



VAT Alert

Non-resident Electronic Service Suppliers and Foreign Tour Operators - Zanzibar Update

November 2024

Non-Resident suppliers of electronic services to non-VAT registered persons and foreign tour operators who supply guests to any person in Zanzibar are required to register for VAT in Zanzibar

General

This alert is an update of our August 2024¹ Tax Alert which summarised changes brought by the Zanzibar Finance Act (FA) 2024 specifically relating to the collection of Value Added Tax (VAT) on electronic services provided by non-residents to customers in Zanzibar.

This Alert highlights the simplified VAT registration and compliance requirements in relation to non-resident electronic service providers and also foreign tour operators since both are captured under the Regulations².

In Brief

- Persons and supplies in scope for simplified registration as provided under the Regulations:
 - Non-residents providing electronic services to non-VAT registered persons in Zanzibar; and
 - Foreign tour operators supplying guests to persons in Zanzibar.
- Prescribed information required for registration and grace period for registration
- Filing and payment timelines and requirements
- Practical challenges and issues

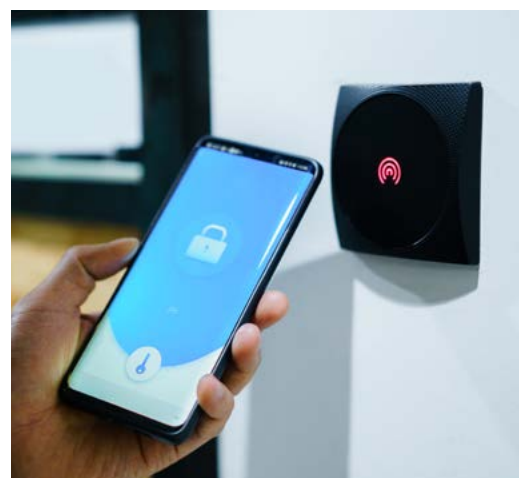
Background

The Zanzibar FA 2024 introduced VAT amendments in relation to collection of VAT on electronic services supplied by

non-residents which serve as additional guidance following the issuance of the Regulations in August 2022.

The Regulations, amongst other things, provided the procedures for simplified registration applicable to non-resident suppliers of electronic services and foreign tour operators. However, we understand that the simplified registration system is yet to be put in place.

The FA 2024 amended the Value Added Tax Act, 1998 (VAT Act 1998) to allow the Commissioner of the Zanzibar Revenue Authority (ZRA) to delegate powers to the Commissioner General of the Tanzania Revenue Authority (TRA), who already operates a simplified system in Mainland Tanzania for the administration and collection of VAT on electronic services supplied by non-residents to consumers in Zanzibar.



¹<https://www.pwc.co.tz/assets/pdf/tax-alert-zanzibar-finance-act-2024.pdf>

²Tax Administration and Procedures (Procedures for Simplified Registration for Non-Resident Suppliers of Electronic Services and Foreign Tour Operators) Regulations, 2022



As of now, we are not aware of any Public Notice which has brought this delegation into effect. Additionally, this amendment is limited to electronic services and does not extend to foreign tour operators.

Taxpayers likely to be captured within the scope of this legislation should therefore engage the ZRA in order to be guided towards meeting their compliance obligations.

A. Electronic services supplied by non-residents

Persons and supplies in scope for simplified registration

A non-resident supplier of electronic services to non-VAT registered persons in Zanzibar and who does not appoint a tax representative is required to register for VAT in Zanzibar.

Broadly speaking, electronic services are services provided through the internet or other electronic means. These services are specifically defined in the VAT Act 1998 and the definition is expounded in the Regulations.

Non-registered persons are persons who are not registered for VAT in Zanzibar and this applies to both B2C and B2B transactions.

Registration is required from the first supply (i.e. irrespective of threshold).

Place of Supply

The Regulations extends the existing place of supply rules for VAT purposes, with the following criteria to deem a supply delivered in Zanzibar:

- If the payment proxy including credit or debit card information and bank account details of the recipient of the electronic services is in Zanzibar; or
- If the resident proxy including the billing or home address or access proxy including internet address, mobile country code of the SIM card of the recipient is in Zanzibar.

