Executive summary

The Uganda Revenue Authority (URA) recently issued a Communication to address concerns raised by insurance companies through their umbrella agency, the Uganda Insurers Association. The Communication is intended to clarify Value Added Tax (VAT) and withholding tax (WHT) issues related to insurance companies and brokers.

The key issues addressed are:

- Harmonization of the VAT treatment among co-insurance companies regarding who should issue a tax invoice in a co-insurance business arrangement and be responsible for the filing of input and output VAT
- Time of supply of insurance services
- Existing tax procedures with respect to WHT on payments to medical service providers
- The taxation of commissions earned by the insurance agents
Detailed discussion

Treatment of VAT on co-insurance business

The general practice in the industry has been that the lead insurer under a co-insurance arrangement would issue the overall invoice to the insured; who in turn would use this invoice to claim input tax. The lead insurer would either file output VAT on the full invoice amount or just a portion of the business taken on. Alternatively, the other co-insurance players would also raise invoices on their respective portion of the business taken on and account for output VAT accordingly. This would create a reconciliation issue and the URA was unable to match the various invoices of this arrangement.

The Communication laid down the following guidelines on how to account for VAT in a co-insurance arrangement:

- Where the insured (policy holder) has been issued a tax invoice by joint insurers (both the lead and co-insurers) for the percentage of risk taken on, each insurance company should individually account for output VAT attributable to their supply.

- Where the lead insurer issues an invoice to the insured for the full risk to be indemnified:
  - The lead insurer accounts for VAT on the supply at the full cost (total contract value);
  - The lead insurer shall claim input tax from the respective co-insurers to the extent of the percentages of the risk taken on; and
  - The co-insurers account for output tax on the percentage of risk taken (as a proportion of the full insurance contract value).

In addition, the communication clarifies that insurance brokers should only issue invoices for the commissions earned to the insurers and NOT on the premiums (as has been the case) because brokers do not provide insurance services which are subject to VAT.

Time of supply

The Communication also clarifies the time of supply of insurance services as the earliest of:

- Where premiums are recognized as a receivable, the time of supply is when the receivable is recognized and VAT is accounted for.

- Where the insured makes a payment to the insurer then the time of supply (for the contract value) is deemed to take place on the date the payment was made.

WHT on medical service providers

The Communication further clarifies that insurance companies are required to withhold tax at 6% on all payments made to medical service providers since medical services are considered professional services.

Taxation of insurance agents

The URA’s communication highlights that insurance agents should be treated as employees of the respective insurance companies as opposed to considering them as independent contractors. The URA cites the following provisions which are generally embedded in either the contracts or practiced within the insurance industry among others and are construed to create an employer-employee relationship:

- Issuance of identity cards and business cards (by the insurer) which makes them bind insurance firms in their actions.

- Payment of monthly retainer fees over and above the commissions.

- Agents are restricted to serve a single insurance company.

- Agents are under the control of an insurance company at any one particular time.

This implies that insurance companies are required to account for tax on all remuneration earned by agents including commissions using the appropriate withholding tax rates (PAYE) and not the at 6% as was the case before.
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