

GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT NO. 33 OF 2020

**The Value Added Tax Act**  
(Laws, Volume 19, Cap 331)

**The Value Added Tax (Electronic Fiscal Devices)  
Regulations, 2020**

IN EXERCISE of the powers contained in section 51 of the Value Added Tax Act, the following Regulations are made:

1. These Regulations may be cited as the Value Added Tax (Electronic Fiscal Devices) Regulations, 2020. Title
  
2. In these Regulations, unless the context otherwise requires— Interpretation
  - “authorised officer” has the meaning assigned to the words in the Act;
  - “customer” means a person to whom, a business supplies goods or services;
  - “distributor” means a distributor of an electronic fiscal device;
  - “electronic fiscal device” has the meaning assigned to the words in the Act;
  - “electronic payment machine” has the meaning assigned to the words in the Act;
  - “fiscalised” means containing fiscal memory;
  - “manufacturer” means a manufacturer of an electronic fiscal device;
  - “nonfiscalised electronic register” means an electronic payment machine to which a fiscal memory device can be attached;
  - “State institution” has the meaning assigned to the words in the Constitution;Cap.1

“tax invoice management system” means the Authority’s information management system used to receive, store and process an invoice from an electronic fiscal device or a virtual electronic fiscal device relating to a taxable transaction undertaken by a taxable supplier in the course of that taxable supplier’s daily business;

“vendor” means a vendor of a virtual electronic fiscal device;

“virtual” in relation to an electronic fiscal device means the capacity to electronically generate or produce tax invoices and other reports and to transmit invoice data in real time to the tax invoice management system through the use of software; and

“Zambia Information and Communications Technology Authority” means the Zambia Information and Communications Technology Authority established under the Information and Communication Technologies Act, 2009.

Commissioner-General to operate tax invoice management system

3. The Commissioner-General shall establish and operate a tax invoice management system which shall—

- (a) be electronically connected to a taxable supplier’s electronic fiscal device, or virtual electronic fiscal device; and
- (b) use a fiscal management software which is compatible with the software on the electronic fiscal device or a virtual electronic fiscal device.

Requirement for use of electronic fiscal devices

4. (1) A taxable supplier shall for the purposes of recording a taxable transaction—

- (a) use an electronic fiscal device or a virtual electronic fiscal device supplied by an accredited distributor or vendor and connected to the tax invoice management system;
- (b) ensure that all taxable supply transactions are electronically transmitted to the tax invoice management system from the electronic fiscal device or virtual electronic fiscal device in real time;
- (c) ensure as far as practicable that there is uninterrupted network connectivity for the purpose of transmitting fiscal data to the tax invoice management system.

(2) The Commissioner-General may exempt, on conditions set out in the administrative rules, a category of a taxable supplier from using an electronic fiscal device or a virtual electronic fiscal device.

(3) An electronic fiscal device under sub-regulation (1) shall be type approved by the Zambia Information and Communications Technology Authority.

(4) A taxable supplier shall not open, modify or attempt to modify an electronic fiscal device or modify or attempt to modify a virtual electronic fiscal device without the authorisation of the Commissioner-General.

(5) A taxable supplier who contravenes subregulation (4), commits an offence and is liable, on conviction, to a fine not exceeding ninety thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

5. (1) A taxable supplier shall apply to the Commissioner-General for activation of that taxable suppliers access on the tax invoice management system.

Activation of taxable suppliers and electronic fiscal devices on tax invoice management system

(2) The Commissioner-General shall, unless the taxable supplier is exempted under regulation 4 (2) from using an electronic fiscal device or a virtual electronic fiscal device, activate the taxable supplier's access on the tax invoice management system and notify the taxable supplier of the effective date of activation.

(3) A taxable supplier whose access is activated on the tax invoice management system under subregulation (2), shall apply to the Commissioner-General, for the connection of an electronic fiscal device or a virtual electronic fiscal device to the tax invoice management system within seven days of that taxable supplier's activation.

