

Legal Alert



HEIGHTENED ENFORCEMENT OF DIGITAL SERVICES TAX (DST) AND VAT ON ELECTRONIC SERVICES IN UGANDA

1. Introduction

In the recent past, the Uganda Revenue Authority (URA) has issued notifications to selected foreign service providers regarding compliance with Uganda's tax rules on provision of digital services and electronic services to Uganda users. This proactive step is intended to enforce the Digital Services Tax (DST) regime which took effect in July 2023, and Value Added Tax (VAT) on electronic services regime which took effect in July 2021.

2. Uganda's Digital Services Tax (DST)

Uganda introduced DST as a form of income tax imposed on foreign (non-tax resident) digital service providers deriving income from Uganda. The income is deemed to be derived from Uganda and hence taxable if the digital service is delivered by a foreigner service provider to a customer in Uganda over the internet, electronic network or an online platform. The DST is 5% of the gross income hence no allowable deductions are permitted for any expenditures or losses incurred. The foreign service provider is required

to register for DST and file quarterly tax returns with the URA. However, the DST regime is not applicable to foreign – service providers who provide digital services to associates (related persons) in Uganda and such services are instead charged the 15% withholding tax applicable to general service payments or royalties, as the case may be.

2.1. What are digital services for Income Tax purposes?

For DST to apply, the services should qualify as digital services. The service characterisation is important because if the services are not characterised as digital services, DST obligations should not apply even if such services are delivered over the internet or electronic network or online platform. The relevant tax law has provided a non – exhaustive definition with listed digital services including online advertising; data services; services through online marketplaces or intermediation platforms (e.g., accommodation, vehicle hire, transport platforms); digital content services (e.g., downloading or accessing content); online gaming; cloud computing and data warehousing;

services delivered via social media platforms or internet search engines. These listed digital services show the digital nature of the covered services.

3. Uganda's VAT on electronic services

Uganda imposes VAT at a rate of 18% on supplies made in Uganda, among other criteria. The supply of electronic services by a person who carries on business outside Uganda with no place of business in Uganda is considered to take place in Uganda if the recipient in Uganda is not a taxable person (non – VAT registered person).

The reference to non – taxable recipients envisages Business – to – Customer (B2C) arrangements hence VAT on electronic services applies to B2C arrangements. VAT on Business to Business (B2B) arrangements is accounted for differently under the reverse charge VAT regime.

The foreign service provider is required to register and file quarterly tax returns with the URA. However, no right to claim input VAT credit exists for VAT incurred during the delivery of these taxable services.

3.1.What are electronic services for VAT purposes?

The question of what amounts to an electronic service is pertinent because services that do not qualify as electronic services should not attract VAT on electronic services.

For VAT purposes, the electronic services are broadly defined to mean services supplied through an online or digital network by a supplier from a place outside Uganda to a recipient in Uganda. Specifically, these include websites, web hosting, and remote maintenance of programmes and equipment. software and updates; Images, text, and information; Access to databases; self-education packages; music, films, and games (including games of chance); political, cultural, artistic, sporting, and scientific broadcasts/events, including television; advertising platforms, streaming platforms, and subscription-based services; cab-hailing services; cloud storage and data warehousing.

4. Conclusion

Given the increased scrutiny and enforcement of DST and VAT on electronic services, foreign service providers should assess whether they are affected by the tax rules in order to ensure timely compliance in Uganda.

Our Tax Team at MMAKS Advocates is available to further discussion or support on this subject.



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