



# OVERVIEW OF DIGITAL SERVICE TAX

Date: 5<sup>TH</sup> March 2021

# Digital Services Tax - VAT Regulations

- Taxable supplies made through a digital market place include:
  - Downloadable digital content including mobile applications, e-books and movies;
  - Subscription-based media including news, magazines, journals, streaming of TV shows and music, podcasts and online gaming;
  - Software programs including downloading of software, drivers, website filters and firewalls;
  - Electronic data management including website hosting, online data warehousing, file-sharing and cloud storage services;
  - Supply of music, films and games, search-engine and automated helpdesk services including supply of customized search-engine services;
  - Tickets bought for live events, theatres, restaurants etc. purchased through the internet;
  - Supply of distance teaching via pre-recorded medium or e-learning including supply of online courses and training;
  - Supply of digital content for listening, viewing or playing on any audio, visual or digital media;
  - Supply of services on online marketplaces that links the supplier to the recipient, including transport hailing platforms; and
  - Any other digital marketplace supply as may be determined by the Commissioner.

# Digital Services Tax – VAT Regulations

- S10 - Where the supply of digital service or digital market place is made to a business in Kenya by a foreign supplier, VAT on imported services shall apply and the Kenyan business shall account for VAT on the digital service imported
- Notify the foreign supplier that the supplier does not need to account for tax in Kenya on the supply to the business
- No claim for tax charged by export country supplier where the Kenyan business fails to notify the export country supplier that tax has been accounted for in Kenya
- An export country supplier who makes business to consumer supply of services to a Kenyan recipient, shall register for tax under the simplified tax registration framework
- S8 (2) - Where the place of business of the supplier is not in Kenya, the supply of services shall be deemed to be in Kenya if the recipient of the supply is not a registered person and the recipient of the supply is in Kenya and the payment was made from either from a Bank registered in Kenya or the payment is authorised in Kenya to the foreign supplier – VAT on digital services to be accounted for by the foreign supplier

# Digital Services Tax – VAT Regulations

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  - if the recipient of the supply is not a registered person; and
  - the recipient of the supply is in Kenya; and
  - the payment was made from either from a Bank registered in Kenya or the payment is authorised in Kenya to the foreign supplier

VAT on digital services to be accounted for by the foreign supplier

- No VAT registration threshold for registration
- Tax representative appointment - where an export supplier does not elect to register under the simplified registration framework
- A business to consumer supplier from an export country who is registered for DST shall not be required to issue an electronic tax invoice
- No claim of input VAT by a supplier for business to consumer transactions for a supply on a digital marketplace

# THE POWER OF BEING UNDERSTOOD

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