

VALUE ADDED TAX

VAT GUIDE

2009



**ZAMBIA
REVENUE
AUTHORITY**

*Working
To Serve You
Efficiently*

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PART 1

1.0 Introduction to VAT

Every country in the world needs money to provide health, education, social services, roads, and a wide range of other facilities for all its citizens. To provide these facilities or services, the Government of the day budgets for the expenditure of public money.

In Zambia, about 30% of the Budget is collected by way of income tax and Indirect Tax. Income tax is a **DIRECT TAX** payable by individuals (PAYE) and businesses (company tax) based on their income or profit. However, everybody who shares in the benefits provided by the Government should also participate in a broader, neutral tax that is fair to all. Most countries in the world, therefore, impose some form of **INDIRECT TAXATION**, usually based on the amount of goods or services consumed by the taxpayer.

Before 1995 Zambia had a Sales Tax, which was such an indirect tax that contributed to the Budget too. However Sales Tax had certain disadvantages, such as double taxation and evasion, which were damaging to the economy of the country. The Minister of Finance therefore, announced in the 1995 Budget that Sales Tax in Zambia would be replaced by a tax on Value Added (VAT). This tax is increasingly being used throughout the world, including many African countries, to raise an important portion of Government revenue. This change was implemented on 1st July 1995. And Zambia became the fifteenth (15th) African country to introduce VAT.

The advantages of VAT for businesses can be summarised as follows:

- VAT is internationally proven in both developed and developing economies.
- VAT is largely invoice based and therefore uniform and uncomplicated, offering a sound financial management system with less collection weaknesses.
- As a result of increased tax compliance, brought about by the 'self policing' nature of VAT, there is less distortion of trade between those who comply with the indirect tax laws and those who do not. This is re-enforced by strong penalties and effective control policies.
- VAT gives the potential for a stronger home manufacturing industry and more competitive export prices.
- The input credit mechanism gives registered businesses back much of the tax they pay on purchases and expenses used for making taxable supplies and, as a result, largely avoid the 'tax on tax' characteristic of Sales Tax.
- A wider tax base has resulted in less distortion of trade and a greater sharing, across all sectors of the business community, of the costs of collecting indirect taxes and remitting them to the Government.

The administration of VAT is laid to the Zambia Revenue Authority (ZRA). The purpose of this guide is to explain VAT to the business community. **It reflects ZRA's interpretation of the law but it is important to note that it does not replace or amend the law.**

The primary Law relating to VAT is contained in the Value Added Tax Act Chapter 331 of the Laws of Zambia. The subsidiary legislation comprises General Regulations made by the Minister through Statutory Instruments and Administrative Rules made by the Commissioner General through Gazette Notices.

1.1 Further Information and Advice

If you need further information about VAT, please write or call the

ZRA Advice Centre
New Revenue Hall
Kalambo Road
P.O. Box 35710
Lusaka

ZRA Advice Centre
Nchanga House
P.O. Box 20454
Kitwe

Telephone 226227/ 236093, Fax 222717 Lusaka

Telephone 229943 – 48, Fax 229942 Kitwe

E - mail: advice@zra.org.zm Website: www.zra.org.zm

PART 2

2.0 Our Commitment to You

Whilst the law gives the ZRA extensive powers, we also make a commitment that we will give you impartial and equitable treatment by the Domestic Taxes Division of the ZRA in all dealings, including:

Fairness

You are entitled to be dealt with fairly - we should expect you to pay what is due under the law and nothing more.

Courtesy

You are entitled to a courteous service from us at all times.

Information

We will provide you with information to assist you to comply with your legal obligations.

Service

You are entitled to an efficient service from us. We commit ourselves to

- Answer your telephone enquiries promptly within 5 rings and keep our promises to call you back.
- Deal with you promptly if you make a personal visit to our offices, although at peak times some delay may be inevitable.
- Reply to correspondence within 5 days of receipt.
- Make VAT repayments within the time-scale prescribed by law.
- Be accountable for what we do.

2.1 Privacy And Confidentiality

All personal and financial information you provide to the ZRA is strictly confidential and will be used only for purposes allowed by law.

2.2 Burdens on Business

We will try to minimise the administrative burdens we place on business. Audit and inspection visits will be conducted as efficiently as possible. Normally we will make visits by appointment, but in order to make sure that everyone is paying the correct tax at the correct time **we may make spot checks** including where appropriate checks outside normal office hours.

Records will usually only need to be examined once. However it may sometimes be necessary for us to re-examine records e.g. in cases of fraud, or when a significant revenue loss is considered possible or where the first check was made specifically to verify a particular transaction, or where we need to check the accuracy of our officers work.

As VAT inspections will normally be carried out at your business premises our managers may call without appointment either during or after a visit to check on the quality of our officers' work. We hope that businesses will appreciate that this additional burden is an important control that we need to exercise to try to ensure that ZRA officers perform to the highest standards.

PART 3

3.0 What We Ask From You

To assist us to deliver a good service we ask you to:

- Notify the ZRA promptly when you start up a business or when your business circumstances change.
- Complete and submit your VAT returns by the due date.
- Ensure that your VAT returns are completed accurately and honestly; and
- Provide all necessary information to our officers.
- Pay your tax promptly by the due date.

PART 4

4.0 How to Complain

If you are not satisfied with a decision or ruling or how we have carried out our duties you should:

- Raise the matter with the senior officer on duty at the time; or
- Write to the Station Manager.

If you are not satisfied with the reply you may write to the Commissioner VAT at the following address:

**The Commissioner Domestic Taxes
Zambia Revenue Authority
Revenue House
P.O Box 35710
Lusaka**

In addition, you may also have a right of appeal to the Revenue Appeals Tribunal. Please see Part 15 which provides further information relating to reviews and appeals. Details of which matters can be taken to the Revenue Appeals Tribunal can be obtained from:

**The Registrar
Revenue Appeals Tribunal
Ground Floor, Kambendekela House
Private Bag RW 565
Lusaka**

Tel: 232688/ 228975

PART 5

5.0 Explanation Of Value Added Tax (VAT)

This part explains how VAT works. It explains the basic mechanisms and how VAT is collected.

5.1 The Mechanisms of VAT

The VAT system includes all businesses in the production chain from manufacture through to retail.

VAT is collected at each stage in the chain when value is added to goods or services. Hence, the name "Value Added" tax.

The essential mechanism of VAT is as follows:

- For VAT purposes the sale or disposal of goods, or the rendering of services is called **supplies**.
- When a business that is registered for VAT (see Part 6) supplies goods or services, VAT is charged and collected by the business, the VAT on these supplies is called **output tax**.
- When a business that is registered for VAT purchases goods or services, the VAT incurred on these **supplies received** is called **input tax**.
- At the end of each tax period, (which for most businesses is at the end of each month) the VAT due is arrived at by deducting the total **input tax** on **supplies received**, from the total **output tax** on supplies made.
- Where the **output tax** exceeds the **input tax** for the period, the difference must be paid to the ZRA.
- If the **input tax** exceeds the **output tax** a VAT refund is due. VAT refunds will normally be made within thirty (30) days. However, if a business in its previous VAT return has a credit with us and it has been cleared, the business may offset this amount in the next return. This is conditional upon receiving a written notification from ZRA. The taxable supplier declares both payments and refunds on a VAT return form VAT 100.

