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Tax Alert
KRA issues guidance and update on automated verification of VAT returns

The VAT Auto Assessment (VAA) tool was rolled out in October 2018 and piloted on the January 2018 VAT return. The tool was aimed at cross-validating input tax claimed as credit by purchasers against corresponding output tax declared by sellers.

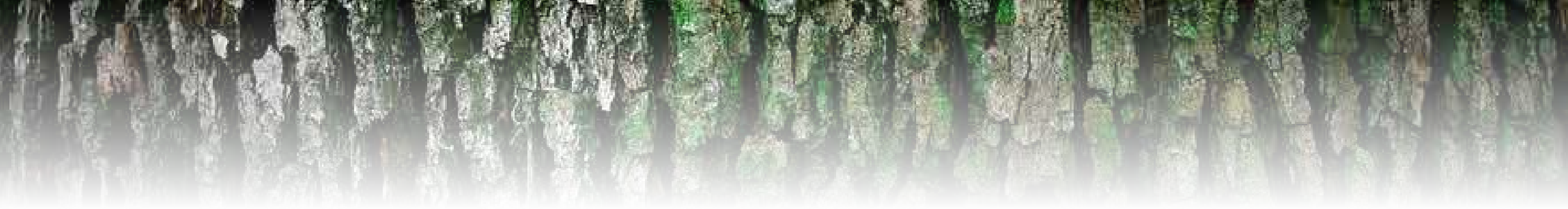
Following its launch, affected taxpayers raised various concerns regarding the tool's shortcomings from a data analytics, practical and legal perspective. The Kenya Revenue Authority (KRA) has now moved to inform the public that VAA has been modified to resolve initial concerns. Through a Public Notice dated 29 March 2019 the KRA assured taxpayers that their initial concerns and fears regarding the VAT Auto Assessment (VAA) tool have now been addressed.

A separate communication from the revenue authority reveals that the KRA focused on eight key areas of concern. These are discussed in this alert.

Background

In October 2018, the Kenya Revenue Authority (KRA) rolled out the VAT Auto Assessment (VAA) tool, a module intended to cross-validate input tax claimed by purchasers against the corresponding output tax declared by sellers.

If any inconsistencies are identified between input tax claimed as credit by a purchaser and the corresponding output tax declared by the seller, the VAA automatically generates an audit report which is sent via email to affected taxpayers. Affected taxpayers are allowed 15 days to reconcile the inconsistencies. Either the purchaser or seller can amend their affected VAT returns in this period.



If no action is taken after the end of 15 days, a reminder is sent to both the purchaser and the seller. Both parties are given additional 15 days to resolve any inconsistencies failing which the input tax in question is automatically disallowed.

The module was piloted on the January 2018 VAT return. However, taxpayers raised various concerns relating to the tool's ability to correctly verify VAT returns.

Through a Public Notice dated 29 March 2019, the KRA has moved to assure taxpayers that their initial concerns about VAA have now been addressed. A separate communication provided by the revenue authority reveals that the KRA focused on resolving eight key areas of concern. These are as detailed below:

01. Providing a reasonable threshold to cater for minimal variances in VAT amounts largely relating to rounding off or application of varying foreign exchange rates;

02. Increasing the number of characters under the invoice column (both under sales and purchases) in the VAT return from 20 to 40;

03. Validation of invoices with alphanumeric characters - Invoices which may be declared in both upper and lower case by the buyer and seller to be validated as one;

04. Invoices with leading and/or lagging spaces to be considered as same;

05. Increase of line entries of errors which normally display on uploading VAT returns have been increased from 100 to 200;

06. A wider range of special characters now accepted for invoice numbering;

07. Increase in the limit of entries in the VAT return (excel) from 50,000 to 75,000; and

08. Resourcing – Allocation of officers, through the back office (Data Correction) to assist with the filing of amended returns. This would apply where taxpayers are not able to amend their returns normally as iTax considers them to be time-barred (outside the six months window within which taxpayers can claim a deduction of input tax).

The Public Notice further requires taxpayers affected by the verification of the January 2018 VAT return to amend their returns within 60 days from the date of the notice. Should a taxpayer fail to amend his/her VAT return within this period, any input tax that has unresolved inconsistencies will be disallowed.

The KRA will also be applying the tool to verify the ensuing VAT returns from February 2018 to date.

Our views

The introduction of the VAA last year was a move towards enhancing VAT compliance by reducing the inconsistencies between VAT declarations by purchasers and corresponding sellers. The revenue authority has been keen to engage with stakeholders to resolve any impediments in the implementation of VAA. As evidenced by the above referenced Public Notice and other relevant communication on the revenue authority's website, the KRA has considered some of the concerns raised by taxpayers and provided remedial measures.

However, a few key issues still remain unresolved. We detail some of these below:

01. The KRA has increased the limit of line entries in the VAT return (excel) from 50,000 to 75,000. From discussions with the revenue authority, we understand that the increase to 75,000 was informed by stakeholder feedback. While this is a welcome move, we note that some taxpayers may require more entries to effectively capture each and every sale they make to registered persons. Therefore, the new limit of 75,000 entries is still not going to be adequate for some taxpayers. Perhaps the revenue authority may need to consider a special dispensation for taxpayers whose line entries exceed this new cap;

02. The tool requires purchasers who claim input tax to liaise with corresponding sellers to ensure such sellers also declare consistent details for output tax. However, this requirement is not anchored in law. The VAT Act, under Section 17, requires a registered person who acquires taxable purchases to deduct VAT thereon as input tax to the extent that the taxable purchases or imports are applied to generate taxable supplies. Input tax is deductible within six months after the end of the month in which the purchase or import occurs.

There is no requirement in the VAT law for the purchaser to ensure the seller declares consistent VAT details when filing VAT returns. Placing this requirement on purchasers is onerous and may have significant cost implications. There is need therefore to ensure the application of VAA is consistent with the provisions of the VAT law. Failure to do so will result in numerous disputes; and

03. There are genuine concerns especially by the retail sector that sector players may not be in a position to obtain taxpayer Personal Identification Numbers (PINs) from their purchasers. This situation is exacerbated by the fact that retailers cannot tell who among their customers are registered for VAT and are therefore entitled to claim a deduction of input tax and those who may not qualify. There is need therefore for the revenue authority to provide guidance on the issue of PINs.

Conclusion

The KRA is increasingly looking to deploy digital tools to enhance tax compliance. While there has been effort to address salient concerns relating to VAA, the revenue authority needs to consider any unresolved concerns on the VAA are dealt with by engaging affected taxpayers. There is also need to ensure that the implementation of the tool is aligned to the provisions of tax law. This could be through changing how the tool works.

Should you have any question on this, kindly contact your relationship manager at Deloitte who will be more than glad to offer you guidance and assistance as necessary.

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