

VAT: Why the private sector complain so much and what we may be able to do about it

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AGENDA

Principles and criteria for an effective and equitable VAT regime;

Why do tax payers complain and what we can do to help:

- Zambia;
- Kenya, Uganda, Tanzania;
- Nigeria.

OECD – INTERNATIONAL NORM

Main principle: tax on consumption – burden of taxation should be borne by final consumer

Tax system designed to levy tax on final consumption and not on intermediate transactions between businesses. Each business in the supply chain takes part in processing, controlling and collecting tax corresponding on the “value added” at each stage.

Criteria for effective tax systems - OECD

Neutrality – taxation should be neutral and equitable between forms of commerce

*Business decisions should be motivated by **economic** rather than tax considerations*

Efficiency

Compliance costs for taxpayers and administrative costs for the tax authorities should be minimised as far as possible

Criteria for effective tax systems - OECD

Certainty and simplicity

*Tax rules should be **clear and simple** so that taxpayers can anticipate the tax consequences of a transaction, including knowing when, where and how tax is to be accounted*

Effectiveness and fairness

*Taxation should produce the **right amount of tax at the right time**. The potential for tax evasion and avoidance should be minimised while keeping counter-acting measures proportionate to risks involved*

Criteria for effective tax systems - OECD

Flexibility

*The system for taxation should be **flexible and dynamic** to ensure that they keep pace with technological and commercial developments*

TAXPAYERS VIEWS

Zambia – 17.5%

Overwhelming view of compliant taxpayers is that they don't mind accounting for VAT, however they want a level playing field, clarity/certainty and sensitivity to commercial reality

TAXPAYERS COMMENTS

Zambia – non technical issues

Inequality and fairness - large informal sector and significant evasion results in compliant tax payers bearing higher burden

Sensitivity to commercial reality – e.g. criteria to qualify for bad debt relief unrealistic

Cost of administration high – monthly VAT returns, several audits, manual VAT invoices, time for processing refunds inappropriate,

Compliant tax payers penalised due to default by non compliant suppliers – rejection of “non valid tax invoices”

TAXPAYERS COMMENTS

Insufficient guidance and uncertainty – especially for specialist industries, VAT assessed retrospectively

Subjectivity in interpretation, inconsistent treatment—
resulting in uncertainty

TAXPAYERS COMMENTS

Zambia – technical issues

VAT reverse charge – current requirements contradict the principles of VAT – effectively a tax on businesses rather than the final consumer

- increases cost of running a businesses (even with the appointment of a local tax agent)

VAT on services exported – inconsistent with principle of taxing consumption

- Makes local services uncompetitive on global market, could result in double taxation

Disallowance of key business expenditure e.g. input VAT on petrol and telephone costs. These are essential business expenses. Disallowing these effectively increases the burden of value added taxes borne by businesses and can result in double taxation

Zambia – what can be done

Stricter policing and widening of tax net;

- Remove hurdles to businesses – allow business expenses – petrol, telephone, etc;
- Ensure the tax is borne by end user/ consumer – e.g. export services irrespective of place of performance should be zero-rated
- Remove VAT reverse charge – distorts business competitiveness
- Expedite refunds
- Level playing field – NGOs, diplomats, commercial public transport providers, fast track refunds, localised concessions e.g. Livingstone,
- Greater clarity and consistency on application of regulations;
- Greater appreciation of impact of tax distortions to competition;
- Specific rules and provisions – minimising interpretation;

Zambia – Good News and Progress

Distortions due to exemptions being minimised - e.g. standard rating majority of agricultural products previously exempted;

-New 3% tax on commercial imports – although an advance income tax should help widen tax net for VAT;

-20% of business VAT on petrol now allowed;

- Improvement in pace at which VAT refunds processed;

- More skilled VAT Inspectors;

- Improvement in public information – good website

Kenya 16% , Tanzania 20%

Lack of clarity over place of supply – can lead to double taxation;

Export of services – ignores basic principle that VAT is a tax on consumption – services to customers outside country standard rated;

VAT implications of operating joint venture (Kenya);

Special economic zones, EPZ – uneven playing field?

Clarity and scope of market value provisions

Scope of “financial services” exemption

Administrative challenges in relation to supplies relieved from VAT

Delays in payment of VAT refunds

Zanzibar – separate VAT legislations although part of Tanzania

Uganda - 18%

Lack of clarity over place of supply – can lead to double taxation;

Refunds not dealt with expeditiously;

VAT reverse charge procedures cumbersome – disincentive to compliance

- Non registered persons importing services neglect to pay VAT on imported services;

- Those that are registered do not always follow process of declaring output tax and claiming input tax in same month, and then preparing self addressed invoice

Time taken to register for VAT too lengthy and difficult – checking of premises, bank accounts and TIN for company and all directors;

Inability to claim input VAT on can lead to double taxation – e.g. sale of second hand car for which no input claim allowed but which is subject to output VAT;

Apportionment method for reclaiming input VAT on mixed supplies not always appropriate – leading to distortion;

Uncertainty in definition of financial services – excludes factoring from definition, but leaves doubt as to what factoring is and what consideration might be.

Nigeria – 5%

- Burden of Tax on Businesses rather final consumer - no input on capital purchases – business treated as final consumer;
- Input VAT restricted to purchase of goods only used for resale or in production process;
- Exporters of goods and services are VAT exempt – so that cost of non EPZ operators exporting 100% of their product bear burden of input VAT on all materials and purchases;
- Unattractive and burdensome reverse charge rules – requires non resident entity to formally register for Nigerian VAT using address of it's contemporary in Nigeria; foreign supplier required to make reference to a Nigerian VAT number and the applicable Nigerian VAT on the transaction. Nigerian counterpart on receipt of invoice has to account for VAT and would suffer the incremental cost as it is non claimable.

Nigeria – 5%

- Nigerian VAT system too manual – not capable of keeping up with technological and business developments, or with detecting discrepancies and frauds
- Overall view - Nigerian VAT regime has lapsed back into the sales tax regime that it endeavoured to replace.
- - Major overhaul of Nigerian VAT system required – this should be in tandem with complete overhaul of all other tax legislation

Summary

- Need to widen tax base;
- Remove uncertainty;
- Must be cost effective and simple for both taxpayer and tax authority;
- Must take account of commercial realities
- Compliant taxpayers must not be penalised at expense of non compliant operators

Closing Statement

Globalisation leaves little room for taxpayers and tax authorities alike to be ineffective, uncertain or inequitable

Both taxpayers and tax authorities need to work together to deter capital flight