5.2 How Value Is Added And The VAT Collected

The following example shows how VAT works through the chain from Manufacturer to retailer. A manufacturer makes copper trays which are sold through a wholesaler to a retail supermarket and then on to the consumer. The VAT rate is 16%:

The Manufacturer sells the copper tray to the Wholesaler for K2, 900.00 VAT inclusive, being K2, 500 for the item and K400.00 VAT. He uses his own labour both to mine the copper and make the tray so he makes no purchases. The tax position of the manufacturer is therefore:

Manufacturer:

Sales (supplies made)	K2, 500	Output VAT	K400.00
Purchases (Supplies received)	<u>Nil</u>	Input VAT	<u>Nil</u>
Value Added	K2, 500		

VAT payable to the ZRA (output tax minus input tax) K400.00

The Wholesaler sells the copper tray to the supermarket for K4, 640 VAT inclusive (K4, 000 for the item and K640.00 VAT). The VAT on purchases was K400.00. The net VAT paid to ZRA by the wholesaler is (output tax minus input tax) K640.00- K400.00=K240.00

Wholesaler:

Sales (supplies made)	K4, 000	Output VAT	K640.00
Purchases (Supplies received)	<u>K2, 500</u>	Input VAT	<u>K400.00</u>
Value Added	K1, 500		K240.00

VAT payable to the ZRA (output tax minus input tax) K240.00

The retailer puts a mark up of K1, 000 and sells to the final consumer at a VAT inclusive price of K5, 800. Since he suffered K640 VAT on his purchase, he only pays K160.00 to ZRA.

Retailer:

Sales (supplies made)	K5, 000	Output VAT	K800.00
Purchases (Supplies received)	<u>K4, 000</u>	Input VAT	<u>K640.00</u>
Value Added	K1, 000		K160.00

VAT payable to the ZRA (output tax minus input tax) K160.00

So ZRA finally collects the K800 on a VAT inclusive total sales value of K5, 800 in 3 stages, i.e. K160.00 from the supermarket on a value added amount of K1, 000; K240.00 from the wholesaler on a value added amount of K1, 500; and K400.00 from the manufacturer on a value added amount of K2, 500.00.

This example illustrates that although VAT is collected in stages, by a VAT registered business, it is a tax on consumer expenditure.

The final consumer has paid the full tax of K800.00 in the retail price. VAT is collected from the first person that is not registered for VAT in the chain that begins with the manufacturer or importer and goes through the distribution and retail stages to the final consumer.

5.3 Supplies for VAT Purposes

VAT is a tax charged on taxable supplies of goods and services (see paragraph 5.4). The example above shows VAT being charged and collected on a chain of supplies on the sale of a tray. However there are many business transactions in addition to a straight sale, which are also viewed as supplies under VAT Law, e.g.

- Gifts of goods
- Business goods taken for own use
- Business goods taken for own consumption
- Lease or Hire services
- The service of carrying out a treatment of any goods
- Imported goods (see paragraph 5.5),
- Imported services.

5.4 Liability to VAT: Taxable & Exempt Supplies

Not all supplies are liable to VAT; the VAT law separates supplies between taxable supplies and exempt supplies.

- Taxable Supplies, which are liable to VAT.
- Exempt supplies, which are specifically exempted from VAT under the Law

5.4.1 Taxable Supplier

A taxable supplier is a person who is registered or is required by this Act to be registered (see Part 6). Included in the definition of 'taxable supplier' are a recipient of imported services and a tax agent.

5.4.2 Taxable Supplies

A taxable supply is a supply of goods or services made by a taxable supplier, in the course or furtherance of a business (other than an exempt supply -see paragraph 5.4.4), This means that supplies made by persons who are not required to be registered for VAT, are not taxable supplies. For example, if the copper tray given in the example above was sold by the supermarket, which was registered for VAT, to a small trader who was not required to be VAT registered, the supply by the supermarket would be a taxable supply, but the onward sale by the small trader to a consumer would not be a taxable supply for VAT purposes.

5.4.3 Rates of Taxable Supplies

Taxable supplies are subject to VAT at one of two rates:

Standard-rate: i.e. 16%. Applies on most supplies of goods and services.

Zero-rate: i.e. 0%. Applies on exports of standard rated goods and some specified goods and services. These are listed in the Second Schedule of the VAT Act.

5.4.4 Examples of Taxable Supplies

- The sale of new or second-hand goods.
- Business samples or business gifts for promotional or publicity purposes (of a value above K25, 000).
- The transfer of ownership or possession of goods, or the provision of services to persons involved with a business (employees, directors, partners, etc).
- The sale of business assets, for example by companies in liquidation and receivership.
- The hiring, leasing or loan of goods within Zambia including hiring, leasing or loan of goods out of Zambia.
- Delivery, packing and postage charges.
- Treatments applied to any goods.
- The rendering of services (including building services; professional services; service charges; management)
- Imported services where VAT was not charged in the country of exportation
- Charges, club membership fees and subscriptions).
- The granting of a right.

5.4.5 Exempt Supplies

These are items specifically excluded from liability to VAT such that even when a taxable supplier supplies them, no VAT is charged. These items are listed in the First Schedule to the VAT Act.

5.4.6 Difference between Zero-Rated And Exempt Supplies

Both mean that there is no VAT charged on the supply. So what is the difference?

Dealing in taxable supplies, including zero rated supplies, allows a business to reclaim input tax, which is not the case with exempt supplies. For instance;

- **A business making only zero-rated supplies:** Because zero-rated supplies are taxable supplies, a VAT registered business dealing in them is still entitled to reclaim input tax on purchases made (supplies received). This means that most suppliers dealing in only zero-rated supplies will have input tax, which exceeds their output tax, if any, and they will be making claims for refund from ZRA. A good example is a pharmaceutical company whose produce is all zero-rated but whose purchases (supplies received) include items with VAT on them. However, the Commissioner – General may by notice in writing exempt a supplier from the requirement to be registered if he is satisfied that all the supplies of a business would be zero-rated supplies.
- **A business making only exempt supplies:** Because exempt supplies are not taxable supplies, a business dealing only in them **is not** entitled to register for VAT. This means that this business will have no opportunity to reclaim input tax on purchases (supplies received).
- **A business making both taxable and exempt supplies:** Such a business is described as "**partially exempt**". There are special rules that govern how a partially exempt supplier may reclaim input tax (see paragraph 7.1.5)

5.5 Imported Goods

Imported goods are liable to VAT. This is to ensure that manufacturers in Zambia are not placed at a disadvantage as compared to foreign suppliers. Like customs duty, VAT is chargeable on all importations of taxable items whether by private persons or by businesses (and whether or not they are registered for VAT).

5.6 Export of Goods

Subject to certain conditions, the export of taxable goods is zero-rated for VAT. To zero-rate at exportation, the goods must be supplied (i.e. sold) direct to a business abroad and the exportation of the goods made by or on behalf of the supplier. To be satisfied that the zero rating is correct, proof of exportation will be required to be produced e.g.

- Commercial invoices
- Certified copies of the documents presented to Zambian customs at exportation.
- Certified copies of customs import documents at the country of destination.
- Proof of payment (settlement) if applicable.

5.7 Liability to VAT - Further Information

The law that determines which supplies are exempt and which are Zero-rated is contained in the First and Second Schedules of the VAT Act. The ZRA also produces a leaflet to assist businesses to decide what is liable to VAT and what is not. This is called the "VAT Liability Guide Leaflet 2" and is available from the ZRA Advice Centre.

