

Tax & Legal Alert
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Keeping you in the loop

Reinstatement of Operation of VAT Withholding

Following the suspension of the operation of VAT Withholding in September 2018, URA has issued a Public Notice that re-instates the obligation on designated VAT Withholding agents to withhold VAT effective **1 December 2021** on any taxable supplies made to the agent.

This communication highlights the key features of the obligation imposed and related potential implications to taxpayers.

Introduction

Background to the Withholding VAT obligation

The 2018 VAT Amendment Act introduced a VAT withholding system where designated VAT withholding agents were required to hold VAT on supplier invoices and pay it directly to the URA instead of the supplier.

Following the amendment, Legal Notice No.12 of 2018 was issued, appointing 680 taxpayers as designated VAT withholding agents.

The VAT withholding system was then implemented for a couple of months but as a result of administrative challenges for taxpayers appeals from various associations and taxpayers, it resulted in the Minister issuing Legal Notice No. 19 of 2018 revoking the earlier Legal Notice that listed the designated agents.

Although the Legal Notice suspended the operation of VAT withholding on the basis that there were no designated VAT withholding agents, it did not repeal the provision. The revocation of the notice designating taxpayers only implied that the implementation of the VAT withholding system had been suspended until either the provision itself was repealed or a new Legal Notice issued.

Subsequent amendments to section 5 (2) of the Value Added Tax Act, Cap. 349 (VATA) were introduced by the VAT (Amendment) Act, 2019 as follows:

“5(2) The Minister shall, by notice in the Gazette, designate persons who shall withhold tax on payment of taxable supplies;

(2a) A person designated under subsection (2), shall remit to the Uganda Revenue Authority, six percent of the taxable value referred to in sections 21 and 23 of this Act.

(2b) Subsection (2a) does not apply to a taxable person who the Commissioner General is satisfied has regularly complied with the obligations imposed on a taxable person under this Act.”

In May 2020, Legal Notice No.1 of 2020 **“The Value Added Tax (Designation of Tax Withholding Agents) Notice”** was issued by the Minister. This listed 1,025 taxpayers as designated VAT withholding agents.

In the month of November 2021, the Uganda Revenue Authority (URA) has issued a Public Notice requiring designated VAT withholding agents to withhold 6% VAT on taxable supplies effective **1 December 2021**.



1. Implication to taxpayers

Designated VAT Agents ('agent') are now required to withhold 6% of the VAT amount on a taxable supply. This requirement is similar to the operation of the provision on 6% withholding tax on payments for provision of goods and services to residents in both the rate.

Before withholding, the designated agent needs to confirm whether or not the supplier is listed as exempt for VAT withholding purposes. It is important to remember that although a person is exempt from 6% withholding tax, they may not necessarily be exempt for VAT withholding.

The agent then accounts for the VAT withheld and pays the same to URA by the filing and payment due date for VAT. Once this is done, their obligation is fulfilled.

The supplier of taxable supplies on the other hand would account for VAT on the supply normally i.e. full amount of VAT will have been computed and accounted for in the same month the agent is making the 6% VAT withholding payment. In the subsequent month, the supplier then recognises the withheld 6% as a payment in their VAT return.

2. Practical considerations relating to the changes

Timing of VAT payment on cashflows of the designated agent:

For agents who usually make payments to suppliers as they receive invoices, with the exception of the additional administrative burden, this change should not have any impact on cash flows. However, for an agent who has credit terms going beyond 30 days, this will impact how they plan their financing of operations given that they need to plan for an additional 6% sooner than they would have had to.

Treatment of credit notes raised subsequent to payment of 6% VAT:

This will be very similar to some of the issues taxpayers encounter where a withholding tax payment has been made and subsequently a credit note is issued by the supplier. This means that taxpayers have to be more vigilant in this regard.

Payments against non-EFRIS supported invoices: Taxpayers now need to seriously consider instances where suppliers have issued invoices that are not supported by an E-receipt/ invoice. For VAT registered agents, this potentially means that while on the one hand one cannot claim input VAT, the issuance of a VAT invoice supports the fact that a taxable supply has been made, which then imposes the obligation to account for 6% VAT withholding.

In spite of the mandatory requirement for EFRIS compliant receipts/ invoices effective 1 January 2021, not all taxpayers have necessarily complied. This non-compliance unfortunately will impact the agent given that any non-compliance on their part is penalized on them.

Designated agents have to configure their systems at short notice to be able to capture the accounting for the 6% VAT withholding.



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