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TANZANIA – NEW TAX REGULATIONS ISSUED (OCTOBER 2021)

In line with the theme for the 2021 fiscal budget of “Realising Competitiveness and Industrialisation for Human Development“, several changes were enacted vide the Finance Act of 2021, such as:

- i) Emphasis of Commissioner General's (CG) powers in relation to remission of interest and penalties;
- ii) Practical approach in addressing the intra union VAT challenges; and
- iii) Vesting the CG with powers to grant VAT exemptions to prescribed persons.

In a bid to fully operationalise such amendments and bolster tax administration prospects in the country, the Minister of Finance and Planning has issued requisite tax regulations in October 2021 in the form of:

- i) Tax Administration (Remission of Interest and Penalties) (Revocation) Regulations (“Revocation Regulations”)
- ii) Value Added Tax (General) (Amendment) Regulations (“VAT Regulations”) and
- iii) Value Added Tax (Exemption Management Procedures) Regulations (“Exemption Regulations”).

The Revocation Regulations have revoked the previous Tax Administration (Remission of Interest and Penalties) Regulations, 2020 which had vested the Minister responsible for Finance and Planning with powers to prescribe eligibility, duration and procedures of accessing remission of interest and penalties on ambit of tax laws.

Subsequent to the changes enacted in S.70 of the Tax Administration Act, it was unclear as to whether the Regulations of 2020 continue to apply. However, the Revocation Regulations clarify that the 2020 regulations are revoked.

Hence, remission of interest and penalty rests at the discretion of the CG. It remains to be seen as to whether any further regulations are issued to clarify on the eligibility and criteria to be applied by the CG in determining the remission.

The VAT Regulations clear the uncertainty on the intra Union VAT challenges by clarifying the procedures for goods transferred to Mainland Tanzania (port of entry clearance requirement in Mainland Tanzania), VAT chargeability on goods supplied to Zanzibar (standard rate applicability) and procedures for applying VAT refund in relation to goods purchased by registered taxpayers in Zanzibar. VAT on goods supplied to Zanzibar is payable at the standard rate and the purchaser in Zanzibar will qualify for a refund upon applying and submitting the relevant documents to the CG. That is to say, input VAT suffered by VAT registered person in Zanzibar cannot be claimed as input VAT in the VAT returns, instead a refund application should be lodged.

The Exemption Management Procedures Regulation now empowers the CG to assess the VAT exemption applications from eligible persons as opposed to such applications being lodged with Minister responsible for Finance and Planning.

Further, the Regulations have revised time allotted for instituting exemption application to the CG from initial thirty (30) days window to sixty (60) days before the commencement of the project.

The Exemption Regulations require an applicant to lodge a formal application with the requisite documents prescribed and an exemption certificate shall be issued by the CG as set out in the Regulations.

Upon securing such exemption, the applicant is obliged to lodge exemption utilization report to the CG within thirty (30) days after expiry of six (6) months for a twelve-month project and twelve (12) months for projects with tenure of more than one (1) year.

Conclusion

The publication of the Regulations is a commendable move by the Government and one that highlights its committed intention to bolster tax administration prospects in the country as well as addressing recurrent challenges faced by the taxpayers.

The Remission Regulations that are now revoked included key challenges such as persons eligible for remission, scope of taxes eligible for remission, eligibility criteria for remission qualification and the fact that the decision of the Commissioner General could not be subject to any further administration review or appeal.

In light of the revocation, the CG will now be vested with discretionary powers to deliberate on remission applications by taxpayers. It remains to be seen if any further Regulations/guidance from TRA is published on the criteria for granting remission.

Caveat

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