(4) Subject to regulation 4, the Commissioner-General may approve the connection of an electronic fiscal device or a virtual electronic fiscal device and notify the taxable supplier of the approval.

(5) A taxable supplier shall ensure that an electronic fiscal device or a virtual electronic fiscal device approved for connection to the tax invoice management system under subregulation (4) becomes operational within ten days from the date of the approval.

6. (1) A taxable supplier shall issue a tax invoice to a customer for the consideration paid or payable by that customer for every taxable supply.

Taxable supplier to issue tax invoice

(2) Where a customer is also a taxable supplier or a State institution, the tax invoice issued under subregulation (1) shall specify the name, address and Taxpayer Identification Number of the customer.

(3) Subregulation (2) applies whether the customer is present or not at the time of the transaction and whether the customer fails or refuses to take the tax invoice.

(4) A customer that is issued with a tax invoice may verify the authenticity of that invoice with the Authority.

(5) A customer shall report to the Authority if that customer has—

(a) not been issued with a tax invoice in respect of a taxable supply; or

(b) been issued with an invoice that does not contain accurate fiscal data relating to the taxable supply.

Use of  
accounting  
software

7. (1) The Commissioner-General may allow a taxable supplier to use accounting software to issue a tax invoice if that tax invoice has an electronic signature.

(2) A taxable supplier using an electronic signature device shall, for purposes of business continuity and efficient availability of data, back up data at least daily on the computer to which the electronic signature device is connected and store the backed up data in a secure place and manner.

Temporary  
use of  
manual  
invoicing  
system

8. (1) The Commissioner-General may authorise a taxable supplier to temporarily use a manual invoicing system for a specified period where the—

(a) electronic fiscal device or virtual electronic fiscal device is undergoing inspection or maintenance;

(b) electronic fiscal device or virtual electronic fiscal device is seized by an authorised officer in the course of an investigation; or

(c) use of the electronic fiscal device or virtual electronic fiscal device is disrupted and the taxable supplier has notified the Commissioner-General of the cause of the disruption.

(2) A taxable supplier shall, where that taxable supplier's use of an electronic fiscal device or virtual electronic fiscal device is disrupted for a continuous period of twenty-four hours, notify the Commissioner-General within twenty four hours of the taxable supplier becoming aware of the disruption and the cause thereof.

Claim for  
tax refund

9. (1) A claim for a tax refund on a tax invoice issued by a taxable supplier is not valid for refund if the tax invoice is not recorded on the tax invoice management system.

(2) Despite subregulation (1), a claim for tax refund on a tax invoice issued by a taxable supplier using accounting software or a manual invoicing system authorised by the Commissioner-General is valid for refund.

10. (1) A taxable supplier shall display in a conspicuous place of business of the taxable supplier a notice relating to the use or exemption from use of electronic fiscal device or virtual electronic fiscal device as the Commissioner-General may specify.

Display of  
notice

(2) A taxable supplier who contravenes subregulation (1) commits an offence and is liable, on conviction, to a fine not exceeding ninety thousand penalty units.

11. (1) A taxable supplier whose electronic fiscal device or virtual electronic fiscal device is connected to the tax invoice management system shall keep and maintain an inspection log book for each of electronic fiscal device or virtual electronic fiscal device in use.

Inspection  
log books

(2) The inspection log book shall be kept at a place where the electronic fiscal device or virtual electronic fiscal device is in use.

12. (1) A taxable supplier shall, where an electronic fiscal device develops a fault that cannot be remedied without opening the device—

Fault repair

(a) immediately cease the use of the electronic fiscal device;

(b) notify the Commissioner-General and the accredited distributor, in the manner set out in the administrative rules, about the fault and record the time of notification in the log book.