5.8 Place of Supply

To be within the Zambian VAT system a supply must be made in Zambia. Supplies made outside Zambia are outside the scope of Zambian VAT. The place of supply is not always obvious especially where supplies of services are concerned. There are rules to help businesses work out the place of supply for goods and services. These are set out below:

5.8.1 Place of Supply of Goods

The place of supply is the location of the goods when you allocate them to a customer's order. If the goods are in Zambia when you allocate them, the supply is in Zambia. This applies to goods supplied for export as well as goods supplied to customers in Zambia. If the goods are not in Zambia when you allocate them the supply is normally outside the scope of Zambian VAT.

If you supply goods that are assembled or built for the first time on site, then the place of supply is the place where the assembly or building takes place.

5.8.2 Place of Supply of Services

You supply services in the place where you belong. You belong where you have a business or some other fixed establishment, including a branch or agency. If you have no such establishment you belong where you usually live. In the case of a company this is where it is legally constituted. If you have establishments in more than one country, the supply takes place at the location of the establishment most directly concerned with the supply.

Where services are supplied wholly or partly in Zambia, but on or near the border between Zambia and another country and whether or not the services are paid for in Zambia, the Commissioner-General may, by notice, determine that they shall be regarded as supplied in Zambia where:

- The business supplying the services is registered in Zambia; or
- The business operates on a *de facto* basis in Zambia;
- The services are imported. Services are imported when they are performed, undertaken or utilized in Zambia or when the benefit of their supply is for a recipient in Zambia; or
- Other circumstances, as the Commissioner-General considers relevant, exist.

The place of supply of radio, television, telephone or other communication services, where the signal or service originates outside Zambia, shall be treated as being supplied at the place where the recipient receives the signal or service, provided that a consideration is payable for receiving the service or signal.

5.8.3 Reverse charge on services supplied to registered suppliers in Zambia by non-resident suppliers

- The supply of services, including consultancy, research, advertising, management fees, royalties, etc, which are provided by non-resident suppliers, who do not have business establishments in Zambia were not taxed because such suppliers were not registerable for VAT in Zambia. But similar services provided by local suppliers were and continue to be subject to VAT. This state of affairs created an unfavourable competition for local suppliers and did not level the playing field.
- Reverse charge levels the playing ground. However, it is only applicable in cases where the non-resident supplier has not appointed a local tax agent and where VAT has not been charged on the supply of the service in the country of exportation. **Refer to leaflet No. 29 for more details.**

5.9 Tax Point - The Time When Taxable Supplies Are Made

It is important to establish when a taxable supply is made because that is the point at which 'tax becomes payable to ZRA; hence it is called the **tax point**. It is the **earliest** of:

- **For goods**, the time when they are removed from the supplier's premises; or made available to the person to whom they are supplied; or the time when a payment is received; or the time when a tax invoice is issued.
- **For services**, the time when a payment is received; or the time when a tax invoice issued; or the time when they are actually rendered or performed.

5.9.1 Tax Points for Particular Transactions

Deposits

Most deposits serve primarily as advance payments and will create tax points when you receive them. However, certain deposits are not a consideration for a supply and their receipt does not create a tax point, e.g. when a deposit is taken as security to ensure the safe return of goods hired out and the deposit is refunded when the goods are returned safely.

Continuous Supplies of Service

If you supply services on a continuous basis and receive payments regularly or from time to time the tax point is the earliest of the conditions in paragraph 5.9 being met. Examples here are supplies of water, gas or any form of power, heat, refrigeration or ventilation, etc.

Services Supplied In Units at Frequent Intervals, Such As Metered Supplies.

If you cannot determine the time when each unit was supplied, the tax point is taken as the time when you issue an invoice or receive a payment for services performed up to a specified date, or the time when the meter is read, whichever happens first.

Sale or Return Consignments

When you supply goods on “sale or return” agreements, they have not been sold and you still own them until such a time as your customer adopts them. Adoption means your customer pays for them or otherwise indicates his wish to keep them. Until he does so, your customer has an unqualified right to return them at any time, or unless you have agreed a time limit with him. The tax point for these consignments is the earliest of the date of adoption, payment or invoicing.

Goods Taken For Personal or Other Non - Business Use.

If you take goods out of your business, for personal use or for non-business use, the tax point is the time when goods are taken or set aside for this purpose.

Staged Payments and Part Payments

Staged payments or part payments, such as are common in the construction industry, create a tax point at the time the payment is due or is made; whichever occurs first.

Property and leasehold

If you receive periodic payments of commercial rent, the tax point is that prescribed by the contract, i.e. when the service is performed, or the date you receive a payment, or the date of issue of a tax invoice, whichever happens first.

5.10 Taxable Value

The taxable value is the price that is charged for goods and services onto which VAT at 16% is added. For goods and services, which attract Excise Duty, it is the net selling price plus Excise Duty. Below is an example illustrating the taxable value concept where item 1 does not attract Excise Duty and item 2 attracts Excise Duty at 10%.

	<u>Item 1</u>	<u>Item 2</u>
Net Selling Price	K2, 000	K2, 000
Excise Duty [at 10%]	nil	K 200
Taxable Value	K2, 000	K2, 200
VAT	K 320	K 352
Total Selling Price	K2, 320	K2, 552

For imported goods the taxable value is the **value for customs purposes** with the addition of any duties and other charges. On duty free goods on which VAT is applicable, the taxable value is the value for customs purposes.

There are some circumstances where the taxable value is calculated differently. For instance;

- When goods are supplied as a gift.
- In barter or part exchange transactions.
- Where goods or services are supplied at a reduced price to employees and others associated with a business.

In such cases, **the open market value** must be used. The open market value is the price at which the goods or services concerned would have been supplied in the ordinary course of business, to a person independent of the supplier.

5.11 Minimum Taxable Values

For some products such as carbonated and non-carbonated soft drinks, beers, cigarettes, scratch cards and cement a Minimum Taxable Value (MTV) is imposed by law. The effect is that if these items are sold for a price less than the MTV, VAT due is based on the MTV. If they are sold for more than the MTV, VAT is due on the actual selling price. Leaflet 18 explains about MTVs.

PART 6

6.0 Registration for VAT - Registration Rules

A **supplier** must apply to register if the value of taxable supplies in the course of business exceeds or is likely to exceed K200 million in any 12-month period or K50 million in 3 months

A business is any entity that is engaged in trade, whether by manufacture, production, wholesale, retail or the provision of a service. As a general rule a business is usually profit motivated, however, the use of this as a criteria indicative of the carrying on of a business is not the sole determining factor.

6.1 Effective Date of Registration (EDR)

The date when a business becomes registerable for VAT is as follows:

- **For a new business** - If the turnover threshold is likely to exceed K200m, from the date of commencement of trading
- **For a continuing business** which has exceeded the turnover thresholds:
 - Within one month of an application being made or from the date the application was received or,
 - Where the application is not made within one month of first becoming liable to register, on the day following the first period during which the limits were exceeded.

Late Registration Penalties

1. A supplier whose turnover exceeds K200m but does not apply for VAT registration will be assessed VAT on his sales from the date that he became eligible for registration to the date when he is registered.
2. Interest is chargeable on the assessed amount.
3. Late registration for VAT attracts automatic penalties consisting of ten thousand fee units for each standard tax period the supplier remains unregistered after meeting the registration threshold.
4. Input tax not allowed.

6.2 Reclaiming of VAT Prior to Registration

Under the provisions of section 18 (7) of the VAT Act and the regulations there-under, input tax incurred on the acquisition of goods and services for up to three months prior to the Effective Date of Registration may be allowed, provided in the case of goods, the goods are in stock on the effective date of registration. In other words, input tax incurred prior to registration cannot be claimed with regard to goods that have already been supplied regardless of the three months period. Furthermore, only businesses that were registered within one month after becoming liable to register are eligible to claim input tax incurred three months prior to registration as per VAT regulation 9(1) and (2) of S.I.78 1995 as amended. For further advice please contact the ZRA Advice Centre.

