Tanzania

Income Tax Act

Income Tax (Non-Resident Electronic Services Provider) Regulations, 2022

Government Notice 478U of 2022

Legislation as at 1 July 2022

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Income Tax (Non-Resident Electronic Services Provider) Regulations, 2022 (Government Notice 478U of 2022)

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Income Tax Act

Income Tax (Non-Resident Electronic Services Provider) Regulations, 2022

Government Notice 478U of 2022

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[Made under section 90A]

1. Citation and commencement

These Regulations may be cited as the Income Tax (Non-Resident Electronic Services Provider) Regulations, 2022 and shall come into operation on 1st July, 2022.

2. Interpretation

In these Regulations, unless the context otherwise equires—

"**Act**" means the Income Tax Act;

[Cap. 332]

"**electronic service**" has the meaning ascribed to it under the Value Added Tax Act;

[Cap. 148]

"**tax period**" means a calendar month.

3. Scope of electronic services

The electronic services provided or delivered through internet, or any other electronic means shall include —

(a) for websites, web-hosting or remote programs and equipment—

(i) search engine and automated helpdesk services; and

(ii) customisable search engine services;

(iii) downloadable digital content including downloadable mobile applications, e-books and films;

(b) for software and updating thereof—

(i) application software;

(ii) system software;

(iii) drivers;

(iv) filters and firewalls; and

(v) plugins;

(c) for images, texts or information—

(i) desktop theme;

(ii) photographic image;

(iii) pictorial image;

(iv) screensaver; and

(v) any right to view any item listed under this paragraph;

(d) access to database—

(i) subscription-based media—

(aa) news, magazines, journals, periodical and publication;

(bb) blog;

(cc) database;

(dd) information system services;

(ee) games;

(ff) internet based auction services;

(gg) social networking services; and

(hh) webcast, webinar, website, web application or web;

(ii) electronic data management—

(aa) online data warehousing; and

(bb) file sharing and cloud storage services;

(iii) sharing and gig economic services including transport hailing services or platforms;

(iv) electronic booking or electronic ticketing services;

(e) for self-education packages—

(i) distance teaching programme;

(ii) educational webcast;

(iii) internet-based course;

(iv) internet-based education programme;

(v) webinar; and

(vi) digitised content of any book or electronic publication;

(f) for music, films and games including gaming activities—

(i) audio clip;

(ii) broadcast not simultaneously broadcast over any conventional radio network;

(iii) jingle;

(iv) live streaming performance;

(v) ringtone;

(vi) song;

(vii) broadcast not simultaneously broadcast over any conventional television network in Mainland Tanzania;

(viii) documentary;

(ix) home-made video;

(x) streaming services;

(xi) movie;

(xii) music video;

(xiii) program;

(xiv) television series;

(xv) video clip;

(xvi) sound effect; and

(xvii) games and games of chance—

(aa) internet-based game, including electronic game and multiplier role-playing game;

(bb) interactive games, where such interactive game is a game of chance or game where the result is influenced by the skill of the player and game which is a combination of chance and skill; and

(cc) electronic betting or wagering;

(g) for political, cultural, artistic, sporting, scientific and other broadcasts and events including broadcast television.

4. Application for tax registration

(1) A non-resident person who provides electronic services to a resident individual as provided for under section 90A(1) of the Act shall be required to apply for registration to the Commissioner General.

(2) The application for registration under subregulation (1) shall be made online in a form prescribed in the Schedule to these Regulations.

(3) The application shall contain the following information:

(a) name of the business including the business trading name;

(b) certificate of incorporation;

(c) name of the contact person for tax matters;

(d) registered address of the business;

(e) telephone number of the contact person;

(f) email address of the contact person;

(g) website or uniform resource locator of the supplier through which the business is conducted; and

(h) any other information as the Commissioner General may require.

(4) The Commissioner General shall, upon being satisfied with the information provided in the application, register and issue the applicant with Taxpayer Identification Number for the purpose of filing returns and tax payment.

(5) A person registered under this regulation shall, where ceases to render electronic services permanently, inform the Commissioner General in a form set out in the Schedule to these Regulations.

(6) The Commissioner General shall deregister a person who ceases to provide services or as he deems fit.

(7) A non-resident person who supplies electronic services in Mainland Tanzania prior to the coming into effect of these Regulations shall, within six months from the date of coming into effect of these Regulations, be required to register under these Regulations.

5. Source of payment

(1) A payment for electronic services shall be deemed to have source in the United Republic, where the recipient of the service is in the United Republic.

(2) The recipient of the service shall be deemed to be in the United Republic if—

(a) the payment proxy including credit or debit card information and bank account details of the recipient of the electronic services is in United Republic; or

(b) the resident proxy including the billing or home address or access proxy including internet address, mobile country code of the SIM card of the recipient in the United Republic.

6. Manner of submitting simplified returns and remittance of taxes

(1) The return required under section 90A(2) of the Act shall be made online in a simplified form prescribed in the Schedule to these Regulations.

(2) The return shall be accompanied with tax payable in respect of electronic services rendered in the tax period.

7. Mode of payment and currency

A person registered under these Regulations shall pay tax to a bank account designated by the Commissioner General in Tanzanian shilling or its equivalent convertible currency at the Bank of Tanzania's prevailing exchange rate on the date of payment.

8. Exemption from using electronic fiscal device

A non-resident person registered under these Regulations shall not be required to acquire and use electronic fiscal device.

9. Penalty for false or misleading statements

Any person who makes a false or misleading statement or omits to include material facts in a statement made to a tax officer shall be liable to a penalty prescribed under section 79 of the Tax Administration Act.

[Cap. 438]

10. Interests

A person registered under these Regulations who fails to pay tax on the due date shall be liable to pay interest at the statutory rate compounded monthly to the Commissioner General.

11. Offences

A person registered under these Regulations who fails to comply with these Regulations commits an offence and shall be liable on conviction to the punishment specified under section 88B of the Tax Administration Act.

[Cap. 438]

Schedule

Forms

[Please note: Forms have not been reproduced. Please refer to the publication document.]