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MASTER OF LAWS IN TAXATION AND INVESTMENT LAW

A Critical Legal Analysis Of Zambia's Value Added Tax (Cross-Border Electronic Services) Regulations, 2024: Lessons From South Africa.

BY

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DECLARATION

I, MAIMBOLWA KALALUKA, do declare that this thesis titled "A CRITICAL LEGAL ANALYSIS OF ZAMBIA'S VALUE ADDED TAX (CROSS-BORDER ELECTRONIC SERVICES) REGULATIONS, 2024: LESSONS FROM SOUTH AFRICA'' which is hereby submitted to the School of Law at ZCAS University as part of the requirements for the award of the Master of Laws in Taxation and Investment Law (LLMT), is my original work and has not previously been submitted for the award of a degree at this or any other tertiary institution.

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DEDICATION

This thesis is lovingly dedicated to my parents, Mr and Mrs Kalaluka, and to my husband, Mr Masilani, whose unwavering love, encouragement, and steadfast support have been my greatest source of strength throughout this academic journey. Your belief in my abilities, constant prayers, and countless sacrifices have inspired me to persevere and strive for excellence in all my endeavours. This achievement is as much yours as it is mine.

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ABSTRACT

Traditional value added tax (VAT) systems that were intended for physical transactions have serious limits as a result of the growing digitalization of trade, which has drastically changed how products and services are supplied across countries. Because cross-border electronic services allow non-resident providers to offer digital services to customers without having a physical presence within the taxing jurisdiction, they have posed a special challenge to domestic tax systems. Zambia implemented the Value Added Tax (Cross-Border Electronic Services) Regulations, 2024 to impose VAT requirements on non-resident suppliers of electronic services used within Zambia.

The effectiveness of Zambia's VAT (CBES) Regulations, 2024 in resolving the administrative and legal issues related to the taxation of CBES is critically examined in this thesis. It looks into whether the Regulations offer a strong enough legal framework to guarantee efficient tax collection, encourage non-resident suppliers to comply, protect tax neutrality, and reduce chances for tax evasion and unfair competition.

The study looks at pertinent Zambian laws, subsidiary laws, judicial authorities, administrative guidelines, and scholarly literature using a qualitative doctrinal research technique and comparative legal analysis. Because of its innovative and relatively developed VAT system for electronic services, South Africa is the main comparator jurisdiction. Legislative design, registration thresholds, place-of-supply regulations, compliance requirements, enforcement methods, administrative procedures, and institutional capability are the main topics of the comparative analysis.

The study finds that although Zambia's VAT (CBES) Regulations, 2024 represent a significant step in taxing the digital economy , the current framework contains a number of legal and administrative shortcomings that may undermine its effectiveness. The analysis reveals that the Regulations lack a technology-neutral definition of electronic services, do not provide sufficient clarity regarding the registration threshold for non-resident suppliers, contain limited guidance on the treatment of business-to-business (B2B) and business-to-consumer (B2C) transactions, and do not establish robust mechanisms for monitoring and enforcing compliance by foreign digital service providers. These deficiencies create legal uncertainty, increase the risk of inconsistent interpretation, and may limit the Zambia Revenue Authority's ability to effectively collect VAT from cross-border electronic transactions.

A comparative analysis with South Africa demonstrates that many of these challenges have been addressed through continuous legislative reform, comprehensive administrative guidance, and stronger enforcement mechanisms. South Africa's adoption of a technology-neutral definition of electronic services, clearly articulated registration requirements, simplified compliance procedures for non-resident suppliers, and enhanced administrative practices provides a useful model from which Zambia can draw lessons. The comparison illustrates that an effective VAT regime for cross-border electronic services requires not only appropriate legislation but also strong institutional capacity, technological infrastructure, and clear administrative procedures to ensure compliance and safeguard revenue.

The study therefore concludes that Zambia's regulatory framework requires further legislative refinement and institutional strengthening to achieve the fundamental principles of an effective VAT system, namely legal certainty, neutrality, simplicity, efficiency, and equity. It recommends targeted amendments to the 2024 Regulations, the development of comprehensive administrative guidelines by the Zambia Revenue Authority, the strengthening of digital compliance and enforcement mechanisms, and the adoption of selected best practices from South Africa. By providing one of the first comprehensive legal analyses of Zambia's VAT regime for cross-border electronic services, the study contributes to the growing scholarship on digital taxation and offers practical recommendations for improving the taxation of the digital economy in Zambia.

LIST OF CASES

Diageo South Africa (Pty) Ltd v Commissioner for the South African Revenue Service (330/2019) [2020] ZASCA.

Metcash Trading Ltd v Commissioner for the South African Revenue Service 2001 (1) SA 1109 (CC).

LIST OF STATUTES

Zambia

Value Added Tax Act 1995, Chapter 331 of the Laws of Zambia.

Value Added Tax (Cross Border Electronic Services) Regulations, 2024, SI No. 18 of 2024

South Africa

Value-Added Tax Act 89 of 1991.

Government Notice R.221 in Government Gazette No. 37489 of 28 March 2014 (Regulations prescribing electronic services for the purposes of the definition of 'electronic services' in s 1(1) of the Value-Added Tax Act 89 of 1991).

Government Notice R.429 in Government Gazette No. 42316 of 18 March 2019 (Regulations prescribing electronic services for the purposes of the definition of 'electronic services' in s 1(1) of the Value-Added Tax Act 89 of 1991).

Regulation 5993 in Government Gazette No. 52293 of 14 March 2025 (Regulations prescribing electronic services for the purposes of the definition of 'electronic services' in s 1(1) of the Value-Added Tax Act 89 of 1991).

B2B	Business to Business
B2C	Business to Consumer
C2C	Consumer to Consumer
CBES	Cross Border Electronic Services
DST	Digital Services Taxes
DTA	Double Taxation Agreement
FAQ	Frequently Asked Questions
P2P	Peer to Peer
R	Rand
SARS	South African Revenue Services
SI	Statutory Instrument
TPIN	Tax Payer Identification Number
VAT	Value Added Tax
ZAR	Zuid Afrikaanse Rand
ZMW	Zambian Kwacha
ZRA	Zambia Revenue Authority

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1 CHAPTER ONE

1.1 INTRODUCTION

For a developing country such as Zambia, the rapid growth of cross-border electronic commerce created difficulties for tax authorities to effectively monitor and tax digital transactions involving non-resident suppliers. The ability of foreign service providers to supply electronic services to local consumers without a physical presence in the country[1] complicates traditional tax enforcement mechanisms. In response to these developments, Zambia introduced the VAT (CBES) Regulations, 2024,[2] aimed at bringing foreign digital service providers within the domestic tax net.

South Africa's pioneering approach to taxing cross-border electronic services, introduced through its VAT framework in 2014,[3] 2019[4] and refined in 2025,[5] presents a valuable regional blueprint from which Zambia can draw critical lessons. This thesis will give a critical legal analysis of Zambia's VAT (CRES) Regulations of 2024.[6] It will therefore draw lessons from South Africa's regulatory experience to propose informed policy recommendations. The ultimate aim is to contribute to the development of a fair and effective tax legal framework that balances revenue generation with the sustainable growth of Zambia's digital economy.