6.3 Intending Traders

Intending traders are suppliers who are registered for VAT before they commence trading activities. Such registration is normally for the sole purpose of claiming input tax, which relief is granted as follows:

- up to five years for traders engaged in exploration;
- up to four years for traders engaged in farming and mining; and
- up to two years for all others

ZRA may request any such suppliers to give security as a condition for repaying input tax.

6.4 Voluntary Registration

With effect from February 2007, compliant suppliers with annual turnover of less than K200million are allowed to register under the voluntary registration upon satisfaction of prescribed conditions.

A supplier registered under voluntary registration is required to:

- (a) renew the registration every twelve (12) months and;
- (b) notify the Commissioner-General in writing thirty (30) days before the expiry of the twelve (12) months period of the intention to renew the registration.

6.5 Supplies to Take Into Account When Calculating Taxable Turnover

Include

Value of standard rated supplies (paragraph 5.4)
Value of zero-rated supplies (paragraph 5.4)

Exclude

Exempt supplies (paragraph 5.4)

In estimating the future "level of taxable supplies, account should be taken of seasonal variations or one-off abnormal receipts that have either occurred or are expected to occur during the year. In cases of doubt or difficulty, you should contact the ZRA Advice Centre.

6.6 The Obligations of A VAT Registered Supplier

A VAT registered supplier is required to:

- Prominently display in the public area of the business the VAT registration certificate, similarly copies of this registration must be displayed at all other places of business that the registration applies to.
- Charge VAT on taxable supplies.
- Submit returns and pay VAT on or before the due date to the ZRA i.e. within 21 days after the end of a tax period, unless the Commissioner-General has allowed a longer time.
- Provide "tax invoices" containing the details required by law (see paragraph 10.3).
- Maintain sufficient records, and retain them for a minimum period of 5 years, to enable the, ZRA to verify the VAT liability.
- Advise the ZRA of any change in business details e.g. change of address or telephone number, addition of new partner, cessation of business, etc.
- Allow officers of the ZRA to enter the business premises and examine goods and all business records.
- Provide information about the business as required by officers of the ZRA.

Note: There are automatic penalties and interest charges for late submission of returns and payments. To be fair to all businesses and to avoid non-payers getting a competitive advantage, tax debts are enforced vigorously using distress and other legal remedies available to ZRA.

6.7 Businesses Making Only Zero Rated Supplies -Waiver Of Registration

A supplier may make an application for the requirement to register to be waived if the business deals solely in zero-rated supplies. Where the Commissioner-General is satisfied that all supplies of such a supplier are indeed zero-rated he or she may by notice waive the requirement of the business to

register. However, the Commissioner-General reserves the right to rescind the decision any time he deems necessary.

In waiving the requirement for registration, the business must forego the entitlement to reclaim input tax on those goods and services used in connection with making zero-rated supplies.

6.8 The Legal Entity to Be Registered For VAT

The legal entities that can be registered as suppliers for VAT purposes include:

- Individuals (e.g. sole proprietors).
- Companies.
- Partnerships.
- Trust.
- Groups of persons (associations and clubs).
- Joint Ventures.

6.8.1 Businesses with Branches

Normally only legal entities are registered for VAT and not their individual outlets or branches. This means that businesses with a number of branches or outlets will normally have a single registration and make one return and payment for each tax period, keeping administration burdens to a minimum. However, where for some practical reasons it is more convenient, a branch or division of a business may be separately registered and carry on the obligations of a registered supplier if:

- It maintains an independent system of accounting; and
- It can be separately identified in terms of the nature of the activities carried on or location thereof.

If this is done VAT has to be charged on supplies between separately registered divisions.

6.8.2 Group Registration

Groups of Companies or incorporated bodies that have common control may, subject to certain conditions, apply for a single VAT registration. This provision requires the consent of the Commissioner-General. The Commissioner-General may, for the protection of the revenue, exclude any member from the group at any time.

6.8.3 Special Rules Relating To Government Agencies

With effect from April 2003, government agencies are required to be engaged in normal taxable supplies in order to be eligible for VAT registration. Government agencies that are not eligible to register for VAT may channel their refund claims through the Ministry of Finance and National Planning. Government agencies include:

- Any Ministry or Department of the Government.
- A statutory corporation or board.
- Local authorities, or
- Any institution or body in which the government has direct or indirect control; or which is wholly or partially owned by the government.

6.9 Registration Procedure

All businesses that qualify for registration are required to complete a VAT registration form, VAT 1. **No registration fee is payable** and in normal circumstances no bond or other security will be required. On registration, businesses will be allocated a registration number.

6.10 Cancellation Of VAT Registration

You must notify the ZRA in writing if the following circumstances and cancellation of registration must take place: -

- When there is a change in the legal status of an entity (e.g. a partnership is dissolved).
- If the business ceases trading permanently.
- If the business is sold.
- If you registered as an intending trader and your intention to make supplies ceases.

6.11.1 When Cancellation of Registration May Take Place

- If you have been granted registration in anticipation of commencing a business on a certain date but do not carry on any business on or before the due date.
- If you submit nil VAT returns for twelve consecutive standard periods.
- If you apply for de-registration provided your annual taxable turnover does not exceed K200 million.

6.11.2 Effective Date of Cancellation

Cancellation of registration will normally take effect from the last day of the month in which the cancellation application is approved by the ZRA. However, if you only opted to apply for de-registration, it is important that you continue to charge VAT until your registration is formally cancelled.

6.11.3 Payment of VAT on Assets on Hand at De-registration

VAT registered businesses are required to pay VAT on the value of any stocks on hand at the date of de-registration. This is because the registered supplier is, in effect, making a taxable supply to himself as a newly unregistered business. However, no VAT will be paid on motor vehicles in respect of which input tax deduction was not allowed, provided that the resale value does not exceed the purchase price.

6.11.4 Application For De-registration

All applications for de-registration should be in writing and addressed to the Commissioner-General through the nearest ZRA office and should include the supplier's registration number and full details of the circumstances giving rise to the request.

6.12 Changes Not Requiring Cancellation of Registration

The following changes will not normally require cancellation of registration:

- A change in the trading name of the business or the name and/or address of any partner in the business
- A change in the address of the principle place at which the business is carried on.
- Transfer of a going concern.

For such changes, a supplier should notify the nearest VAT office and have the changed details amended.

PART 7

7.0 Claiming back the Tax paid on business purchases and expenses -Input Tax

The tax incurred on supplies received such as purchases and expenses is called **Input tax**. Paragraph 5.1 explains the basic mechanisms of VAT and how output tax and input tax are to create a net liability either to the ZRA as a payment, or to the supplier as a refund.

7.1 Restrictions on the Input Tax that can be reclaimed

To ensure that only input tax which relates to taxable business activities is claimed and to protect the revenue from inappropriate claims, there are some restrictions on what can be reclaimed: -

7.1.1 Business Use/Private Use

The expenditure must be for the purposes of the business i.e. not for private use. Where Purchases are partly for business and partly for private use, only the business proportion can be reclaimed. For example, if a business pays for diesel for a car used by a director or employee both for private (which includes travelling to and from home to work) and business motoring and the private motoring is 25% of the total mileage, only 75% of the input tax on the diesel may be reclaimed.

7.1.2 One Year Time Limit for Reclaiming Input Tax

Input tax cannot be reclaimed after a period of one (1) year from the date of the tax invoice or, for imported goods, the appropriate VAT import document (see paragraph 7.1.4). And also input tax cannot be claimed on a return for a period before the tax invoice date.