Registration

Application for registration is to be made online using a prescribed form following which a Tax Registration Number (TRN) will be issued to enable the filing of returns and payment of tax.

The VAT Act 1998 provides for the registration threshold required for a person to register for VAT. However, the Regulations seeks to override this by inclusion of the following wording (see narrative underlined): *“A non-resident supplier of electronic services who supplies electronic services to non-registered person in*

Zanzibar who does not appoint tax representative shall, regardless of registration threshold under the Value Added Tax Regulations, be required to apply for registration as a taxable person under Value Added Tax to the Commissioner”.

Our comments:

- We anticipate challenges with the registration process for non-residents supplying electronic services in Zanzibar. This is primarily due to the absence of a 'simplified registration' system to date, unlike the simplified e-filing system available in Mainland Tanzania. It is our understanding that non-residents within this scope will need to consult the ZRA on how to complete the simplified registration process.
- The Regulations state that non-residents supplying electronic services to unregistered persons in Zanzibar must register for VAT through a simplified process if they do not appoint a tax representative. However, the Regulations, being procedural in nature, appear to contradict the amendments introduced by the FA 24 to the VAT Act 1998. The VAT Act 1998 mandates that non-resident taxable persons carrying out economic activities in Zanzibar without a fixed place must appoint a tax representative to handle compliance matters, including registration, filing, and payment of taxes, on their behalf. Our understanding is that non-resident providers of electronic services will not be required to appoint any representative as alluded to in the Regulations. However, in the absence of an exclusion in the VAT Act 1998, it could appear that non-resident suppliers of electronic services will still be required to appoint tax representatives, even if they register themselves, rendering the provision in the Regulations redundant.
- Regardless of the legal interpretation of the threshold, from an administrative perspective, it would be more practical to introduce

a registration threshold for electronic service providers subject to VAT.

- (d) Non-residents supplying electronic services and registered for VAT in Mainland Tanzania must also comply with the Regulations applicable to Tanzania Zanzibar. If services are provided in Tanzania Zanzibar, sales must be declared separately for that region

Returns and payments

The non-resident electronic services supplier is required to file a return of VAT, which together with the related tax payment, are due on or before the seventh day of the month following the month to which the return relates. Payment is to be made in United States Dollar (USD) to a designated bank account established by the Commissioner.

Our comment:

The due date for filing and payment appears to differ from the standard VAT return filing deadlines in Zanzibar and Mainland Tanzania which is the twentieth day of the month following the return period.

Learnings from Mainland Tanzania where the same compliance timelines were introduced in its Regulations, indicated that the seventh day was not practical and did not provide sufficient time for businesses to

compile their numbers and make timely payments. The timeline in Mainland Tanzania was later revised. We expect that the Regulation will be amended to align the filing and payment deadline with the standard VAT return deadline, similar to Mainland Tanzania.

B. Supply of guests by foreign tour operator(s)

Registration

Foreign tour operators who supply guests to any person in Zanzibar are required to register for VAT. In addition, they must appoint a local tax representative (from among the persons they supply guests) to assist with filing VAT returns and making payments for all supplies made by the foreign tour operator in Zanzibar.

A “foreign tour operator” is defined as *a tour operator who supplies guests to any person in Zanzibar but has no permanent place of business, residence, or central management and control in Zanzibar.*

VAT registration is required from the first supply, regardless of any threshold.

The local representative will be liable for penalties and interest if compliance requirements, such as filing VAT returns and paying taxes due, are not met.

Our comment:

