



TANZANIA REVENUE AUTHORITY

ISO 9001:2015 Certified

THE TAX ADMINISTRATION ACT, CAP. 438

PRACTICE NOTE
(Made under section 9)

VAT ON REPRESENTATIVE OF NON-RESIDENT PERSON

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1.0 TAX LAW.

The Commissioner General is empowered under Section 9 of the Tax Administration Act, Cap. 438 to ensure consistency in the administration of tax laws and to provide guidance to persons affected by such laws accordingly. This practice is issued in respect of the requirements of Section 64 of the Value Added Tax Act, Cap 148.

2.0 PURPOSE OF THE PRACTICE NOTE.

This practice note is intended to clarify the obligation of non-resident person who carry out taxable supplies in Mainland Tanzania without having fixed place in Mainland Tanzania to assign a resident representative who shall be responsible for registration/deregistration obligation, filing of returns and payment of taxes imposed under Value Added Tax Act, Cap 148.

3.0 INTERPRETATION

Definitions and expressions used in this Practice Note that are used in the Act have, unless the context requires otherwise, the same meaning in this Note as they have in the Act.

4.0 HOW THE LAW APPLIES

4.1 Non-resident person under Section 64 of the Act.

A non-resident person who undertakes transactions involving supply of taxable goods or services or both in Mainland Tanzania without having any fixed place of business has **legal obligation** to appoint representative for VAT purpose. However, a representative who acts on behalf of non-resident person conducting such business shall be responsible to disclose such information to the Commissioner. Hence, failure to appoint a VAT representative or disclose information shall lead to an offence under Section 82 of Tax Administration Act, 438.

Further amendments made under Section 64(5) of the Act through the Finance Act, 2022, have provided flexibility for a person who supplies electronic services without having a physical presence in Mainland Tanzania to apply to the Commissioner to be registered in accordance with procedures outlined in the regulations if it is impractical to appoint a VAT representative based on the nature of the business he operates..

4.2 Appointment of VAT representative of a non-resident person.

A non-resident who carries on economic activity in Mainland Tanzania without having a fixed place in Mainland Tanzania, and makes a taxable supply for which the non-resident is liable to pay value added tax shall appoint a value added tax representative in Mainland Tanzania by making an application in writing to the Commissioner General and if may be required to lodge a security for protection of Government revenue.

The representative must furnish to the Commissioner General a registered power of Attorney to represent such non-resident person for formalization of their representation.

4.3 Prerequisite for appointment of VAT representative of a non-resident person.

Regulation 17 of Value added Tax (General) Regulations, 2015 provides for the criteria of the person to be appointed as a Value added Tax representative to be:

- a. A company or individual
- b. A Taxpayer with a Taxpayer identification number (TIN)
- c. Possesses a statement of declaration of representative's capacity to deal with the value added Tax affairs of the non-residents
- d. Has a fixed, well known and accessible place of business and
- e. Has a good tax compliance history;

A person appointed as representative of non-resident person shall act on behalf of the non-resident person in respect of VAT obligations under the Act. These shall include:

- i. The representative must furnish to the Commissioner appointment letter from such non-resident person.
- ii. Applying for VAT registration of non-resident person;
- iii. Application shall be made in the name of the non-resident person he/she represents.
- iv. Once registered, maintaining VAT records and accounts as stipulated under 89 of the Act.
- v. Filing VAT returns in a respective tax period.
- vi. Payment of full liability arising from VAT assessment in time.

- vii. Being jointly and severally liable for any VAT liabilities accrued to the non-resident by virtue of Regulation 18 of the Value Added Tax (General) Regulations 2015.

Note: Non-resident person who carries out economic activity in Mainland Tanzania without having a fixed place of business, may only appoint one representative person at a time to act on his/her behalf, while a Value added tax representative may act for more than one non-resident person at any time but shall register each separately in respect of Section 64(4) of Value Added Tax Act, Cap 148.

4.4.0 Commissioner's Decision on non-resident VAT representative application.

The power of the Commissioner to approve or reject an application for appointment of non-resident representative will be based solely on fulfillment and satisfaction of the requirements.

The applicant will be notified on the Commissioner's decision within (14) fourteen days from the date of receipt of the application.

4.4.1 Acceptance of the application of the value added Tax representative

Where the Commissioner has granted the permission to non-resident to appoint VAT representative, the Commissioner shall serve a written notice of the decision to the applicant and the person appointed as representative shall be required to comply with VAT registration and fulfillment of other obligations in respect to the Act.

4.4.2 Rejection by the commissioner on the application of the value added tax representative

Where the request for appointment of the VAT representative of non-resident person is rejected, the Commissioner shall, issue a written notice to the applicant within (14) fourteen days from the date of receipt of the application on the decision specifying reason(s) leading to such rejection.

5.0 REGISTRATION OF VAT REPRESENTATIVE OF A NON-RESIDENT PERSON.

Registration of representative of a non-resident person for the purpose of VAT shall be mandatory after request have been granted by Commissioner. Thus, non-resident

representative shall complete the application for VAT registration by filling form "ITX245.02. E Application for Registration for VAT" and submit to Commissioner General within fourteen (14) days from the date of receipt of approval notice. Application shall be made in the name of the principal (Non-resident person) and shall include non-resident person and the appointed representative information.

Once the VAT registration has been granted, VAT representative of non-resident person shall be responsible to handle all the VAT-related obligations under the VAT Act and Tax Administration Act, Cap 438 including filing of returns and payment of any VAT or any fine, penalty, or interest imposed on the non-resident person and/or requests for VAT refund (if any), etc.

Issuance of Registration Certificate.

VAT registration of a taxpayer (VAT representative) shall be issued with a Certificate of Registration stating the name of principal (non-resident), the date on which the registration takes effect and his **registration number**.

Signed.....*#hatch*.....

Commissioner General

November, 2022.