7.1.3 Evidence for Claiming Input Tax

A tax invoice for local supplies; or form CE 20, receipt and Release Order, showing the amount of VAT paid at importation, must be held before any claim is made. Photocopy documents are not acceptable.

7.1.4 Exceptions on VAT on Imports

When goods are imported into Zambia (which includes removing from an approved bonded warehouse), VAT, together with any import duties, is payable at importation to ZRA's Customs Division. VAT is chargeable on all imports except zero-rated or exempt goods. There are also some exceptions for goods imported under Regulations 74, 76, 78, 80, 82, 83, 84, 85, 86 and 94 of the Customs and Excise Rebates, Refunds and Remissions General Regulations. The following are the exempted importations referred to:

- 74 – Goods destroyed or lost by accident while under Customs Division control.
- 76 - Goods found to be of defective or faulty manufacture after release from Customs Division control.
- 78 - Goods temporarily imported.
- 80 - Petty consignments
- 82 - Goods imported temporarily by visitors and tourists
- 83 - Motor vehicles imported by visitors and tourists
- 84 - Commercial traveller's samples
- 85 - New residents effects
- 86 - Traveller's effects
- 94 - Aircraft stores and equipment

(For further advice contact the ZRA Advice Centres)

Change of ownership of goods in bond does not attract VAT, but import VAT is payable to Customs and Excise when goods are removed from bond.

7.1.5 Input Tax Must Relate To Taxable Supplies. Partially Exempt Businesses

Purchases or business expenses on which VAT input credit is claimed must relate to taxable and not exempt supplies. Businesses that deal only in exempt supplies are not eligible to register for VAT and therefore get no opportunity to reclaim any VAT input tax. See paragraph 5.4 for further information on what are taxable and what are exempt supplies.

Businesses that deal partly in exempt supplies and partly in taxable supplies are **Partially Exempt** businesses. Because businesses that deal only in exempt supplies cannot reclaim input tax, so also **partially exempt** businesses are not allowed to reclaim all their input tax except the portion relating to taxable supplies.

We call inputs that clearly relate to either taxable or exempt supplies **directly attributable inputs**. Inputs which may not be clearly attributed in this way are called **non-attributable** inputs; e.g. overheads which cover all the supplies of the business.

We have developed special methods to assist partly exempt businesses to calculate the amount of input tax they may reclaim and all partly exempt businesses must adopt one of them. These are published in a separate leaflet. Contact the ZRA Advice Centres for further information.

7.2 Specific Items on Which Input Tax Cannot Be Reclaimed: Non- Deductible Items

In addition to the general rules on input tax there are also specific items on which VAT cannot be reclaimed.

7.2.1 Telephone and Internet Services: Non- Deductible

Input tax credit is not allowed on telephone bills and internet services except on: -

- Interconnection fees and other services provided by one telephone or internet service provider to another
- Telephone and/or internet services provided by a hotel, lodge and similar establishment to its clients if such an establishment accounts for output tax on the supply of the telephone service its clients.

7.2.2 Motor Cars: Non- Deductible

Input tax credit is not allowed on motorcars, however car dealers who buy cars for resale, cars to be leased by leasing businesses or financial institutions engaged in leasing and car hire businesses may reclaim VAT input tax in the normal way.

Maintenance and repairs to motorcars, used solely for business purposes can be claimed. Where a motor car is used partly for personal purposes e.g. to transport business executives, VAT incurred on vehicle maintenance and repairs must be apportioned and only that part which directly relates the business can be claimed. **Motorcars are defined as motor vehicles that have side windows or a seat to the rear of the driver's seat. This restriction will therefore apply to saloon and estate cars, to wagons, and to twin cabs. It will not usually apply to pick-up trucks and to other commercial vehicles such as vans.** If you are in doubt please contact the ZRA Advices.

7.2.3 Business Entertainment: Non Deductible

Input tax may not be reclaimed on business entertainment. Entertainment is defined to include hospitality of any kind, provided in connection with a business. This includes the supply of meals, drinks, entertainment at clubs and the provision of recreational facilities. However, input tax can be reclaimed on business hotel accommodation from 1st July 1999 but not the tax incurred in the supply of any food, beverages, transportation or hospitality of any kind. If you are in any doubt regarding business entertainment please contacts the ZRA Advice Centres.

7.2.4 Input Tax Incurred For The Benefit Of Directors, Employees Etc.

VAT incurred on any food, beverages, transportation or hospitality of any kind, or goods or services provided for directors, managers, partners, proprietors, employees, customers or potential customers etc. cannot be claimed e.g. the tax on furniture, on electricity bills, or for a house rented by a business.

7.2.5 Input Tax incurred on Petrol expenses.

Twenty percent (20%) of the VAT paid on the purchase of petrol for business use by a registered supplier may now be claimed, deducted or credited as input tax. There is no change in cases where the purchase is for resell, e.g. Filling Stations, in which case the whole amount of the VAT paid may be claimed, deducted or credited as input tax

PART 8

8.0 Retailers - Accounting For VAT on Supplies Made: Output Tax

All taxable suppliers must account for VAT on the supplies they make. Depending on the nature of the business there are some options as to how this is done. Types of suppliers can be divided into two broad categories: - **Retailers** who make sales directly to the consumer and **non - retailers** who normally issue invoices, such as manufacturers, wholesalers etc. This part covers accounting requirements for retailers and non-retailers see part 9.

8.1 Retailers - Concession Not To Issue Invoices for Retail Supplies

Generally a taxable supplier is required to issue tax invoices for each separate supply of goods and services. However, the law requires all VAT registered retailers, with a few exceptions, to operate Cash Registers to record their daily sales in all retail outlets. Any retailer who defaults on the requirement to operate a Cash Register for retail sales will be subjected to the prescribed penalties, including failure to maintain records. **Refer to Leaflet No. 28 – Cash Register for more information.**

8.2 Restrictions On The Concession

Not every retail business is allowed to operate cash registers in accounting for output VAT; Exceptions include those businesses where the normal trade practice is to issue invoices. Businesses in these categories are treated as non-retailers as far as VAT is concerned and should follow the guidance for non-retailers i.e.

- Lawyers,
- Accountants,
- Restaurants and cafeterias.
- Hardware Suppliers

8.3 Customers Requesting Invoices from Retailers

Customers who request a tax invoice should be given one, whether they are registered or not.

8.4 Retailers Making Mixed Supplies

If you make a mixture of retail and non-retail supplies e.g. wholesale and retail supplies, you may only use the cash register for the retail portion of your supplies. For the non-retail portion you must apply options in paragraph 9.1 and you should issue invoices for non-retail supplies.

8.5 Retail Tax Inclusive Pricing

The law requires that at the retail level all prices be shown as inclusive of VAT. Business, however, may display notices in strategic places of the business premises stating that VAT is included in all prices displayed as an alternative to stating on each price tag that VAT is included in the price.

8.6 Effect of VAT on Retail Costing and Pricing

The determination of prices is an area that requires special consideration, because if charged on VAT, costs and prices will rise unnecessarily and inequitably. A supplier's competitiveness and consumers could both be adversely affected. The correct way of calculating prices is illustrated below:

	Registered Supplier	Unregistered Supplier
Cost of goods (including VAT)	K 1,160	K 1,160
Less: VAT recovered	K160	Nil
Actual Cost	K 1,000	K 1,160
Mark up (40%)	K 400	K 464
Net Selling Price	K 1,400	K 1,624
VAT on Selling Price (16%)	K 224	Nil
Selling price	K 1,624	K 1,624

If the VAT due to be recovered as an input tax credit, is not deducted from the purchase price before the mark-up is added, an incorrect selling price will be calculated

PART 9

9.0 Non-Retailers -Accounting For VAT On Supplies Made

This part covers accounting requirements for non-retailers, for retailers see part 8.