(c) record, in the inspection log book—

(i) the fault, description and time of the fault of an electronic fiscal device;

(ii) the findings made by an accredited distributor with regard to the fault;

(iii) reasons for an unreported defect, if any;

(iv) when the electronic fiscal device was opened, period for which an electronic fiscal device was not in use and when use of the electronic fiscal device was restored; and

(v) any other information relating to the electronic fiscal device; and

(2) A taxable supplier shall, where a virtual electronic fiscal device develops a fault that renders it inoperable—

(a) notify the Commissioner-General and the accredited vendor, in the manner set out in the administrative rules, about the fault and record the time of notification in the log book.

(b) record, in the inspection log book—

(i) the fault, description and time of the fault of the virtual electronic fiscal device;

(ii) the findings made by the accredited vendor with regard to the fault;

(iii) reasons for an unreported fault, if any;

(iv) the period for which a virtual electronic fiscal device was not in use and when the virtual electronic fiscal device is put to use after repair; and

(v) any other information relating to the virtual electronic fiscal device; and

(3) The details entered in the inspection log book under subregulations (1) and (2) by a taxable supplier shall be legible and appropriately signed, indicating the name and identity card number of the person responsible for entering the details and the entry date and time.

(4) An accredited manufacturer, distributor or vendor providing technical support to a taxable supplier using an electronic fiscal device or virtual electronic fiscal device, shall record the information under subregulations (1) and (2).

Requirements  
for electronic  
fiscal device  
or virtual  
electronic  
fiscal device

13. An electronic fiscal device or virtual electronic fiscal device for use by a taxable supplier under these regulations shall meet the requirements set out in the administrative rules.

Accreditation  
of  
manufacturer  
Act No. 12  
of 2008

14. (1) The Commissioner-General may invite a manufacturer to bid in accordance with the Public Procurement Act, 2008, for accreditation as a supplier of an electronic fiscal device.

(2) The Commissioner-General may accredit the manufacturer for a specified period where—

(a) an electronic fiscal device to be supplied by the manufacturer is type approved by the Zambia Information and Communications Technology Authority; and

(b) the manufacturer of an electronic fiscal device has adequate back-up services and accessories for the user of the electronic fiscal device.

(3) A manufacturer who is accredited in accordance with this regulation may supply an electronic fiscal device to an accredited distributor.

(4) An accredited manufacturer shall, for the duration of the accreditation, provide technical support to an accredited distributor in relation to the use of an electronic fiscal device supplied.

15. (1) The Commissioner-General may invite a distributor to bid in accordance with the Public Procurement Act, 2008, for accreditation as a distributor of an electronic fiscal device.

Accreditation  
of  
distributor  
Act No. 12 of  
2008

(2) The Commissioner-General may accredit the distributor for a specified period where—

(a) an electronic fiscal device to be supplied by the distributor is type approved by the Zambia Information and Communications Technology Authority; and

(b) the distributor of the electronic fiscal device has adequate back-up services and accessories for the user of the electronic fiscal device that is distributed.

(3) A distributor who is accredited in accordance with this regulation may supply an electronic fiscal device to a taxable supplier.

(4) An accredited distributor shall, for the duration of the accreditation, provide technical support to a taxable supplier in relation to the use of an electronic fiscal device supplied.

(5) Where the accredited distributor intends to cease to supply any model of the electronic fiscal device, the distributor shall give notice of not less than ninety days of the cessation to the Commissioner-General accompanied with a commitment plan on the manner in which technical support to the taxable supplier shall continue to be provided.

16. (1) The Commissioner-General may invite a vendor of virtual electronic fiscal device to bid in accordance with the Public Procurement Act, 2008, for accreditation as a vendor of virtual electronic fiscal device.

Accreditation  
of vendor  
Act No. 12  
of 2008

(2) The Commissioner-General may accredit the vendor, where the—

(a) virtual electronic fiscal device to be supplied by the vendor meets the specification set out in the administrative rules; and

(b) vendor has the capacity to provide technical support in relation to the virtual electronic fiscal device.

