KPMG

Tax alert

Value Added Tax Refund on Bad Debts

Summary

This alert brings to your attention the provisions of Section 31 of the Value Added Tax Act (VAT Act), 2013 on the refund of tax on bad debts.

Background and KPMG Kenya's assistance

The VAT Act provides that a person who in the course of a business, makes taxable supplies or expects to make taxable supplies of ***KES 5,000,000 or more,*** in any period of twelve months should register for VAT.

Generally, where a registered person makes taxable supplies to customers, they are required to charge, account for and remit VAT on these supplies as provided for in the VAT Act. In this case, by the 20th day of the subsequent month.

There are however instances where customers fail to pay for this supplies despite the supplier remitting the VAT charged, to the Kenya Revenue Authority (KRA).

Under Section 31 of the VAT Act, a registered person is allowed to apply for a refund on VAT paid on debts that have been considered as being "bad" and have remained unpaid for more than 3 years.

More specifically, the VAT Act provides that:

a) where a registered person has made a supply and has accounted for and paid tax on that supply; and

b) has not received any payment from the person liable to pay the tax;

He may, ***after a period of three years from the date of that supply or where that person has become legally insolvent***, apply for a refund of the tax involved and subject to the regulations, the Commissioner may refund that tax.

This application must however be made within five years from the date the supply in for which the taxes relate to were made.

KPMG Kenya is happy to assist with any matters that may arise as a consequence of the above and advise further with a view of assisting such suppliers claim a refund of the VAT already paid on qualifying bad debts.