9.1 Non-Retailers: Accounting options

Non-retailers are normally required to issue invoices for their supplies. Output tax is normally charged and collected on the issue of a tax invoice, whether or not the amount due has been paid, this is called **the invoice basis** of accounting. However some suppliers can apply for a concession to account for output tax when a payment is received. This is called the **payment** or **cash accounting basis** (see paragraph 9.3).

Note: Whether or not you use the invoice basis or the payment basis for accounting for VAT as a non-retailer you should issue tax invoices for every supply.

9.2 Non-Retailers -The Invoice Basis

Businesses which use the invoice basis must account for output tax on all taxable supplies (sales), both cash and credit, whether or not payment has been received for the supplies made. A supply of goods and services is deemed to take place once the tax point occurs (see paragraph 5.9). Similarly, input tax can be claimed on cash and credit purchases at the time the tax invoice is obtained. However, if a payment or part-payment is received before an invoice is issued a tax point has occurred and the tax is due on that payment.

For transactions for which payment is not made wholly in cash, e.g. barter, part exchange, business gifts, etc. a tax point is created and the tax is due immediately (see paragraph 5.9).

9.3 Non-Retailers -Payment or Cash Accounting Basis

Invoice driven businesses, which are permitted to use the payment or cash accounting basis are required to account for VAT to the extent that payment has been made or received. In other words, output tax (e.g. on sales) is accounted for on the cash receipts from taxable supplies made and input tax (e.g. on purchases) is recovered only on those invoices where payment has been made for taxable supplies received during the tax period.

For transactions for which payment is not made wholly in cash, e.g. barter, part exchange, business gifts, etc. a tax point is created and the tax is due immediately (see paragraph 5.9).

This concession is subject to limitations and may only be granted following a written application to the Commissioner VAT. Currently only members of the Association of Building and Civil Engineering Contractors (ABCEC) are eligible to use the Cash Accounting basis for VAT purposes.

9.4 Cash accounting for suppliers involved in mineral prospecting and intending traders

With effect from 1st February 2003 all suppliers engaged in mineral prospecting, mining and intending traders are supposed to reclaim input tax based on Cash Accounting.

This measure is aimed at ensuring that such suppliers only claim, as input tax, the VAT on payments they have actually made to their suppliers. In other words the refunds will be made based on amounts actually paid.

9.5 Non-Retailers - Making Mixed Supplies

If you make a mixture of non - retail and retail supplies you must use the invoice basis for your non-retail portion. A cash register must be used to capture the sales for your retail Supplies.

PART 10

10.0 Tax Invoices

For non - retail suppliers VAT is "invoice driven". In other words the calculation of VAT is based upon the issuance and retention of tax invoices. Non-retailers should issue a tax invoice for every taxable supply, whether or not they have been granted the Cash Accounting concession. **Complete copies of invoices**

must be retained for a minimum period of 5 years and must be produced to an authorised ZRA officer on request.

For retailers, invoices should be issued to all customers whether demanded or not.

10.1 Time for Issuing Invoices

It is best practice, though not obligatory, for VAT purposes, for invoices to be issued in the same month that the goods or services are supplied.

10.2 Issuance Of Tax Invoices

Not more than one tax invoice may be issued for the same taxable supply. A customer is entitled to ask for a duplicate invoice, which must be marked prominently **duplicate**.

10.3 Details To Be Shown On Tax Invoices

The following details must appear on the tax invoice:

- The words "tax invoice" in a prominent place.
- The name, address and VAT registration number of the supplier.
- The name or business name and address of the recipient (purchaser).
- The serial number of the invoice and date of issue.
- The quantity or volume of the goods or services supplied.
- A description of the goods or services supplied, and either
- The selling price, excluding VAT and any discount.
- The total amount of the VAT charged.
- The selling price including VAT

Or

- The total charge on the invoice inclusive of VAT, any discount and the rate of VAT.

10.4 Example - (Tax Shown Separately):

QUALITY TYRES LIMITED Cairo Road P.O Box 30000 Lusaka To: Speciality Cars Ltd Freedom Way PO Box 20000 Lusaka	VAT Registration: 10012345-67	Tax Invoice No. 9238 Date: 26 th July 1995	
Quantity	Description	Unit Cost (K)	Total(K)
2	165/70x13 Tyres	25,000	50,000
4	175/70x14 Tyres	30,000	120,000
			<u>170,000</u>

VAT at 16%	<u>27,200</u>
Total	<u>197,200</u>

Note: Businesses should record separately on the tax invoice any supplies that are zero-rated or exempt.

In situations where it is impractical to issue a tax invoice or to include certain information and sufficient detail, other records are maintained, the ZRA Advice Centres may be approached for the necessary authority to dispense with this requirement.

Tax invoices received, and copies of those issued, must be retained for a minimum of 5 years and produced to the ZRA on demand.

10.5 Manual Tax Invoices

It is mandatory that manually issued tax invoices be taken from a serially numbered pre-printed invoice book.

10.6 Computer-Generated Tax Invoices

Suppliers with computerised accounting packages may apply to the Commissioner-General for approval to issue computer generated tax invoices. Eligible accounting packages must have the following features:

- (i) printed invoices, credit notes and debit notes bearing all the mandatory features of a Tax Invoice;
- (ii) automatic and consecutive document numbering with inbuilt safeguard against reallocation or resetting of the numbers in any circumstance;
- (iii) transactions, once posted and a tax invoice printed, become read-only to all users or, where editing is possible a read-only audit trail showing original details is in-built;
- (iv) periodic transactions reports showing invoice number, invoice date, customer's name, description of goods or services supplied, value before VAT and VAT amount.

For tax invoices that are issued in foreign currency, the rate of conversion to Kwacha or the Kwacha equivalent of the total supply obtaining at the time of the supply must be indicated on the invoice.

10.7 Issuance Of Credit Notes

The issue of a credit note is required where:

- The supply has been cancelled.
- The supply or total purchase price has varied or altered.
- The goods have been returned to the supplier.

Note, when purchasers receive discounts for prompt payment (details of which must be stated on the face of the tax invoice) credit notes need not be issued to cover the cash discount given.

The details required on credit notes are the same as those required on tax invoices (see paragraph 10.4) e.g. they must be headed **credit note** and show the details of the person or business receiving the credit, the quantity and amount credited for each item, the number and date of the original tax invoice or a clear

audit trail to show VAT was accounted for on the original supply etc. A brief reason for the issue of a credit note is required.

The VAT on Credit notes issued should be deducted from the total output tax in the period in which the credit is given (see paragraph 11.3). **Complete copies of credit notes must be retained for a minimum period of 5 years and must be produced to an authorised ZRA officer on request.**

10.8 Receipt of Credit Notes

If you receive a credit note e.g. for goods or services which have been subsequently cancelled or returned you must ensure that input tax is not claimed, or if it has already been claimed that it is corrected by deducting the VAT amount from the input tax claimed in the same period in which the credit note is received (see paragraph 11.3). **There are severe penalties for claiming input tax to which you are not entitled.**

PART 11

11.0 Records & Accounting Systems

For VAT purposes, as far as possible the ZRA tries to rely on the records and accounts ordinarily kept by businesses. However to make sure that businesses keep appropriate records the law prescribes some minimum requirements.

