



Highlights:

- Tanzania has amended its tax laws to tax the digital economy
- The amendments took effect on 1st July 2022
- Digital Service Tax (DST) applies for both Income Tax and Value Added Tax
- Regulations only cover non-residents. Residents providing electronic services are not required to pay DST
- Regulations issued will apply to both Mainland and Zanzibar for income tax but only Mainland for VAT regulations
- Companies affected have to register by 31st January 2022
- The Regulations provide for interests and/or penalties for failure to register, providing false information and payment of taxes

Background

Tanzania has recently issued regulation for Income and Value Added Tax to cater for digital business that has increased over the past few years. The increase mainly due to a shift in businesses towards stream-less platform. The shift is may have been made possible by the development in technology but the outbreak of COVID19 has made it a necessity that businesses to move from a physical based to a steam-less based through digital channels.

The regulations come as an implementation of the amendments that were effected through the Finance Act 2022 to introduce Digital Service Taxes (DST) for Companies providing electronic services to residents.

The issued regulations are as follows:

1. The Income Tax (Registration of Non-Resident Electronic Service Providers) Regulations, 2022 (herein "Income Tax Regulations")
2. The Value Added Tax (Registration of Non-Resident Electronic Service Suppliers), 2022 (herein "Value Added Tax Regulations")

There regulations took effect from 1st July 2022 and applies mostly non-resident service providers of digital services. Local service providers are not covered under these regulations.

We provide herein in our alert our analysis of the regulations for your perusal:

Application of Digital Service Tax

Income Tax Act, 2004 (ITA) provides that a non-resident person that receives a payment sourced in the United Republic of Tanzania from an individual for services rendered through a digital market place is required to pay income tax as Digital Services Tax (DST) at the rate of two percent (2%) of the gross payment. Payments received by the non-resident in the course of conducting business are excluded from DST.

DST is payable by way of single installment every 7th day of the following month.

Under the VAT Act, 2014 (VAT Act), a non-resident person that supplies "electronic services" to a VAT unregistered person is required to register and account for VAT its supplies in Mainland Tanzania.

The registration requirement to the non-residents is applicable, notwithstanding, the required TZS 100m threshold for a business to be registered for VAT.

Registration

ITA requires the non-resident person that triggers DST payment to register with the Commissioner General. The application shall be made online subject to Commissioner's approval. Once registered, the person will be issued with a Tax Identification Number.

For VAT, the non-resident person supplying "electronic services" to a VAT unregistered person is required to register and pay VAT on its supplies in Mainland Tanzania. Although not practical, the Act allows the non-resident to appoint a VAT representative.

The manner and the forms to be filled for registration are similar for both VAT and Income Tax.

Source of Payment/Place of Supply

The electronic services are regarded to have been sourced in United Republic of Tanzania, and hence granting the jurisdiction to tax these services in Tanzania, where the recipient of these services is in Tanzania.

The recipient is regarded to have been in Tanzania where he uses a local bank account, local debit or credit card or the representative bank uses a local billing address or the person making the payment uses a local sim card.

Filing Requirements

A registered person is required to file every 7th day of the following month in a form prescribed in the Schedule to the Regulations.

The filing is made online.

Other things to take note of:


- ✚ Both regulations require non-resident person supplying such electronic services before 1st July 2022 to register by 31st January 2023.
 - ✚ A person is eligible for deregistration upon application to the Commissioner
 - ✚ Payment of DST is to a designated bank account in Tanzania Shillings or its equivalent convertible currency at the Bank of Tanzania's prevailing rate at the date of payment
 - ✚ Although not specified, our presumption is that the registered person will need to quote control number on payments which has been challenging for non-residents
 - ✚ Registered persons for DST are not required to acquire and use EFDs
 - ✚ We presume that to obtain TIN will not require any registration/incorporation of business with BRELA and that the person will not be construed to be a resident entity under section 66 (4) of ITA and hence be required to account for his worldwide income in Tanzania.
 - ✚ A registered persons for DST will not be eligible to claim input VAT. However, mechanisms are in place to claim adjustments and other adjustments in the Vat return
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No	Items	Detailed Description
a)	websites, web-hosting or remote programs and equipment-	i) search engine and automated helpdesk services; ii) customisable search engine services; iii) downloadable digital content including downloadable mobile applications, e-books and films;
b)	software and updating thereof-	i) application software; ii) system software; iii) drivers; iv) filters and firewalls; and iv) plugins;
c)	images, texts or information-	i) desktop theme; ii) photographic image; iii) pictorial image; iv) screensaver; and iv) any right to view an item listed under this paragraph;
d)	access to database-	i) subscription-based media- (aa) news, magazines, journals, periodicals and publication; (bb) blog; (cc) database; (dd) information system services; (ee) games; (ff) internet-based auction services; (gg) social networking services; and (hh) webcast, webinar, website, web application or web ii) electronic data management - (aa) online data warehousing, and (bb) file sharing and cloud storage services; iii) sharing and gig economic services including transport and hailing services or platforms iv) electronic booking or electronic ticketing services
e)	self-education packages-	i) distance teaching programme; ii) educational webcast; iii) internet- based course; iv) internet-based education programme; v) webinar; and vi) digitised content of any book or electronic publication;
f)	music, films and games including gaming activities-	i) audio clip; ii) broadcast not simultaneously broadcast over any conventional radio network; iii) jingle; iv) live steaming performance; v) ringtone; vi) song; vii) broadcast not simultaneously broadcast over any conventional television network in Mainland Tanzania; viii) documentary; ix) home- made video; x) steaming services; xi) movie xii) music video; xiii) program; xiv) television series; xv) sound effect xvi) games and games of chance- (aa) internet-based game including electronic game and multiplier role- playing game (bb) interactive games, where such interactive game is a game of chance or game where the result is influenced by the skill of the player and game which is a combination of chance and skill; and (cc) electronic betting or wagering; and
g)	political, cultural, artistic, sporting, scientific and other broadcasts and events including broadcast live television	

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