endorsed by the Ghana Free Zones Authority (GFZA).
- A copy of FZE's introductory letter issued by the GFZA.
- Appropriate customs documentation covering the goods, in the case of supply of goods.

b. Supply of goods, services, and utilities from free zones to the domestic market.

Supply of goods from an FZE to the domestic market is deemed to be an import of such goods, hence the recipient must fulfil all the applicable Customs procedures and requirements including paying the applicable import VAT and levies.

Where it is a supply of service, the recipient only declares same as an import of service and pays applicable VAT and levies, if the recipient does not use the imported service to make taxable supplies.

The FZE should obtain and maintain the following documents:

- A completed and duly signed Form 9 endorsed by the Ghana Free Zones Authority (GFZA).
- An invoice covering the supply and a copy of the FZE's introductory letter issued by the GFZA.
- Appropriate customs documentation in the case of supply of goods.

The domestic market recipient should also obtain the same documents for its records.



4. VAT invoice as a condition for corporate tax expenditure deduction

In brief

The GRA will now disallow corporate tax deduction for expenses above GHS2,000 (c. US\$333) if they are not supported with VAT invoices.

The C-G of the GRA has issued a directive to its staff to demand VAT invoices as basis for allowing deduction of expenditure for corporate tax purposes.

Entities in Ghana already have an obligation to obtain valid VAT invoices to be eligible for input VAT claim on taxable purchases. This directive however effectively expands the scope of deductibility rules in the Income Tax Act which hitherto generally guaranteed deduction for expenditure that was incurred wholly, exclusively, and necessarily in the generation of income. With this directive taking effect from 1 October 2021, taxpayers will be required to also provide valid VAT invoices to support expenditure above the threshold of GHS2,000 (c. US\$333) for corporate tax deduction.

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