11.1 Records that Must Be Kept

ZRA officers will visit to examine your records to be satisfied that you are accounting for the tax correctly. It is important that you retain sufficient records to enable them to do this effectively. If you are accounting for VAT for the first time some modifications to your normal accounting records will probably be necessary. Under the law a VAT accounting system must: -

- Record the nature, quantity and value of both supplies made and supplies received e.g. Purchase and Sales day books, plus daily sales records, recorded from till rolls for a retailer
- Be able to distinguish between taxable and exempt supplies.
- Record payments for both supplies made and supplies received e.g. a Cash Book.
- Include a summary of the output tax, input tax and the net tax payable or reclaimed i.e. a **VAT Account** (see paragraph 11.3).
- Contain adequate proof that goods have been exported e.g. copies of export documents, and copies of documents showing importation into the receiving country, proof of payment by the customer etc.
- Contain adequate proof that goods have been imported e.g. in addition to a commercial invoice, a Customs CE 20 form.
- Contain adequate evidence for zero rating of supplies made e.g. qualifying inclusive tours etc.

Purchase and Sales Day Books should include columns for the following:

- Invoice number.
- Invoice date.
- Supplier's name (purchase day book) or customer's name (sales day book).
- Taxable value.
- The amount of VAT.
- The total VAT inclusive value of the invoice.

Partly exempt businesses (see paragraph 7.1.5) will need to add extra columns to separate exempt sales and purchases relating to them.

11.2 Retail Businesses Must Keep The Following Records:

Copies of all daily retail transactions, such as till rolls, books etc (see par 8) and copies of any invoice or receipt books used.

Retailers are warned that failure to use a cash register to record all sales made and the under recording of takings will be treated as a serious offence and heavy penalties imposed.

11.3 The VAT Account

This is a monthly (or if you are using non standard tax periods a quarterly or six monthly) summary showing the source of the figures on the VAT return. It is invaluable in demonstrating how you have arrived at the figures and should be a useful record for you as well as for inspecting officers.

Example VAT Account: Period Ending 31st July, 1999

Output VAT on sales and other outputs (Box 1 of the VAT Return):

Cairo Road shop VAT on cash sales	K1, 000,000
Plus Northmead Shop VAT on cash sales	K2, 500,000
Plus VAT on Invoiced Sales	<u>K1, 500,000</u>
Sub Total VAT on Sales	K5, 000,000
Less VAT on credits given for returned goods	<u>K 300,000</u>
Total Box 1	<u>K4,700,000</u>

Input VAT on domestic purchases and other inputs (Box 2 of the VAT Return):

VAT on domestic purchases and expenses	K2, 500,000
Less VAT on credits received for returns	<u>K 200,000</u>
Sub Total Input VAT	K2, 300,000
Less VAT accidental overclaim in June	<u>K 100,000</u>
Total Box 2	<u>K2, 200,000</u>

Input VAT on Imports (Box 3 of the VAT Return):

Imports	K 700, 000
Total Box 3	K 700, 000

Total Input VAT total of Box 2 and Box 3 (Box 4 of the VAT return):

Box 2	K2, 200,000
Plus Box 3	<u>K 700,000</u>
Total Box 4	<u>K 2,900,000</u>

Total VAT payment or Repayable Box 1 Minus Box 4 (Box 5 of the VAT return):

Total Box1	K4, 700,000
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Minus Total Box 4
Total Box 5

K2, 900,000
K1, 800,000

11.4 Retention of Records

All records and accounts, including tax invoices and credit notes, must be preserved for a minimum of 5 years and made available for inspection to an authorised officer of the ZRA on demand.

PART 12

12.0 Making VAT Payments and Returns

Every supplier who is registered for VAT is required to submit a VAT return to ZRA for each tax period **not later than the 21st day after the end of a tax period**. A standard tax period covers the first day to the last day of the calendar month under the **Gregorian Calendar**. Some registered suppliers may be given longer tax periods like three monthly, six monthly or annual tax periods.

Failure to make a return and/or to pay the tax due by the due date will result in penalties and interest charges being applied as follows:

- For late submission of a return the penalty is K180, 000, or 1/2% of the tax payable (whichever is the greater) for each day that the return is not submitted.
- For late payment of VAT the penalty is 1/2% of the tax due for each day the VAT is unpaid
- Interest is chargeable for each month or part of a month that a payment is overdue and is charged at the Bank of Zambia discount rate plus 2%.

Where a repayment return or a 'nil' return is made late, these penalties are still chargeable.

12.1 Errors And Omissions

Interest is chargeable at the Bank of Zambia discount rate plus 2% on amounts underdeclared on VAT returns e.g. under-declarations discovered and assessed following a VAT inspection visit.

Also, a taxable supplier is required by law to include on his next VAT return all under-declarations; and over-declarations he discovers he has made on previous returns. In applying any interest or penalty in relation to such corrections the Commissioner-General shall take into account circumstances of the correction.

12.2 False Returns, Documents, Information, Statements etc. And Fraudulent Evasion

Under VAT law it is a criminal offence to make incorrect or false returns or declarations or to produce any false document, statement or information and on conviction this is punishable by heavy penalties and or

imprisonment for up to two years. **Fraudulent evasion is punishable by heavy fines including up to three years imprisonment.**

12.3 Non-Standard Tax periods

Except as otherwise allowed or directed by the Commissioner-General, a taxable supplier whose annual turnover does not exceed K200m may apply for a three monthly tax period.

A tour operator licensed by the Zambia Tourist Board may elect one six monthly tax period and, to complete year, either-

- (a) six additional monthly tax period; or
- (b) two additional three monthly tax periods.

12.4 Repayment Of VAT

When the input tax of a business exceeds the output tax in any given a tax period, the difference is refunded to the supplier. Legally, refunds should be made within 30 days.

In order to detect incorrect claims and to discourage fraud before making repayments the ZRA verifies selected claims. Every effort is made to ensure that such verifications are done as quickly as possible but some delay may be there before some repayments can be made.

PART 13

13.0 Supplies Made By or Through Agents

An agent is someone who acts for, or represents someone else (a principal) in arranging supplies of goods or services. Supplies arranged by an agent are made by or to the principal he represents. The principal cannot avoid his liability to account for VAT on his supplies or to pay VAT on his purchases by using an agent.

People who carry on a business on their own account sometimes use the words 'agent' and 'agency' to describe their trading style. For example, distributors, sole concessionaires and motor agents usually trade as principals on their own account, and employment agencies and travel agents are not usually agents in all their activities. On the other hand, some people who normally trade as principals, such as solicitors and architects, may occasionally arrange supplies as agents for their clients. **Whatever the trading style, the procedures in this section can only be used where an agent arranges supplies, which are made by someone else.**

To be an agent, you must have agreed with your principal to act on his behalf in relation to a particular transaction. This may be a written or oral agreement or merely inferred from the way you and your principal conduct your business affairs. Whichever form this relationship takes however:

- It must always be clearly established between you and your principal, after which you must be able to show to ZRA that you are arranging your transactions for your principal, rather than trading on your own account.
- You will not be the owner of any goods that you buy or sell for your principal.
- You will not alter the nature or value of any of the supplies made between your principal and third parties.

13.1 Accounting for VAT On Agency services

As an agent, you will usually be involved in at least two separate supplies at anyone time:

- Supplies arranged by you but which are made between your principal and a third party.
- The supply of your services to your principal for which you charge a fee or commission.