1.2 BACKGROUND OF THE STUDY

Zambia's taxation of cross-border electronic services has evolved gradually, driven by legislative reforms aimed at modernizing the VAT system in light of digital commerce advancements. The foundational VAT framework was established by the Value Added Tax Act of 1995,[7] which introduced key principles like taxing supplies made in Zambia and the importation of goods and services. While the Act did not specifically address electronic

[1] Value Added Tax (Cross Border Electronic Services) Regulations, 2024, SI No. 18 of 2024.
[2] VAT (Cross Border Electronic Services) Regulations, 2024.
[3] Electronic Services Regulations of 2014
[4] Electronic Services Regulations of 2019
[5] Electronic Services Regulations of 2025
[6] VAT (Cross Border Electronic Services) Regulations, 2024.
[7] Chapter 331 of the Laws of Zambia.

services, it laid the groundwork for taxing imported services under the destination principle and authorized the Commissioner-General to oversee VAT across various taxable supplies.

A pivotal change occurred with the Value Added Tax (Amendment) Act of 2019[8], which added section 8A, officially incorporating electronic services into the VAT system. This amendment made electronic services taxable in Zambia, regardless of the supplier's location, and imposed registration and tax obligations on non-resident suppliers. It also defined essential terms like "electronic service" and "electronic commerce," marking the first formal legal acknowledgment of digital transactions in Zambia's VAT framework.

The VAT (Amendment) Act of 2023[9] further enhanced the taxation of cross-border electronic services. This amendment clarified the treatment of imported services, broadened definitions of electronic services and cross-border electronic services. It improved enforcement by mandating tax payments when non-resident suppliers do not register or appoint tax agents. Additionally, it modernized VAT administration with electronic invoicing systems and reinforced that services consumed in Zambia are subject to VAT, even if supplied from abroad. This amendment proved inadequate and as a result, the VAT (CBES) Regulation of 2024[10] was given effect by the Minister exercising his powers in sections 8[11] and 51[12] of the Principal Act to regulate CBES.

1.3 STATEMENT OF THE PROBLEM

The VAT (CBES), 2024 ("Regulauions")[13] operationalise the VAT regime applicable to cross-border electronic services (CBES) by prescribing the registration, invoicing, filing, payment and compliance obligations of non-resident suppliers. While this marks an important development in regulating the digital economy, concerns remain regarding the adequacy and effectiveness of the Regulations[14] in addressing emerging legal challenges. A critical review

[8] VAT (Amendment) Act of 2019.
[9] VAT (Amendment) Act of 2023.
[10] VAT (Cross Border Electronic Services) Regulations, 2024.
[11] Value Added Tax Act 1995, Chapter 331 of the Laws of Zambia.
[12] Cap 331 of the Laws of Zambia.
[13] VAT (Cross-Border Electronic Services) Regulations, 2024.
[14] Ibid.

of the Regulations[15] reveals a number of gaps. These include the use of a closed list of taxable electronic services, the absence of a registration threshold for non-resident suppliers and the failure to distinguish between B2B and B2C transactions. These gaps may affect the efficiency and practical application of the Regulations.

Although South Africa has developed and refined its framework over time, limited analysis has been undertaken on how its experience can inform improvements to Zambia's Regulations. This study therefore critically analyses Zambia's VAT (CBES) Regulations, 2024 to assess the gaps and draw lessons from South Africa for possible reform.

1.4 RESEARCH OBJECTIVES

The objectives of this research are to:-

1. To examine the legal framework governing cross-border electronic services under Zambia's VAT (CBES) Regulations, 2024.
2. To analyze South Africa's regulatory framework on the taxation of cross-border electronic services.
3. To identify legal gaps in Zambia's Regulations through a critical assessment informed by South Africa's experience.

1.5 RESEARCH QUESTIONS

The research questions for this research are:-

1. What is the legal framework regulating the taxation of cross-border electronic services in Zambia?
2. How has South Africa regulated and implemented the taxation of cross-border electronic services?
3. What are the legal gaps in Zambia's VAT (CBES) Regulations, 2024 when assessed in light of South Africa's regulatory experience?

[15] VAT (Cross-Border Electronic Services) Regulations, 2024.

1.6 SIGNIFICANCE OF THE STUDY

Institutional policy and legal enhancement: The findings of this study will be beneficial to policy makers and legislators by highlighting the strengths and limitations of the current regulatory framework governing the taxation of CBES. The study may provide insights that could assist in improving existing legislation and developing clearer guidelines for the taxation of digital services supplied by non-resident providers.

Revenue Implications for the Government: The research will also be useful to the Zambia Revenue Authority (ZRA) by identifying practical challenges that may arise in the administration and enforcement of the VAT (CBES) Regulations, 2024. By examining such challenges, the study may contribute to discussions on improving compliance mechanisms and strengthening tax collection from cross-border digital transactions.

Enhancing tax fairness and competitive neutrality: The research is important as it tackles the issues of tax fairness and competitive neutrality between local and foreign providers of electronic services. In many places, including Zambia, local companies often face tougher compliance requirements than foreign digital suppliers, which can lead to unfair competition. By closely examining how the CBES VAT system is enforced and designed, the study reveals whether the current setup creates a fair environment or unintentionally puts local businesses at a disadvantage. This adds to larger discussions about fair taxation in the digital economy.

Impact on legal scholarship and academic literature: From an academic viewpoint, this study adds to the small amount of research on the taxation of cross-border electronic services in Zambia and other developing countries. While there is a lot of research on developed countries like South Africa, not many studies look closely at the legal design and enforcement issues within Zambia's VAT system. Therefore, this research fills an important gap by offering a doctrinal and comparative analysis that includes African views on digital taxation, especially regarding VAT design, enforcement capabilities, and regulatory consistency.

Advice for administrative and technological reform: The study is also crucial in pinpointing the importance of technological infrastructure and administrative capacity for effectively implementing VAT on digital services. It emphasizes the need for updated tax administration systems, such as digital monitoring tools, data-sharing methods, and better taxpayer education programs. These insights could help guide reforms that aim to enhance the operational abilities of tax authorities in managing increasingly complicated digital transactions.

Foundation for future research: In conclusion, this study lays the groundwork for future academic exploration regarding the taxation of the digital economy in Zambia and other African regions. It paves the way for additional research on topics like taxing digital platforms, compliance systems powered by artificial intelligence, and the alignment of VAT regulations for online services across the region. This effort helps in creating a more thorough and flexible legal structure for digital taxation in the area.

1.7 SCOPE OF THE STUDY

This study examines the legal and regulatory framework governing the taxation of CBES in Zambia, particularly focusing on the VAT (Cross Border Electronic Services) Regulations, 2024. The research considers how these regulations aim to address the taxation of digital services supplied by non-resident providers to consumers within Zambia.

Given that Zambia's regulatory framework in this area is relatively new, the study draws on the experience of South Africa, which has implemented a more established system for taxing electronic services. By examining South Africa's approach, the research seeks to identify lessons that may be drawn by Zambia to give it room for legislative enhancement.

1.8 METHODOLOGY

This research uses the doctrinal method as it focuses on the systematic analysis of existing legal texts to understand and clarify legal principles, doctrines, and concepts. It will be used to interpret statutes, regulations, and judicial decisions.

