African continent is complex and challenging to regulate tax legislation, according to PwC VAT guide

Africa, with its 54 countries, presents a complex and challenging environment to administer tax legislation. “Africa’s rapidly growing economy, complex consumer tax needs and increasingly complex tax regimes means that managing the tax burden for multinationals is a daunting task” says Charles de Wet, PwC Head of Indirect Tax for Africa.

“Businesses entering African markets are faced with imprecise challenges of having to adapt to the various countries’ tax regulations. They can even suffer harsh consequences if they are not ‘Africa ready’,” says de Wet.

Most countries in Africa have Value Added Tax (VAT) systems in place, according to PwC’s latest *‘Helping you navigate Africa’s VAT landscape: Overview of VAT in Africa – 2014’* report. The report seeks to ease the burden of monitoring tax laws, or for those businesses that are concerned about their VAT risks in Africa. The report has been compiled by PwC VAT specialists in the following African countries: Botswana, Cameroon, Cape-Verde, Chad, Congo, Côte d’Ivoire, Equatorial Guinea, Kenya, Lesotho, Madagascar, Malawi, Mauritius, Morocco, Mozambique, Namibia, Rwanda, Senegal, South Africa, Swaziland, Tunisia, Uganda, Zambia and Zimbabwe.

The VAT overview is based on the law effective 1 January 2014, and outlines the VAT principles regarding VAT rates, VAT registration, output tax, input tax, exemptions, zero-rating, international trade, VAT records and record-keeping, as well as general rules relating to other indirect taxes in the respective countries. The guide is intended to provide an overview of the application of VAT in Africa.

The VAT systems in Africa are not aligned. This can have a major effect on a company's operating and financial systems. De Wet says that the tax authorities expect compliance with the laws in their respective jurisdictions. "As a result the compliance burden on companies can be onerous" he says.

The tax authorities expect compliance with the tax legislation in their respective jurisdictions, which can make compliance extremely onerous for multinationals. "Often the VAT laws are not clear and the lack of guidance on interpretation and case law also makes it difficult to consider the application of certain legislation in a specific situation," adds de Wet. According to PwC research VAT takes the most for businesses in Africa to comply with (an average of 133 hours).

He says South Africa has a well-administered VAT system that is in line with international norms. The VAT rate of 14% has remained unchanged since 1997 and is significantly lower than the global average rate of between 20% to 25%. VAT has been in South Africa for over 21 years. Since 1 October 2012, the administration of tax acts, including the VAT Act is mainly regulated by the Tax Administration Act of 2011. Certain VAT administration provisions are, however, still contained in the VAT Act.

De Wet goes on to say that in Africa, 42 of the 54 countries have a VAT system but only three (South Africa, Mauritius and Tunisia) have implemented the tax with an electronic filing and payment capability, which is commonly used.VAT was introduced in Swaziland with effect from 1 April 2012 to replace a General Sales Tax system. VAT was also introduced in the Democratic Republic of Congo on 1 January 2012.

In addition, multinationals operating in Africa need to be aware of stringent penalty provisions, warns de Wet. For example, in Zambia the penalty for late payment of VAT is 0,5% of the tax due for each day that the tax is unpaid. Interest is also charged for each month that a payment is overdue. In South Africa, an additional penalty of up to 200% may be imposed for the evasion of tax, as well as criminal prosecution. In Nigeria a penalty of 5% may be imposed as well as interest of up to 21% per annum.

There are also considerable variations in the VAT thresholds across jurisdictions. The current threshold in South Africa is R1 million ($93 000). Some jurisdictions have introduced special regimes, such as a turnover tax for micro and small businesses.

De Wet says: “As organisations come under increased pressure from regulation and compliance requirements, they will need to ensure that their organisational processes become more efficient and streamlined.”

Closer to home, new provisions have been introduced in South Africa with effect from 1 June 2014 requiring foreign suppliers of electronic services to register for VAT in South Africa where supplies of such services are made to residents of South Africa or payment is made from a South African bank account, and the value of these supplies has exceeded R50 000.

Gerard Soverall, PwC Head of Indirect Tax for Gauteng, says: “Worldwide tax administrations are losing track of material amounts of tax through unreported electronic sales. In line with the global move towards countering base erosion and profit shifting (‘BEPS’), South Africa’s National Treasury and the South African Revenue Service (SARS) have implemented provisions to ensure South African VAT is charged on these types of transactions. The new proposals are broadly in line with international norms, such as regulations adopted by the European Union requiring such suppliers to register for VAT in the country where the consumer resides. One key difference is that no distinction is made between so-called, B2C and B2B transactions. In other words, the status of the recipient of the transaction is ignored in determining the need for local registration."

"There is still plenty of uncertainty as to what type of services fall within the new regulations. SARS will have its hands full in the coming months, helping taxpayers conclude on their tax status in this regard," concludes Soverall.