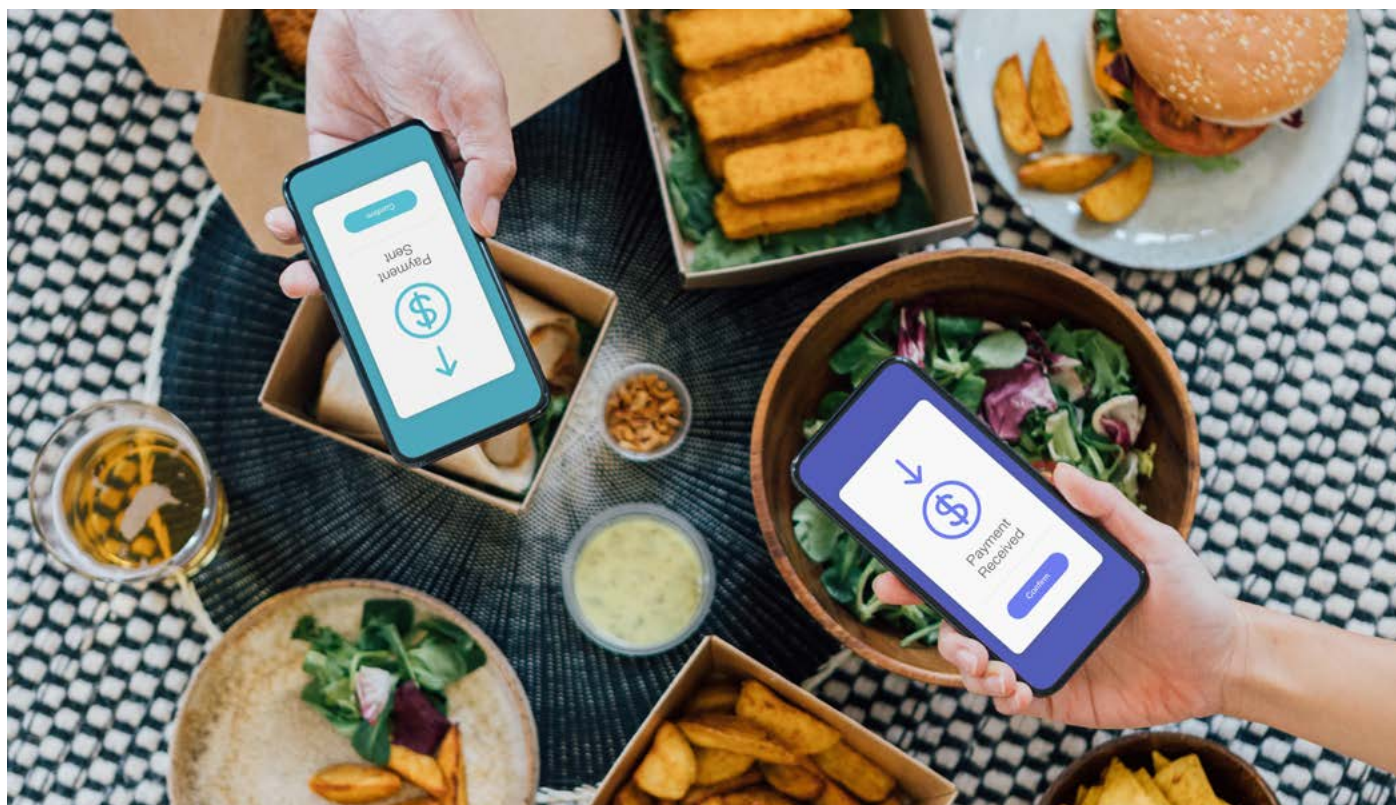
We anticipate potential double tax implications, particularly when supplies are made to VAT-registered persons in Zanzibar e.g. hotels, given that the obligation to account for VAT on such “imported services” typically lies with the importer or purchaser.

In this case, VAT would be accounted for through the reverse charge mechanism, which could result in both the foreign supplier and the local purchaser being liable for VAT on the same transaction.

Furthermore, shifting the obligation to a non-resident to account for VAT on supplies to registered persons defeats the purpose of a reverse charge mechanism which is to avoid the need for a supplier to register and account for VAT in every jurisdiction where they are not established.

This goes against the canon of convenience which requires a good tax system to levy and collect taxes in such a manner that provides the greatest convenience to both the taxpayer and the government.

It is our view that it would be easier for the Government to collect and administer any applicable VAT in relation to imported tour operation services from registered businesses established in Zanzibar than the non-residents.