1.9 LITERATURE REVIEW

Rusachenko[16] describes cross-border e-commerce as the process of conducting online business transactions that cross national or continental boundaries. The author points out that these transactions can take various forms, such as business-to-consumer (B2C), business-to-business (B2B), and consumer-to-consumer (C2C) interactions. This classification is important because

[16] J Rusachenko, 'Challenges of Cross-Border Cooperation in the Field of E-Commerce: Finnish Entrepreneurs' Experiences and Expectations of E-Commerce on the Russian Market' (2020) *Journal of International Business and Economics* 18(3) 56-70 < https://www.theseus.fi/bitstream/handle > accessed 12 November 2024.

it showcases the variety of participants in the digital economy and emphasizes the challenges of regulating cross-border electronic trade within local legal and tax frameworks.

Additionally, the author notes that even though cross-border e-commerce has been around for about 25 years, it has seen significant growth recently due to shifts in consumer behavior and a greater dependence on digital platforms for buying goods and services. Rusachenko highlights that one major factor driving this growth is cost efficiency, as consumers often find lower prices when they buy products directly from international markets. This trend has led to an increase in global digital trade and a rise in the number of taxable cross-border transactions that are subject to VAT regulations.[17]

In relation to this study, Rusachenko's definition is crucial as it lays the groundwork for understanding Zambia's VAT (CBES) Regulations, 2024. However, while the author discusses the nature and expansion of cross-border e-commerce, the analysis does not tackle the legal and regulatory issues tied to taxing these transactions, especially in developing countries like Zambia. Therefore, this research builds on Rusachenko's framework by thoroughly investigating how Zambia's VAT system manages cross-border electronic services and by drawing insights from South Africa's more advanced VAT structure.

Goldman[18] looks into how digitalisation is affecting the global economy, pointing out that economic activities are increasingly moving to digital platforms. He believes that this change brings both major opportunities and regulatory hurdles, which means that governments need to update their legal systems and create new policies across various sectors. In his opinion, digitalisation is not just a tech change but a fundamental economic shift that requires legal and institutional adjustments.

The author also notes that many nations are not ready for the fast pace of digital change. This unpreparedness is especially clear in regulatory systems that were made for traditional trade and have a hard time managing online economic activities. Goldman points out that the growth

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[17] Ibid.

[18] S P K Goldman, H van Herk, T Verhagen and J W J Weltevreden, 'Strategic Orientations and Digital Marketing Tactics in Cross-Border E-Commerce: Comparing Developed and Emerging Markets' (2021) *International Small Business Journal* < https://research.vu.nl/en/publication > accessed 13 November 2024.

of e-commerce is one of the most obvious signs of digitalisation, emphasizing its effects on international trade, tax systems, and regulatory enforcement.[19]

In connection with this study, Goldman's analysis offers valuable context for understanding the policy landscape in which Zambia's VAT (CBES) Regulations, 2024 function. However, while the author discusses the general issues of digitalization, he does not delve into specific tax law consequences or the regulatory measures taken by developing nations like Zambia. Therefore, this research builds on Goldman's findings by critically analyzing how Zambia's VAT system addresses the challenges posed by digitalization, particularly focusing on enforcement capabilities and lessons learned from South Africa's VAT framework.

Mwencha Peter Misiani[20] explores the current academic research and discussions around the taxation of e-commerce, focusing on the regulatory issues that arise from the borderless nature of digital trade. The author points out that traditional tax systems, which were created for transactions that can be physically tracked and for economic activities defined by borders, are becoming less effective in dealing with the complexities of today's digital commerce. This disconnect leads to major challenges in enforcement and compliance for tax authorities, especially in cross-border transactions that involve digital services.

Additionally, the author emphasizes the ongoing international discussions about creating fair and efficient tax systems for the digital economy. Misiani observes that the rapid growth of e-commerce has revealed weaknesses in current legal and policy structures, particularly in achieving fair taxation between local and foreign suppliers. These weaknesses have raised alarms about potential revenue losses for governments and competitive disadvantages in domestic markets, particularly in developing nations where administrative capabilities are often limited.[21]

In discussing global viewpoints, Misiani supports a balanced and flexible method for e-commerce taxation that protects government income while encouraging the expansion of digital trade. The author highlights the importance of adaptable regulatory structures that can

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[19] Ibid.
[20] Mwencha PM, 'Taxation of Electronic Commerce – A Commentary' (2019) 1(1) *Financing for Development* https://uonjournals.uonbi.ac.ke/ojs/index.php/ffd/article/view/254 accessed 18 November 2024.
[21] Mwencha PM, 'Taxation of Electronic Commerce – A Commentary' (2019) 1(1) *Financing for Development* https://uonjournals.uonbi.ac.ke/ojs/index.php/ffd/article/view/254 accessed 18 November 2024.

keep up with technological advancements and changing business models. Regarding this study, Misiani's work serves as a valuable conceptual basis for analyzing Zambia's Value Added Tax (Cross-Border Electronic Services) Regulations, 2024. However, the analysis is somewhat broad and does not consider jurisdiction-specific frameworks like Zambia or comparative developments in South Africa. Therefore, this research builds upon Misiani's synthesis by conducting a focused legal analysis of Zambia's VAT system and evaluating its effectiveness in managing cross-border electronic services in the context of a developing country.

Diouf & Niesten[22] Diouf and Niesten explore how African nations can effectively create and implement value-added tax (VAT) systems to tackle the taxation of digital and cross-border e-commerce transactions. The authors note that the swift growth of digital services has significantly challenged traditional tax systems, which were mainly designed around the idea of physical presence and geographically defined economic activities. Consequently, current VAT structures often fail to properly account for the value generated from borderless digital transactions.

Additionally, the authors argue that the move towards digital and cross-border trade has led to considerable revenue loss in many African regions. This is primarily because foreign digital service providers offering goods and services to local consumers often escape the reach of domestic VAT systems. Diouf and Niesten stress that even when legislative frameworks are in place, their effectiveness is frequently compromised by structural and administrative issues that hinder the complete capture of taxable transactions in the digital economy.[23]

One major issue pointed out by the authors is the enforcement ability of tax administrations in Africa. They claim that just having legal rules isn't enough because tax authorities often don't have the necessary technology, resources, or data-sharing systems to effectively find, register, and keep track of non-resident suppliers. In this context, Diouf and Niesten's research is especially important for Zambia's Value Added Tax (Cross-Border Electronic Services)

[22] Awa Diouf and Hannelore Niesten, *'Tracking and Taxing Cross-Border Digital Transactions: The Case of VAT in Senegal'* (2025) <i>Tracking and Taxing Cross-Border Digital Transactions: A Toolkit for VAT Collection in Africa</i> (African Tax Administration Forum, 2025).

[23] Awa Diouf and Hannelore Niesten, *'Tracking and Taxing Cross-Border Digital Transactions: The Case of VAT in Senegal'* (2025) <i>Tracking and Taxing Cross-Border Digital Transactions: A Toolkit for VAT Collection in Africa</i> (African Tax Administration Forum, 2025).

Regulations, 2024, as it shows enforcement challenges that could also impact Zambia. However, their study is quite broad and doesn't look into Zambia's specific legal setup or compare it with more advanced systems like South Africa's VAT system. Therefore, this research expands on their work by conducting a detailed evaluation of Zambia's regulatory framework and learning from South Africa's method of taxing cross-border electronic services.