(3) A vendor who is accredited in accordance with this regulation may supply to a taxable supplier a virtual electronic fiscal device.

(4) An accredited vendor shall, for the duration of the accreditation, provide technical support to a taxable supplier in relation to the software of a virtual electronic fiscal device supplied.

(5) Where the accredited vendor ceases to supply a virtual electronic fiscal device, the vendor shall give notice of not less than ninety days of the cessation to the Commissioner General accompanied with a commitment plan on the manner in which technical support to the taxable supplier shall continue to be provided.

Cost of acquisition of electronic fiscal device or software of virtual electronic fiscal device

17. A taxable supplier shall bear the cost of acquiring an electronic fiscal device of a virtual electronic fiscal device.

Disconnection of electronic fiscal devices or virtual electronic fiscal device from tax invoice management system

18. (1) Where a taxable supplier ceases to be a taxable supplier under the Act, the electronic fiscal device or virtual electronic fiscal device shall be disconnected from the tax invoice management system.

(2) The taxable supplier shall keep and maintain accounts and records generated by an electronic fiscal device or a virtual electronic fiscal device that has been disconnected from the tax invoice management system under subregulation (1) for the period that the taxable supplier is required to keep and maintain the accounts and records under the Act.

Non-transfer of electronic fiscal device and virtual electronic fiscal device

19. A taxable supplier shall not permit the use by a third party of that taxable supplier's activated access or an electronic fiscal device or a virtual electronic fiscal device connected to the tax invoice management system in accordance with regulation 5.

Inspection

20. The Commissioner-General or an authorised officer shall, for the purpose of ensuring compliance with these Regulations, at any reasonable time—

(a) enter on and inspect any premises where an electronic fiscal device or a virtual electronic fiscal device is used;

- (b) examine computers, books, records and other relevant documentation of a taxable supplier; and
- (c) examine any electronic fiscal device, fiscal memory device or nonfiscalised electronic register of a taxable supplier.

21. (1) A person commits an offence if that person—

Offences and penalties

- (a) fails to use an electronic fiscal device, a virtual electronic fiscal device;
- (b) wilfully refuses or fails to issue a tax invoice from an electronic fiscal device or a virtual electronic fiscal device;
- (c) enters false data on an electronic fiscal device or a virtual electronic fiscal device;
- (d) tampers with, alters or falsifies data transmitted to, or received, recorded, analysed, formatted or stored by an electronic fiscal device, a virtual electronic fiscal device or a component thereof;
- (e) issues an invoice that does not meet the requirements of these Regulations;
- (f) intentionally or maliciously damages an electronic fiscal device or a virtual electronic fiscal device, or negligently handles an electronic fiscal device or a virtual electronic fiscal device thereby causing damage to the device; or
- (g) operates an electronic fiscal device or a virtual electronic fiscal device in a manner that results in a taxable supplier avoiding or evading paying tax.

(2) A person convicted of an offence under sub-regulation (1) is liable to a penalty not exceeding ninety thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

22. (1) An electronic fiscal device or a virtual electronic fiscal device that, immediately before the commencement of these Regulations was activated on the tax invoice management system, shall continue to be operated in accordance with these Regulations.

Savings and transitional provision

(2) A manufacturer or vendor who was authorised to supply an electronic fiscal device or a virtual electronic fiscal device immediately before the commencement of these Regulations is deemed to be an accredited manufacturer or vendor for the purposes of these Regulations for the remainder of the duration of the contract between the Authority and the manufacturer or vendor and the manufacturer or vendor shall immediately after the expiry of the contract comply with these Regulations.

(3) A taxable supplier shall comply with these Regulations by 1st June, 2020.

(4) A taxable supplier who is unable to comply with these Regulations by 1st June, 2020 shall apply for an extension to the Commissioner-General, stating the reasons.

(5) The Commissioner-General may, on receipt of an application under subregulation (4), grant an extension for a period that the Commissioner-General may determine.

LUSAKA  
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