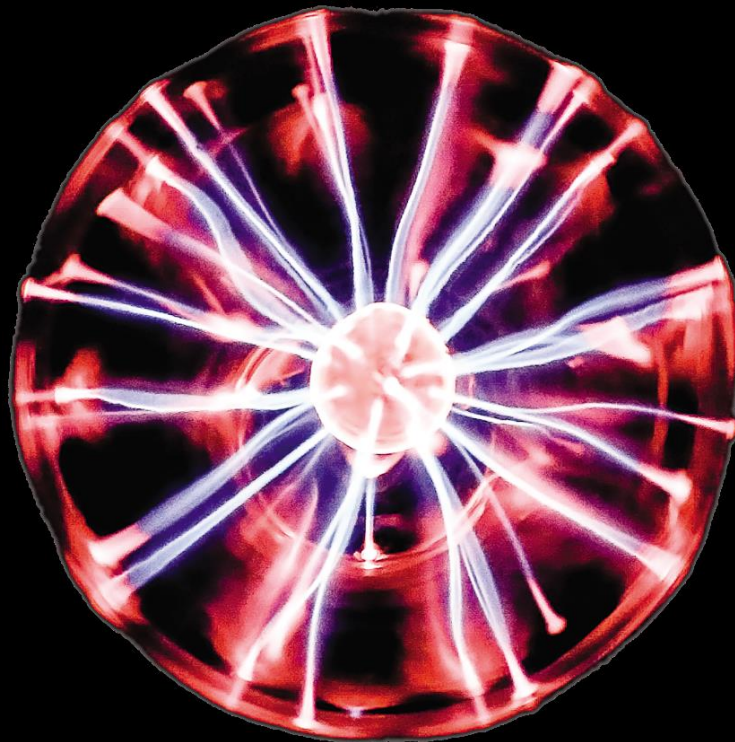


Tax & Legal Alert  
August 2022



## Tax Alert

### The KRA clarifies applicability of electronic tax register on registered non-resident suppliers of digital services

The Finance Act, 2022 amended Section 10 of the Value Added Tax Act, 2013 to exclude services provided through a digital marketplace platform from the purview of Value Added Tax (“VAT”) on imported services (reverse charge VAT). In effect, this change brought Business to Business (B2B) transactions under the ambit of VAT on digital market supplies by shifting the liability to account for VAT on such transactions from the recipient to the non-resident supplier.

Vide the VAT (Electronic Tax Invoice ) Regulations, 2020 (“the Regulations”) and the public notice dated 13 July 2021 issued by the Kenya Revenue Authority (“KRA”), all VAT registered taxpayers were expected to comply with the Regulations. This alert highlights clarifications provided by the KRA on applicability of these Regulations to registered non-resident suppliers of digital services in B2B transactions.

## Background

The KRA, vide a public notice issued on 19 August 2022, clarified that non-resident suppliers of digital services are exempted from issuing electronic tax invoices as required by the VAT (Electronic Tax Invoice ) Regulations, 2020. However, invoices issued by non-resident suppliers ought to indicate the value of the supply and the tax thereon.

To dispel any doubts as to deductibility of input tax suffered on such taxable suppliers, the KRA indicated that necessary enhancements have been made on iTax to facilitate the same. That is, businesses that purchase digital services are entitled to claim as input tax, the VAT charged to them by the non-resident suppliers.

## Impact on taxpayers

This public notice provides the needed clarity by non-resident suppliers of digital services in complying with VAT (Digital market supplies) Regulations, 2020.

Further, it gives financial and administrative relief to non-resident suppliers of digital services by eliminating the cost of purchasing approved electronic tax registers.

Similarly, it retains the cost of procuring digital services from foreign suppliers since it ensures deductibility of input tax by resident business recipients of the digital services.

Should you wish to discuss this further, kindly feel free to contact any of the contacts below or your usual Deloitte contact who will be more than glad to offer you guidance and assistance.



## Contacts for this alert

Fred Omondi

**Tax & Legal Leader, Deloitte East Africa**

+254 20 4230 000

[fomondi@deloitte.co.ke](mailto:fomondi@deloitte.co.ke)

Lilian Kubebea

**Tax & Legal Partner**

+254 20 4230 000

[lkubebea@deloitte.co.ke](mailto:lkubebea@deloitte.co.ke)

Doris Gichuru

**Tax & Legal Partner**

+254 20 4230 000

[dgichuru@deloitte.co.ke](mailto:dgichuru@deloitte.co.ke)

Charles Musyoka

**Tax Manager**

+254 20 4230 000

[cmusyoka@deloitte.co.ke](mailto:cmusyoka@deloitte.co.ke)

Kennedy Okoyo

**Tax Manager**

+254 20 4230 000

[kokoyo@deloitte.co.ke](mailto:kokoyo@deloitte.co.ke)

Kibet Keitany

**Tax Associate**

+254 20 4230 000

[kkeitany@deloitte.co.ke](mailto:kkeitany@deloitte.co.ke)

## Deloitte.

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee (“DTTL”), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as “Deloitte Global”) does not provide services to clients. Please see [www.deloitte.com/about](http://www.deloitte.com/about) to learn more about our global network of member firms.

Deloitte is a leading global provider of audit and assurance, consulting, financial advisory, risk advisory, tax and related services. Our global network of member firms and related entities in more than 150 countries and territories (collectively, the “Deloitte organization”) serves four out of five Fortune Global 500® companies. Learn how Deloitte’s approximately 345,370 people make an impact that matters at [www.deloitte.com](http://www.deloitte.com).

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the “Deloitte network”) is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. No entity in the Deloitte network shall be responsible for any loss whatsoever sustained by any person who relies on this communication. No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.