Habaasa, A.[24] points out that the main issue with taxing cross-border digital transactions in many African nations isn't just that foreign digital service providers don't follow VAT registration rules, but also that the VAT systems themselves are poorly designed and enforced. Even though some African countries have made laws requiring non-resident suppliers to register for VAT, the author notes that enforcing these rules is often tough because tax authorities struggle to identify foreign suppliers, keep track of digital transactions, and collect taxes from businesses that don't have a physical presence in their countries. Therefore, Habaasa believes that just having mandatory registration isn't enough unless it's backed by strong enforcement methods, good technology, serious penalties, and international collaboration to enhance compliance and revenue collection.[25]

Habaasa's insights are especially important for Zambia after the introduction of the VAT (CBES) Regulations, 2024. While these Regulations create a legal structure for taxing non-resident suppliers of electronic services, their success ultimately relies on the Zambia Revenue Authority's ability to oversee cross-border digital transactions and enforce compliance against suppliers that operate outside of Zambia. The author's analysis emphasizes that changing the law, without having strong administrative systems and enforcement strategies, might not lead to significant real-world effects. This raises concerns about fairness in competition, as local businesses face stricter compliance requirements compared to foreign suppliers, whose VAT responsibilities can be hard to enforce.[26]

[24] Alfred Habaasa, 'VAT and the Cross-Border Digital Economy in Africa: An Issue of Non-Compliance or Design?' (2023) *International VAT Monitor* (IBFD).
[25] Ibid.
[26] [26] Alfred Habaasa, 'VAT and the Cross-Border Digital Economy in Africa: An Issue of Non-Compliance or Design?' (2023) *International VAT Monitor* (IBFD).

While Habaasa offers important insights into the wider African context, it does not focus on Zambia's VAT (CBES) Regulations, 2024, nor does it compare Zambia's legal system with more advanced electronic services VAT frameworks like that of South Africa. This research fills that void by conducting a thorough legal analysis of Zambia's 2024 Regulations and learning from South Africa's more developed VAT system. In this process, the study assesses if Zambia's legal framework effectively tackles the enforcement and compliance issues highlighted by Habaasa and suggests reforms to enhance the taxation of cross-border electronic services.

Mpofu[27] takes a close look at how VAT is used to tax the digital economy in African nations. The author believes that VAT is a practical and cost-efficient solution since many African countries already have VAT systems in place, which means there's no need to create separate Digital Services Taxes (DSTs). Mpofu also argues that applying the same VAT registration rules to both local and foreign suppliers supports tax neutrality and fairness, ensuring that businesses offering similar digital services face the same tax responsibilities. This, according to the author, leads to a more equitable and competitive e-commerce landscape.[28]

Even though Mpofu acknowledges the benefits of VAT, he points out major legal and administrative hurdles that hinder its effectiveness in the digital economy. The author notes that the borderless and intangible characteristics of digital transactions make it challenging for tax authorities to pinpoint taxable supplies, ensure compliance, and enforce VAT rules on non-resident suppliers. Mpofu also highlights that large multinational digital firms like Facebook, Amazon, Netflix, and Google often operate outside the tax system in many African countries, leading to significant revenue losses. These issues show that having VAT laws is not enough without strong enforcement and administrative capabilities.[29]

Mpofu's analysis is significant for Zambia's VAT-CBES Regulations, 2024, since these Regulations also depend on VAT instead of a distinct digital services tax to generate revenue

[27] Favourate Sebele, 'Taxation of the Digital Economy and Direct Digital Service Taxes: Opportunities, Challenges, and Implications for African Countries' (2022) 10(9) *Economies* 219.
[28] Ibid.
[29] Ruddy Kabwe and SP van Zyl, 'Value-Added Tax in the Digital Economy: A Fresh Look at the South African Dispensation' (2021) 42(3) *Obiter* 499.

from cross-border electronic services. Nevertheless, the author's discussion is quite general and does not specifically assess Zambia's legislative framework or compare it with South Africa's more advanced electronic services VAT system. This research fills that void by thoroughly investigating whether Zambia's 2024 Regulations effectively promote tax neutrality, guarantee compliance from non-resident suppliers, and tackle the enforcement issues highlighted by Mpofu, while also learning from South Africa's experience to suggest legal and administrative improvements.

Kabwe and Van Zyl[30] offer a detailed examination of South Africa's Value Added Tax (VAT) system for cross-border electronic services after the 2019 legislative changes. The authors claim that the introduction of a broad, technology-neutral definition of "electronic services" is a major enhancement to the VAT framework, as it encompasses a wider variety of digital offerings and allows the law to adapt to future technological advancements without needing constant updates. They believe this reform has improved the flexibility and efficiency of South Africa's VAT system in addressing the changing digital economy.[31]

Even though they acknowledge these legislative advancements, Kabwe and Van Zyl point out significant flaws that still impact the effectiveness of South Africa's VAT system. They argue that the law fails to properly differentiate between B2B and business-to-consumer (B2C) transactions, which results in the same registration and compliance requirements for non-resident suppliers, regardless of their customer type. The authors suggest that this method undermines the principle of tax neutrality by imposing unnecessary compliance costs when business customers can claim input tax deductions. They also note that the uncertainty around the place-of-supply rules leads to legal confusion for foreign suppliers, making it hard to figure out when South African VAT applies, which in turn affects compliance and enforcement.[32]

The study by Kabwe and Van Zyl is especially important for this research because it points out real weaknesses that still exist in a relatively developed VAT system. However, the authors only look at South Africa and do not consider if Zambia's VAT (CBES) Regulations, 2024

[30] Ibid.
[31] Ruddy Kabwe and SP van Zyl, 'Value-Added Tax in the Digital Economy: A Fresh Look at the South African Dispensation' (2021) 42(3) *Obiter* 499.
[32] Ruddy Kabwe and SP van Zyl, 'Value-Added Tax in the Digital Economy: A Fresh Look at the South African Dispensation' (2021) 42(3) *Obiter* 499.

tackle similar problems related to B2B and B2C transactions, place-of-supply rules, and compliance requirements for non-resident suppliers. This research aims to address that gap by thoroughly assessing Zambia's legal framework in comparison to the South African model to see if the 2024 Regulations offer enough legal clarity, encourage tax neutrality, and effectively manage cross-border electronic services.

Okunogbe and Santoro[33] explore how important information technology is for enhancing tax administration and boosting revenue collection in African nations. They point out that tax revenue in Sub-Saharan Africa is still quite low compared to countries with similar income levels, averaging around 14% of GDP. The authors suggest that this shortfall is partly due to inefficiencies in tax administration systems, which could be improved by strategically using digital technologies to increase tax compliance and expand the tax base.[34]

Additionally, the authors clarify that information technology is key to modernizing tax systems by better identifying taxable individuals and transactions, thus reinforcing the definition of the tax base. Digital tools like electronic filing systems, e-invoicing platforms, and data-matching algorithms help tax authorities identify non-compliance more efficiently and simplify taxpayer responsibilities. These technologies also enhance administrative efficiency by minimizing manual tasks and enabling real-time monitoring of economic activities, especially in complex and fast-changing sectors like the digital economy.[35]

Okunogbe and Santoro point out that the effectiveness of these tech tools is limited by major capacity issues in many African revenue authorities. These problems include a lack of skilled workers, poor technological infrastructure, and weak systems for sharing data between agencies. In this study, these insights are especially important for Zambia's VAT (CBES) Regulations, 2024, as they indicate that enforcing VAT on cross-border digital services relies not just on legal frameworks but also on having strong technological and institutional capacity. This research builds on their findings by evaluating whether Zambia's current enforcement

[33] Oyebola Okunogbe and Fabrizio Santoro, 'Increasing Tax Collection in African Countries: The Role of Information Technology' (2023) 32(Supp 1) *Journal of African Economies* i57–i83.
[34] Ibid.
[35] Oyebola Okunogbe and Fabrizio Santoro, 'Increasing Tax Collection in African Countries: The Role of Information Technology' (2023) 32(Supp 1) *Journal of African Economies* i57–i83.

environment is well-equipped to ensure effective VAT compliance in the digital economy, while also learning from South Africa's more advanced administrative systems.

