

Tax & Legal Alert
February 2022



Keeping you in the loop

VAT Registration and filing modalities by Non-Resident Suppliers of Electronic Services

The Uganda Revenue Authority (URA) has issued a Public Notice on the registration and return filing requirements for non-residents supplying electronic services to non-taxable persons in Uganda. This notice has been issued in accordance with section 16(2)(d) of the Value Added Tax (VAT) Act Cap 349 (VAT Act).

This communication highlights the key issues resulting from this Public Notice and related potential implications to taxpayers.

Introduction

Section 16(2) of the Valued Added Tax (VAT) Act Cap 349 (VAT Act) provides that a non-resident person (NR) is considered to have made a taxable supply in Uganda, where electronic services (ESS) are supplied to a non-taxable person in Uganda.

A nontaxable person in this case refers to a person who is not registered for VAT.

The VAT Act defines electronic services when provided or delivered remotely to include:

- i. Websites, web-hosting or remote maintenance of programs and equipment;
- ii. Software and the updating of software;
- iii. Images, text and information;
- iv. Access to databases;
- v. Self-educated packages;
- vi. Music, films and games including games of chance; or
- vii. Political, cultural, artistic, sporting, scientific and other broadcasts and events including television.

A NR who meets the requirement above is required to register for and account for VAT at the standard rate of 18%.

The Public Notice

To facilitate implementation of the change in filing for NRs introduced by the The Value Added Tax (Amendment) Act, 2021, the URA has introduced a quarterly return "DT-2031A (VAT Return form for Non-resident supplier)" to be used to declare VAT on ESS. This return and any tax declared are due by the 15th day of the month following each quarter.

At the moment the return is manual and upon completion is to be scanned and sent to a specific e-mail address set-up specifically for this reason i.e., quarterlyreturns@ura.go.ug.

Additionally, to address one of the previous incumbrances related to registration by the NR, the first VAT return filed will be treated as an application for VAT registration. The NR will automatically be registered for VAT and issued with a Tax Identification Number (TIN).

The NR can still opt to appoint a tax agent (qualifying practitioner approved by URA) or tax representative (person in Uganda appointed to represent the company in its tax affairs) to assist them fulfil their filing obligations in Uganda.

How does this affect you?

All non-residents providing qualifying services of the nature indicated above need to evaluate the value of supplies made in Uganda vis-a-vis the VAT registration threshold of Ushs 37.5 million in any three-month period or Ushs 150 million in a twelve-month period.

Once the threshold has been attained, the NR needs to register for VAT by filing their first quarterly return as indicated above and once registered comply on an ongoing basis.





Filing/Registration process

A simplified registration and return form for non-resident persons is available on the URA web portal (www.ura.go.ug)

To access the form:

- Visit the URA web portal <http://ura.go.ug>
- Select download manual forms
- Select domestic taxes
- Select return forms
- Under return forms, select form DT-2031A (VAT Return form for Non-resident supplier).

Download the form, fill sign, scan and email it to quarterlyreturns@ura.go.ug and pay the tax within fifteen days from the end of each quarter.

A non-resident person may appoint a tax agent or a tax representative for the purpose of fulfilling their tax obligations.

Our view

Previously the registration of NRs for VAT purposes in Uganda has proved problematic given the lack of incorporation/ registration in Uganda, as well as the need for both a tax representative and security bond.

Whilst the implementation of the simplified registration and quarterly filing is a step in the right direction to ease compliance for NRs, there are still some areas that we believe should be considered:

- i. Currently the return Form (DT 2031A) is a manual form. The URA could consider automating the form to make it less burdensome for NRs.
- ii. There is a risk of double taxation arising from entities that are not VAT registered accounting for VAT on imported services under the reverse charge VAT mechanism (RCVAT) under provisions of section 5(1)(c) of the VAT Act which places the responsibility to pay VAT on imported services on the recipient of the service while at the same time paying VAT to the NR ESS supplier as part of the price for such a service on the basis of section 16(2)(d). Consideration should then be to streamline the VAT provisions related to ESS such that the NR obligation and liability is in respect to Business to Consumer (B2C) supplies i.e. individuals and not Business to Business (B2B). This way businesses (whether VAT registered or not) retain the obligation to account for RCVAT as is the current position without the possibility that they could be taxed twice.

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