



## PwC Uganda

# Tax Case Summaries

March 2025

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### TAT Ruling on the condition for VAT exemption in respect to Services Incidental to a supply of exempt imported goods

The Tax Appeals Tribunal has ruled in favour of the Uganda Revenue Authority stating that the value of incidental services to VAT exempt imported goods must be included in the customs value of the goods for the services to also qualify for the VAT exemption.

#### Introduction and Background

The taxpayer is in the business of selling, leasing, and maintaining motor vehicles. The matter relates to VAT exemption on incidental services to the import of goods that are VAT exempt.

The dispute centred on the VAT treatment of the taxpayer's sales mark-up on vehicles sold in bond to customers who are entitled to VAT and Customs duty exemptions.

#### Submission by parties

For a vehicle sold by the taxpayer in a bonded warehouse to its customer, the taxpayer argued that the mark-up amount added onto the vehicle import customs value represented the consideration for

a sales service that is incidental to the importation of the vehicle. The taxpayer asserted that since the VAT exemption applies to goods that are exempt from customs duty under customs law, then any incidental service to such exempt imports should also qualify for VAT exemption under the VAT Act i.e. the mark-up amount on exempt vehicles sold in bond should also be treated as VAT exempt.

On the other hand, the URA argued that although the sales mark-up is incidental to the imported vehicles, it does not qualify for the VAT exemption because it does not form part of the customs value of the Vehicle as provided for under customs law. The URA contended that if a service is incidental to an import but not included in the customs



value, it becomes a taxable service subject to VAT, irrespective of whether the import itself is exempt or not.

### Ruling of the Tribunal

The Tribunal ruled in favour of URA and stated that the taxpayer was liable to pay the VAT assessed. This was on the basis that the mark-up amount relating to the incidental sales services supplied by the taxpayer does not form part of the customs value of the exempt imported goods and therefore is not exempt from VAT.

The Tribunal based its ruling on Sections 12(3), 20(1)(a), and 23 of the VAT Act and the Fourth Schedule of the East African Community Customs Management Act.

The Tribunal was also of the view that Section 23 which defines the taxable

value of an import is a more specific provision whereas Section 12(3) which the taxpayer relied on is a more general provision – and therefore Section 23 overrides Section 12(3). The taxpayer has appealed to the High Court against the TAT ruling.

### Key Takeaways

1. For an incidental service to also qualify for the same VAT exemption as its respective exempt imported good, its value should also be included in the customs value of the import. If the service amount is separate, the amount is subject to VAT.

**Please feel free to contact your usual PwC contact or any of our experts above should you wish to discuss this further.**