Kelvin Pumulo and Romeo Yohane [36] explore how tax enforcement, taxpayer compliance, and digital tax administration systems interact in Zambia. They suggest that while strict enforcement can boost compliance, its effectiveness is greatly reduced by complicated tax laws and a lack of taxpayer education. They argue that even with enforcement in place, compliance remains low if taxpayers don't fully grasp their responsibilities or find the legal system too confusing to navigate.

The authors also point out that digital platforms have the potential to improve tax compliance and make the Zambia Revenue Authority (ZRA) more efficient. However, they note that many taxpayers do not have the digital skills needed to use electronic tax systems effectively. Additionally, issues within ZRA's digital infrastructure lead to inefficiencies, which hinder the overall success of electronic tax administration. These problems show that just having technology isn't enough; there also needs to be investment in user training and system reliability.[37]

To overcome these challenges, Pumulo and Yohane suggest a mix of system improvements, focused taxpayer education programs, and the use of advanced technology like artificial intelligence and cybersecurity tools for enforcement. They believe these changes are crucial for creating a modern and efficient tax system that can help Zambia raise domestic revenue. This study builds on their previous work by looking at whether Zambia's Value Added Tax (Cross-Border Electronic Services) Regulations, 2024 have the necessary administrative support and digital infrastructure to enforce compliance effectively in the realm of cross-border electronic services, while also comparing it to South Africa's more advanced VAT administration system.

[36] Kelvin Pumulo and Romeo Yohane, 'An Evaluation of Enforcement Measures on Taxpayer Compliance: A Case of the Zambia Revenue Authority' (2025) 6(3) *African Journal of Commercial Studies* 215–225.
[37] Kelvin Pumulo and Romeo Yohane, 'An Evaluation of Enforcement Measures on Taxpayer Compliance: A Case of the Zambia Revenue Authority' (2025) 6(3) *African Journal of Commercial Studies* 215–225.

1.10 ETHICAL ISSUES

The research is positioned on public legal matters and common economic factors connected to the taxation of CBES, so the author does not anticipate any key ethical concerns to arise during the study. The analysis relies mainly on legal documents, case law, scholarly articles, and policy papers, which means there is no direct interaction with human subjects or the collecting of personal or sensitive information.

However, if any related private or sensitive data is discovered during the research, utmost confidentiality will be upheld. This is to ensure that any individuals or organizations that could be impacted by the release of such information are suitably protected from undesirable outcomes. All data will be managed solely for academic purposes and in line with relevant ethical research standards and institutional policies.

1.11 OUTLINE OF CHAPTERS

Chapter 1: General Conclusion

The problem statement, study objectives, research questions, significance, scope, literature review, methodology, and chapter outline are all included in this broad introduction to the research.

Chapter 2: Legal framework on taxation of cross-border electronic services in Zambia

This chapter will delve into the current legal framework in Zambia relating to taxation of cross-border electronic services. It will get into an in-depth examination of the legal environment governing taxation of cross border e-services.

Chapter 3: Analysis South Africa's regulatory framework on the taxation of cross-border electronic services. This chapter will focus on giving a detailed analysis of South Africa's legal framework on taxation of cross-border electronic services.

Chapter 4: Legal gaps in Zambia's Regulations through a critical assessment informed by South Africa's experience

This chapter will identify and evaluate the gaps that of Zambia's Cross border electronic services may have in light of South Africa.

Chapter 5: Conclusion and Recommendations

Draws an overall conclusion on the status of the legal framework addressing taxation of cross-border electronic services in Zambia and South Africa. It will then identify gaps that exist in Zambia's legislation in light of South Africa while simultaneously making recommendations on how the issue of discussion can be rectified.

1.12 CONCLUSION

In this chapter, an overview of CBES and cross-border electronic services has been provided. The chapter has further outlined the background to the problem and highlighted the challenges associated with regulating and taxing cross-border electronic services in Zambia, particularly in light of the recently introduced regulatory framework. It has also set out the objectives of the study and the research questions that guide the examination of the regulation and implementation of taxation on cross-border electronic services. Finally, the chapter has presented the rationale and scope of the study and concluded with an outline of the chapters that structure the research.

2 CHAPTER TWO

2.0 LEGAL FRAMEWORK GOVERNING THE TAXATION OF CROSS-BORDER ELECTRONIC SERVICES UNDER ZAMBIA'S VALUE ADDED TAX (CROSS-BORDER ELECTRONIC SERVICES) REGULATIONS, 2024.

2.1 INTRODUCTION

Zambia's VAT system has been administered under the Value Added Tax Act, Chapter 331 of the Laws of Zambia (the VAT Act), since 1995.[38] The VAT Act imposes VAT at a normal rate of 16 percent on taxable supplies of goods and services within Zambia, including the importation of goods. Initially, the statute did not contain specific provisions addressing the supply of electronically delivered services by non-resident providers to Zambian consumers.

The first legislative recognition of electronic services occurred on 1 January 2020, when the definition of 'electronic services' was introduced into the VAT Act to mean 'a service capable of delivery via data across multiple electronic commerce platforms.'[39] This definition was, however, considered too narrow and technically imprecise to serve as an effective basis for taxing the full range of digitally supplied services. The major legislative development came effective 1 January 2024, when the regulations on VAT were enacted to specifically provide for CBES in Zambia.[40]

2.2 THE VAT (CROSS BORDER ELECTRONIC SERVICES) REGULATIONS, 2024.

The Minister by the authority vested in him under section 51 of the major Act has the authority to make regulations when necessary for carrying out or giving effect to the Act.[41] The VAT (Cross Border Electronic Services) Regulation of 2024[42] was given effect by exercise of

[38] Cap 331 of the Laws of Zambia.
[39] Value Added Tax (Amendment) Act, 2019, Act No. 14 of 2019.
[40] Value Added Tax (Cross Border Electronic Services) Regulations, 2024, SI No. 18 of 2024.
[41] Cap 331 of the Laws of Zambia.
[42] SI No. 18 of 2024.

sections 8[43] which provides for imposition of a tax known as VAT on goods and services in Zambia applied together with section 51[44] of the Act. The regulation solely provide for CBES in the republic by a non-resident. CBES include transactions such as Business to Business (B2B) and Business to Customers (B2C). However, this regulation is not applied in isolation as it draws authority from the VAT Act and uses VAT rules in its application. For instance, VAT shall be charged at 16% as prescribed by the Act and Just like other transactions, turnover threshold under the general VAT regime is ZMW 800,000 per annum on these transactions.[45]

2.3 DEFINITION OF CROSS BORDER ELECTRONIC SERVICES

The Regulations broaden the definition of cross-border electronic services (CBES). However, they do not adopt an open-ended or technology-neutral formulation. Instead, they provide a closed and exhaustive list of taxable services, categorised into eleven distinct groups under Regulation 3(1). It provides as follows:

> *3. (1) The following cross-border electronic service providers will be subject to taxation, levying, collection, and payment:*
>
> *(a) Movies, music, TV series, games, athletic, political, cultural, artistic, scientific, and entertainment events, including podcasts and video-on-demand;*
>
> *(b) All software services, including software upgrades, website filtering, firewalls, advertisement blockers, and after-sale support;*
>
> *(c) Podcasts, games, music, television shows, films and mobile applications and much more downloadable content;*
>
> *(d) Remote maintenance of programs and equipment, website supply, web hosting and many more website related services.*
>
> *(e) weather, travel reports, virtual playgrounds, magazines that fall in the category of subscription based media.*
>
> *(f) Customizable search engine (g) electronic data management services, encompassing online warehousing, file sharing, and cloud storage solutions;*

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[43] Cap 331 of the Laws of Zambia.