Additional comments / concerns

We foresee various challenges in terms of the different compliance requirements regarding the supply of guest by foreign tour operators as explained below:

Interpretational issues

- The Regulations does not define the term ‘tour operator’, however, our understanding of the ordinary meaning of the term is “*a company that makes arrangements for travel and places to stay, often selling these together as package holidays*”³ - and if this is the same interpretation by the ZRA, what if the tour operator does not fall in the above category, say:
 - a person who assumes an agency role only (i.e. a foreign company that only sells tickets for a local safari but does not arrange the entire package); or
 - a person who facilitates travels but does not offer packages (i.e. a foreign company that only provides international flight bookings without handling the on-ground logistics or accommodation in the destination country); or
 - a person that only supplies guests to a hotel but does not arrange any other activity.
- Another area we foresee challenges is in determining the consideration for which the foreign tour operator is required to account for VAT i.e the total amount they receive from the guest or the commission received from a person in Zanzibar (e.g. a hotel) for bringing the guests. Our understanding is that this is limited to the consideration received for the supply of guests i.e. the commission received from a person in Zanzibar.

Local representatives

- Unlike for non-resident electronic services providers, the Regulations do not clearly provide for a simplified registration of foreign tour operators and it is unclear whether the foreign tour operator is required to be registered under the simplified registration mechanism after which they can appoint a local representative



or they just have to appoint a local representative. Once the representative is appointed, whether they would also register under a simplified framework or would need to register normally. Alternatively, whether the local representative will register on behalf of the foreign tour operator under the simplified framework.

- The fact that the local representative will be liable for late filing penalties and late payment interest in respect of all the foreign tour operators business in Zanzibar serves as a disincentive for one to take up the appointment as a local representative.

C. General provisions

Exemption from using EFD

Non-resident suppliers of electronic services and foreign tour operators are exempt from the requirement to use Electronic Fiscal Devices (EFDs).

Input tax claim restriction

Input tax claims are not permitted for the purchase or supply of services by the non-residents. We understand that the restriction on input tax claims for services purchased by non-residents is likely for administrative ease, considering

that non-resident suppliers' input VAT costs are generally minimal, such as professional fees or costs related to a tax representative.

However, for services purchased from foreign tour operators by a local VAT-registered entity, there is a danger that the VAT will be significant and an absolute cost to businesses in Zanzibar.

Restriction not to claim this VAT is contrary to the principles of VAT neutrality. Ideally, the Regulations should not override the VAT Act 1998 in terms of the right to deduct input tax.

Deregistration process

Notification requirement to be made to the Commissioner in the case where the non-resident suppliers of electronic services and foreign tour operators (who are registered as taxable persons) permanently cease to supply services. The Commissioner holds the authority to deregister such suppliers either upon cessation of service or at his/her discretion.

Corrections of errors

A correction of an error on a VAT return can be made in accordance with the Tax Administration and Procedures Act, 2009.

³<https://dictionary.cambridge.org/dictionary/english/tour-operator>

Offences, Penalties, Interest

Making of false or misleading statements will be subject to the penalty of not less than TZS 3 million and not more than TZS 10 million.

Failure to comply with these Regulations, particularly by:

- A person who receives guests or does business with a foreign tour operators who is not registered and has no local representative; or
- A person who contravenes any other provision constitutes an offence which upon conviction is liable to a penalty of not less than TZS 3 million and not more than TZS 10 million, or imprisonment for a term of three (3) months.

Transition window to enhance compliance

There was a two month deadline for such registration for non-residents already supplying electronic services or supplying guests to persons in Zanzibar prior to 16 August 2022, which appeared to imply a de facto assumed commencement date of 1 September 2022 for such suppliers.

Given there is no simplified registration mechanism in place to date and the practical challenges of getting the targeted non-residents aware of the changes in the laws where they are not established, we hope that there will be an extended grace period and leniency in application of the Regulations.

How we can help

Our Indirect Tax (ITX), Legal Business Solutions (LBS), and Tax Reporting Services (TRS) teams are happy to assist in enhancing compliance matters to include:

- Assistance with registration process for non-residents who (i) supply electronic services to non-registered person in Zanzibar or (ii) supply guest(s) to persons in Zanzibar;
- Assistance with the appointment of the local tax representative requirement;
- Assistance with statutory compliance obligations; and
- Assistance in engaging with the ZRA on various tax matters.

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