It is important to distinguish between these two, i.e. the supply of the services which you, as an agent, are making yourself and the supply which you are arranging for your principal.

As you are not making or receiving the supplies you arrange as an agent for your principal, it is the responsibility of the your principal (or the third party) to account for output tax on their supplies.

The normal VAT rules apply and you must account for VAT on the services for which you charge a fee or commission to your principal.

13.2 Agents Recording Transactions in Their Own Name

Agents often issue invoices in their own name (or receive invoices made out to them) for supplies they arrange on behalf of their principals. In these circumstances they may, for VAT purposes, be treated as though they were a supply by the seller to the agent and by the agent to the buyer provided:

- Both the seller and agent are registered for VAT; and
- The supplies are taxable

13.3 Invoicing For Supplies Made Through A Selling Agent

The following example illustrates the accounting procedure used when tax is due on supplies made through a selling agent.

A registered person sells standard-rated goods for K1, 000,000 (plus VAT) to another registered person. The seller uses an agent who acts in his own name. The agent takes a commission of 10%.

The seller must issue a tax invoice to the agent, showing:

Goods	K1, 000,000
VAT	<u>160,000</u>
Total	<u>K1,160,000</u>

The seller accounts for K160, 000 output tax. The agent may reclaim K160, 000 as input tax.

The agent must issue a tax invoice to the buyer showing:

Goods	K1, 000,000
VAT	<u>160,000</u>
Total	<u>K1, 160,000</u>

The agent accounts to ZRA for K160, 000 output tax. The buyer may reclaim K160, 000 as input tax.

The agent must also issue a tax invoice when he makes his charge to the seller, his principal, for his own services showing:

10% Commission	K100,000.00
VAT at 16%	<u>16,000.00</u>
Total	<u>K116,000.00</u>

The agent accounts to ZRA for K16,000 output tax. The seller can reclaim input tax of K16,000.

In this example, the amount of money that passes between the agent and his principal (the sell) may be only K1,044,000.00, since the agent might deduct his commission from the amount collected from the buyer, paying the balance to the principal. But the full VAT invoicing procedure must still be followed.

13.4 Invoicing For Supplies Obtained Through A Buying Agent

The following example illustrates the accounting procedure used for such transactions;

A registered person uses an agent to buy goods for him from another registered person. The amount charged by the seller is K1,000,000 (plus VAT). The agent is registered for VAT and charges K50,000 for his services.

The seller issues a tax invoice to the agent, showing:

Goods	K1,000,000
VAT	<u>160,000</u>
Total	<u>K1,160,000</u>

The seller accounts to ZRA for K160,000 output tax. The agent may reclaim K160,000 input tax. The agent must also issue a tax invoice to his principal with VAT for the supply of his service. Secondly, the agent issues another tax invoice with VAT to the buyer for the supply of goods. Below is an illustration.

13.5 Auctioneers

The rules in this section apply when an auctioneer offers goods for sale as the agent of the seller.

If, as an auctioneer, you sell your own goods as a principal in one of your sales, you must follow the normal VAT rules.

Some auctioneers also charge a "buyers premium" payable in addition to the successful bid. The buyer's premium is the consideration for a separate supply of services by the auctioneer to the buyer and it is always standard rated.

As an auctioneer, you may be asked to arrange sales of goods in satisfaction of a debt e.g. under a court order. If the debtor is a registered person and the goods are part of his business assets, this is a taxable supply and the proceeds of the sale are treated as tax inclusive and the seller must account for the tax. If need be the seller must issue a normal tax invoice (see Part 10).

PART 14

14.0 Bad Debt Relief

The general rule is that all VAT registered suppliers (except those authorised to use Cash Accounting see paragraph 9.3) should remit to ZRA VAT charged on taxable supplies made in the course of their business irrespective of whether payment has been received or not. However, VAT paid to ZRA but not received from a customer may, subject to the rules below, be claimed back.

14.1 Rules for Claiming Bad Debt Relief

VAT paid to ZRA but not received from the customer can be claimed back if:

- The claim is made on or after 27th January 1996.
- The debt has been outstanding for 18 months or more.
- The debtor has been declared insolvent by a court of law i.e.
 - If the defaulting customer is a person, sole trader or partnership, who has been declared bankrupt by the courts or,
 - If the debtor is a limited company, the court has ordered its winding up and an appointed liquidator or receiver has issued a certificate to the effect that in his opinion the company would not meet the debts of unsecured non-preferential debts.

14.2 How to Claim Bad Debt Relief

A supplier who wishes to claim relief for bad debts must:

Step1

Make a claim to the administrator, receiver or liquidator against his debtor for the VAT inclusive amount that he is owed by the insolvent debtor.

Step2

Obtain a written statement from the administrator, receiver or liquidator to the effect that the debtor is insolvent and that he cannot pay the debt.

Step 3

Claim a credit for the amount of VAT remitted in respect of the bad debt by adding the Bad Debt Relief to the input tax incurred on domestic purchase in box 2 of the VAT Return.

14.3 Records to Be Kept For Bad Debt Relief

For ZRA to be satisfied that claims to Bad Debt relief are correct, VAT registered suppliers claiming Bad Debt Relief should retain the following documentary evidence:

- A copy of the tax invoice issued to the debtor in connection with the supply that later became a bad debt.
- Evidence that the VAT being claimed as Bad Debt Relief was remitted to ZRA
- Copies of correspondences referred to in steps 1 and 2 above.

PART 15

15.0 Appeals and Requests for Review

If you disagree with a decision or determination made by ZRA in relation to VAT you may request an internal ZRA review or appeal to the Revenue Appeals Tribunal.

15.1 ZRA Internal Review Prior To Appeal to The Revenue Appeals Tribunal

In order to avoid unnecessary costs being incurred by both parties, the VAT Division of ZRA has put in place an internal review mechanism. Taxable suppliers are encouraged to ask the Commissioner VAT to review any decisions, or tax amounts assessed by VAT officers, before lodging an appeal with the Revenue Appeals Tribunal. The thirty days time limit for lodging an appeal with the Tribunal will not be affected by asking the Commissioner VAT to review the decision or assessment; the time limit will commence from the date of the Commissioner's written response. If you wish to ask for an internal review please write to:

**The Commissioner Domestic Taxes
Zambia Revenue Authority
Revenue House
P.O. Box 35710
Lusaka**

15.2 The Revenue Appeals Tribunal

An independent Revenue Appeals Tribunal, composed of three Lawyers, two Accountants, and two members of the Business Community appointed by the Minister of Finance and National Planning has been set up to hear appeals from taxable suppliers on specified matters.

The Revenue Appeals Tribunal was established under the Revenue Appeals Tribunal Act, No, 11 of 1998. The Tribunal has the power to summon witnesses, order the production of documents and to award costs against any of the parties to an appeal.

15.2.1 Appealable Matters

For VAT a taxable supplier may make an appeal on decisions or determinations made by the ZRA in relation to:

- Registration or cancellation of registration or refusal to register a supplier.
- The tax assessed to be payable on any supply of goods or services or the importation of any goods.
- The amount of any input tax that may be credited to any taxable supplier.
- The application of any rule providing for the apportionment or disallowance of input tax; or
- Any notice requiring early payment of tax or security.

15.2.2 Appeal Conditions

An appeal shall be lodged with the Tribunal within thirty days from the date of the decision or determination of the Commissioner of VAT and must comply with the Revenue Appeals Tribunal Regulations, (Statutory Instrument No. 143 of 1998). The address of the Tribunal is:

The Registrar

Revenue Appeals Tribunal

Ground Floor, Kambendekela House

Private Bag RW 565

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