[44] Cap 331.

[45] Zambia Revenue Authority, *Taxation of Cross-Border Electronic Services* (ZRA 2025) <https://www.zra.org.zm/2025/08/Taxation-of-Cross-Border-Electronic-Services > (accessed 24 November 2025)

(h) Advertising services including services that provide or support a business on a an electronic network;

(i) Services that are categorized as ticketing services for events and any other similar services;

(j) Services that support online marketing that enhance the linkage of the supplier to the customer;

(k) Services related to data monetization such as licensing and sales

A key feature of this provision is that it captures a wide range of modern digital services that are typically delivered through automated systems over electronic networks, often with minimal or no direct human intervention. These include services such as cloud storage, virtual private networks, digital streaming platforms, online advertising, and platform-based marketplaces.[46] By explicitly listing these categories, the Regulation ensures that commonly used digital business models fall within the VAT net, thereby reducing ambiguity in enforcement and compliance.

However, the closed nature of the list also means that only services falling within the enumerated categories are taxable as CBES, potentially excluding new or emerging digital services that do not clearly fit within the eleven specified categories. In this sense, while Regulation 3(1)[47] enhances legal clarity and administrative certainty, it simultaneously limits flexibility in responding to rapid technological developments in the digital economy.

The regulation further provides for exemptions from the payment of tax. Regulation 3(2)[48] provides for the following CBES as being exempt from payment of tax:

(2) The following products are not subject to this regulation's requirements:

(a) Broad casting and communications services;

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[46] Zambia Revenue Authority, *Taxation of Cross-Border Electronic Services* (ZRA 2025) <https://www.zra.org.zm/2025/08/Taxation-of-Cross-Border-Electronic-Services > (accessed 24 November 2025).

[47] VAT (Cross Border Electronic Services) Regulations 2024, reg 3(1)

[48] Regulations 2024, reg 3(2)

(b) Services that facilitate the physically of material, including floppy disks; and

(c) Media that is classified as either audio or video.

(d) Services that fall under the category of physical gaming media, such as read-only memory compact disks.

(e) Services provided to clients, such as advice sent via email by attorneys and financial specialists[49].

These are not regarded as CBES for various reasons for instance those under 2(b)[49] 2(c)[50] and 2(d)[51] are regarded as physical goods even though they contain digital content, the transactions are physical supplies as CBES concern content that is physically downloaded or streamed online as a result they are already taxed under ordinary VAT rules.

However, some of the CBES are exempted as they require a substantial human involvement which moves away from the definition of electronic service as enshrined in the Act. When a professional service of consultation is given by an expert as indicated in 2(e),[52] it is solely dependant on information being given physically by an expert. Finally Broadcasting and telecommunication services do not need a simplified non-resident registration framework and are usually supplied by locally registered entities as such they are taxed under the VAT Act.

2.4 SIMPLIFIED REGISTRATION SYSTEM

The regulation has adopted the definitions of cross border electronic services, electronic service as brought out in the VAT (amendment) Act of 2023[53] and has added definitions for simplified invoice and simplified registration as follows:

> *Simply put, "simplified invoice" refers to an invoice issued by cross-border electronic service providers[55], while "simplified registration" refers to a registration system used to identify a cross-border electronic service provider[56].*

[49] 2024 Regulations, reg 2(c)
[50] 2024 Regulations, reg 2(d)
[51] 2024 Regulations, reg 2(e)
[52] Ibid.
[53] VAT (Amendment) Act No 27 of 2023.

The regulation has also come up with a registration system that simplifies the registration of non – resident suppliers without having to create a permanent residence.[54] It does not require one to apply for residence in Zambia before they can offer a CBES but it has provided an alternative where one cannot register directly through what is known as Simplified Registration by allowing them to appoint an intermediary or agent.[55]

The simplified registration system is provided for under regulation 4 as follows:

> *4. (1) A supplier of CBES must register using the simplified registration process by filling out an online form specified by the Commissioner General.*
>
> *(2) Upon registration, the Commissioner General will provide the supplier with a taxpayer identification number.*
>
> *(3) If a supplier doesn't have a registered office or a permanent business address in the Republic and can't register under sub regulation (1), they must appoint someone who lives in the Republic as a tax agent according to section 8 of the Act.*
>
> *(4) A tax agent assigned under sub regulation (3) will not be considered a provider of cross-border electronic services.*
>
> *(5) The registration mentioned in sub regulation (1) does not establish a permanent presence for income tax reasons.*[56]

Regulation 4 establishes the registration and compliance mechanism for non-resident suppliers of cross-border electronic services. It introduces a simplified online registration system through which foreign suppliers are required to register with the Commissioner-General using a prescribed form. Upon successful registration, the supplier is issued with a Taxpayer

[54] VAT (Cross Border Electronic Services) Regulations 2024
[55] Ibid.
[56] VAT (Cross Border Electronic Services) Regulations 2024, reg 4(1)

Identification Number (TPIN), which enables them to comply with VAT obligations in Zambia.[57]

Where a non-resident supplier does not have a physical presence in Zambia and is unable to register directly, the Regulations require such a supplier to appoint a resident tax agent to act on their behalf for VAT purposes. This ensures that tax obligations can still be enforced even in the absence of a local establishment. However, the appointed tax agent is not treated as the supplier of the services for VAT purposes, meaning that liability remains with the non-resident supplier.[58]

Importantly, the Regulations also clarify that registration under this simplified regime does not create a permanent establishment for income tax purposes, thereby separating VAT registration from income tax liability. Overall, this provision is designed to facilitate compliance by foreign digital service providers while preserving the legal distinction between VAT obligations and income tax nexus rules.[59]

2.5 SIMPLIFIED INVOICING

One such important feature is the issuance of a simplified invoice that is denoted in Zambian kwacha at the Bank of Zambia rate.[60] This is provided for in regulation 5 which states that:

5. (1) *A simplified invoice with features chosen by the Commissioner-General must be issued by a cross-border electronic service provider established under these regulations*[61].

(2) *The invoice issued in accordance with subregulation (1) must be in Zambian Kwacha, converted using the Commissioner General's specified exchange rate as established by the Bank of Zambia*[62].

[57] Zambia Revenue Authority, *Taxation of Cross-Border Electronic Services* (ZRA 2025) <https://www.zra.org.zm/2025/08/Taxation-of-Cross-Border-Electronic-Services > (accessed 24 November 2025)

[58] VAT (Cross Border Electronic Services) Regulations 2024, reg 4

[59] Ibid.

[60] VAT (Cross Border Electronic Services) Regulations, 2024.

Regulation 5 of the VAT (CBES) Regulations, 2024 prescribes the invoicing requirements applicable to suppliers of cross-border electronic services registered under the simplified registration regime. Under Regulation 5(1), every registered supplier is required to issue a simplified invoice containing the particulars determined by the Commissioner-General. Unlike a standard tax invoice issued under the general VAT system, a simplified invoice is intended to reduce the administrative burden on non-resident suppliers while still providing sufficient information to support VAT compliance and verification by the Zambia Revenue Authority (ZRA). [61]

Regulation 5(2) further requires that the simplified invoice be issued in Zambian Kwacha, even where the underlying transaction is conducted in a foreign currency. The conversion must be made using the exchange rate provided by the Commissioner-General as determined by the Bank of Zambia. This provision promotes uniformity in the valuation of taxable supplies and ensures that VAT is accounted for in the national currency. It also eliminates inconsistencies that could arise if suppliers used different exchange rates, thereby facilitating accurate assessment, collection, and auditing of VAT by the ZRA. Overall, the provision seeks to balance ease of compliance for foreign suppliers with the need for transparency, consistency, and effective tax administration. [62]

2.6 INPUT TAX

Regulation 6 governs the treatment of input tax under the simplified VAT regime for cross-border electronic services. It distinguishes between the rights of non-resident suppliers and those of Zambian recipients of such services. It provides that:

6. (1) Input tax cannot be claimed or deducted by a provider of cross-border electronic services.

(2) A recipient of cross-border electronic services must claim or deduct input tax in line with section 18 of the Act[63].

[61] VAT (Cross Border Electronic Services) Regulations 2024, reg 5(1)
[62] 2024 Regulations, reg 5(2)

(3) When claiming or deducting input tax under subregulation (2), a recipient of cross-border electronic services must do so in Zambian Kwacha[64].

Under Regulation 6(1), a supplier of cross-border electronic services registered under the simplified registration regime is not entitled to claim or deduct input tax. This reflects the nature of the simplified registration system, which is designed solely to facilitate the collection and remittance of VAT on supplies made to customers in Zambia. Since non-resident suppliers are generally not carrying on a taxable business in Zambia in the ordinary sense, they are excluded from the input tax recovery mechanism available to fully registered VAT taxpayers.[63]

Regulation 6(2) preserves the right of a recipient of cross-border electronic services to claim input tax, provided the claim is made in accordance with section 18 of the Value Added Tax Act. This means that where a Zambian VAT-registered business acquires cross-border electronic services for the purpose of making taxable supplies, it may recover the VAT incurred, subject to satisfying the statutory requirements for claiming input tax, including possession of the required documentation and compliance with the conditions prescribed by the Act.[64]

Finally, Regulation 6(3) requires that any input tax claimed by the recipient be claimed in Zambian Kwacha. This ensures consistency in VAT accounting and aligns with the requirement that VAT liabilities under the Regulations be accounted for in the local currency using the prescribed exchange rate. The provision therefore promotes uniformity in tax administration and facilitates accurate assessment and verification by the Zambia Revenue Authority.[65]

Overall, Regulation 6 establishes a clear distinction between the VAT obligations of non-resident suppliers and the input tax rights of Zambian recipients. While foreign suppliers are restricted to collecting and remitting VAT under the simplified regime, Zambian businesses

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[63] 2024 Regulations, reg 6(1)
[64] 2024 Regulations, reg 6(2)
[65] Ibid.

retain the ability to recover input tax where they satisfy the requirements of the Value Added Tax Act.

Looking at the nature of Input Tax, allowing non-resident suppliers would be unfair on Zambian suppliers as Input VAT is claimable on taxable supplies acquired in Zambia and on which VAT was charged by a Zambian VAT registered supplier. A CBES supplier does not meet these requirements instead they are subjected to simplify registration a model where they are registered only to charge and remit VAT on supplies to Zambian customers.

2.7 TAX RETURNS AND PAYMENTS

The Act also makes it mandatory for a registered VAT non-resident supplier either by themselves or through there Agent to submit VAT returns electronically on the 25th day of every month that follows the end of their prescribed period and the value of the returns have to be in Kwacha. However, as per regulation 8, remittance has to be made to the Commissioner General in either Kwacha or any currency determined by him by the same deadline of 25th.[66]

> *7. (1) A business that is registered under these regulations and is classified as a group registered supplier must electronically file a return by the twenty-fifth day of the month that follows the conclusion of the specified accounting period. (2) The value of the service and the tax charged must be converted from the transactional currency to Zambian Kwacha using the exchange rate on the invoice in order to submit the return mentioned in subregulation (1)*[67].

At remittance stage, the Commissioner General is allowed to use their discretion on which currency to use however, it has to be equivalent to the price on the invoice denoted by the Zambian Kwacha. In this way, values are not distorted by inflation or depreciation as the currency on the invoice is standard. Non-resident suppliers' records and accounts may be maintained outside Zambia, but they must be made available to the Commissioner-General on request as per regulation 9.[67]

[66] VAT (Cross Border Electronic Services) Regulations 2024, reg 8
[67] VAT (Cross Border Electronic Services) Regulations, 2024.

2.8 CONCLUSION

In conclusion, Zambia's legal framework for taxing cross-border electronic services has evolved steadily to meet the demands of the digital economy. The Value Added Tax Act of 1995 provided the initial foundation for VAT, but it was the 2019 amendment introducing Section 8A and defining electronic service that marked the first major step toward taxing digital services supplied by foreign businesses. This foundation was strengthened by the 2023 amendment, which clarified the definition of electronic services and introduced simplified registration for non-resident suppliers. The framework became fully operational with the 2024 Cross-Border Electronic Services Regulations, which set out practical rules for registration, invoicing and VAT payment. Together, these reforms demonstrate Zambia's commitment to modernising its VAT system and ensuring that digital transactions are effectively captured and taxed.

3 CHAPTER THREE

LEGAL FRAMEWORK GOVERNING THE TAXATION OF CROSS-BORDER ELECTRONIC SERVICES IN SOUTH AFRICA.

3.1 INTRODUCTION

The VAT Act 89 of 1991 is the principal Act that introduced a tax known as Value Added Tax in South Africa.[68] VAT is a consumption tax that is chargeable on consumers which the government uses to generate revenue for the country. This position was reaffirmed in the case of *Metcash Trading Ltd v Commissioner for the South African Revenue Service* 2001 (1) SA 1109 (CC), where the Constitutional Court held that VAT is a tax on the consumption of goods and services, with vendors acting as collectors of the tax on behalf of the state. The Court emphasized that the effective collection of VAT is essential to the functioning of the tax system.[69] Before South Africa introduced a specific VAT regime for electronic services, cross-border digital supplies were partly addressed through the imported services provisions in the Value-Added Tax Act.[70] However, that framework was limited, particularly in dealing with the growing digital economy, which later led to the adoption of dedicated electronic services regulations.[71]

3.2 DEFINITON OF ELECTRONIC SERVICES

As the digital landscape continued to change, South Africa became the first African nation to implement VAT for non-resident electronic service providers which was governed by the 2014 VAT Regulation[72] prescribing Electronic Services. It amended the definition of ‘enterprise’ in the Value Added Tax Act No 89 of 1991 to include the supply of “electronic services” as defined in the VAT Act. Based on the 2014 regulations, the scope of electronic services was limited to a preselected list which included educational services, games, internet auctions, blog and website maintenance, online advertising, audio-visual content, news portals, e-books,

[68] VAT Act 89 of 1991, s 7(1)
[69] Metcash Trading Ltd v Commissioner for the South African Revenue Service 2001 (1) SA 1109 (CC)
[70] VAT Act 89 of 1991, s 7(1)
[71] Electronic Services Regulations of 2014
[72] Electronic Services Regulations of 2014

online shopping, and certain subscription services. These are particularly identified by the Minister responsible of finance in the regulations.[73]

However, the definition of 'electronic services' was greatly expanded in 2019 regulation.[74] The regulations eliminated the closed-list method and defined electronic services as those provided through an electronic agent, communication, or the Internet with minimal human involvement.[75] This broad definition now includes nearly all internet-based services, such as cloud computing, SaaS, digital advertising, data analytics, and various streaming services.

"Electronic services include any services supplied by means of an electronic agent, electronic communication or the Internet for any consideration."[76] With its wider application outlined, guidance was given to make it clear on the policy intentions that are to subject to VAT those services that are rendered using minimal human intervention. The Zambia Revenue Authority also agreed and confirmed the policy intention through the indication of electronic services on which the supply:

i. *Information Technology is extremely important*
ii. *Is automated, and*
iii. *Uses less human power*[77]

It further indicated the Electronic services covered by the regulations include:[78]

a. *An educational service that includes courses such as distance teaching programmes, webcasts, webinars.*
b. *Gamming that is categorised between electronic games, interactive games and careful electronic betting.*
c. *Services related to Auctioning*

[73] Electronic Services Regulations of 2014
[74] Electronic Services Regulations of 2014
[75] Explanatory Memorandum VAT Electronic Services < https://www.sars.gov.za/Explanatory-Memorandum-VAT-Electronic-Services-15-March-2019 > Accessed 16 November 2026.
[76] Electronic Services Regulations of 2019
[77] Ibid.
[78] PwC, 'South Africa Overview' (VAT in Africa ESS, 2023) < https://www.pwc.co.za/en/publications/vat-in-africa-ess/south-africa-overview.html> accessed 28 June 2026.

d. The provision of space for advertising

e. Portals that give an opportunity for online shopping

f. Broadcasting that takes advantage of the web

g. E-book downloading

h. Access to blogs , newspapers and publications

i. i. Data warehousing, application hosting, and website hosting

j. j. Software access via downloads k.apps that mobile devices download.

k. l. Software that enables the provision of shared services m. Electronic service supplies in which the resident firm receives procured services from the non-resident company, both of which belong to the same "group of companies" n. Online booking services

l. Program maintenance that happens automatically [87].

The scope includes any service supplied electronically and the above list is not exhaustive. It went on to excluded from the Regulation:[79]

a. Telecommunications

a. Educational services rendered by an individual under the supervision of an educational authority

c. Specific transactions between companies

Additionally, disputes over the 'minimal human intervention' standard had created more confusion. South Africa Revenue Service (SARS) and foreign suppliers have disagreed on whether certain services, like legal opinions from foreign lawyers or online training with instructor involvement, qualify as electronic services. While South Africa Revenue Service's Frequently Asked Questions (FAQ) guidance addressed some borderline cases, it did not clarify all uncertainties.

[79] PwC, 'South Africa Overview' (VAT in Africa ESS, 2023) < https://www.pwc.co.za/en/publications/vat-in-africa-ess/south-africa-overview.html> accessed 28 June 2026.

The case of *Diageo South Africa (Pty) Ltd v Commissioner for the South African Revenue Service (330/2019) [2020] ZASCA 34*[80] highlighted the complexity of determining the VAT treatment of composite supplies that include both electronic and non-electronic components, finding that such supplies must be apportioned and taxed separately under section 8(15) of the VAT Act.[81] This jurisprudential development added further compliance complexity for businesses operating mixed delivery models.

3.3 BUSINESS TO BUSINESS (B2B) TRANSACTIONS

The B2B extension has been the most challenging part of South Africa's electronic services framework. B2B transactions are unlikely to generate extra revenue for SARS, as South African businesses can deduct the VAT charged as input tax.[82] This situation has led to high compliance costs for foreign suppliers, who must register, file, and pay VAT on their B2B sales in South Africa, without any net revenue for the government.

In 2025, South Africa introduced further amendments to its VAT framework governing electronic services in order to modernise the taxation of the digital economy and reduce administrative complexities for foreign suppliers.[83] The amendments, which came into effect on 1 April 2025, revised the definition of "electronic services" under the Value-Added Tax Act 89 of 1991 by excluding supplies made exclusively to South African VAT-registered vendors from the definition of electronic services.

As a result, foreign suppliers dealing solely with VAT-registered businesses in South Africa are no longer required to register and account for VAT in the country.[84] This amendment was intended to reduce unnecessary compliance obligations in circumstances where the South African recipient would already be entitled to input tax deductions or where little fiscal benefit would arise from imposing VAT on the transaction. The impact is that foreign electronic service providers that registered in South Africa just for B2B obligations can now deregister.

[80] *Diageo South Africa (Pty) Ltd v Commissioner for the South African Revenue Service (330/2019) [2020] ZASCA*

[81] Value-Added Tax Act 89 of 1991.

[82] Charles de Wet, Tax Executive at ENSafrica, commentary cited in *"VAT Treatment of Electronic Services: South Africa has received the message (probably)"*, Lexology (26 March 2024), available at: <https://www.lexology.com/library/detail.aspx?g=57b6f82d-fcb5-41aa-8a24-00a946acb2e5> (accessed 16 June 2026).

[83] Electronic Services Regulation of 2025.

[84] Electronic Services Regulation of 2025.

South African companies can stop charging VAT on transactions with other South African businesses, while still charging VAT on sales to individual consumers.[85]

3.4 REGISTRATION THRESHOLD

The registration threshold was raised significantly. The 2019 amendments increased the threshold from ZAR 50,000 to ZAR 1 million over a 12-month period.[86] This reduced the number of small suppliers needing to register and focused compliance on larger, more commercially significant providers. For a foreigner to qualify for VAT registration, they need to have reached the R1 million threshold over a period of 12 months.

However, a temporary relief has been introduced where a supplier exceeds R1 million VAT threshold as a result of a temporary or abnormal circumstance for instance where they have a once off large sale or a spike in usage.[87] These are not automatically required to register as they have to undergo assessment by the SARS while offering some flexibility to smaller players and startups.[88] Furthermore, having a South African bank account is no longer necessary for registration or compliance. If the supplier is based in a country that has a Double Taxation Agreement (DTA) with South Africa, this requirement can be bypassed. This change helps lessen the administrative workload and banking expenses for international vendors.[89]

3.5 INTERMEDIARY RULES

The amendments also broadened the intermediary rules by allowing foreign electronic service providers to utilise intermediaries irrespective of their VAT-registration status. Under the revised framework, supplies made by the intermediary on behalf of the foreign principal are deemed to be made by the intermediary itself, although both parties remain jointly and severally liable for VAT obligations.[90] This approach was introduced to simplify compliance,

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[85] Amanda Visser, 'Positive amendments to VAT regulations relating to electronic services' (Moonstone Information Refinery, 19 August 2024) < https://www.moonstone.co.za/positive-amendments-to-vat-regulations-relating-to-electronic-services/ > accessed 16 June 2026.
[86] Section 23(1A) of the VAT Act
[87] Electronic Services Regulation of 2025.
[88] South African Revenue Service (SARS), *VAT Guide for Foreign Electronic Service Providers* (31 October 2025).
[89] Ibid.
[90] Electronic Services Regulation of 2025.

reduce duplication in VAT accounting, and improve administrative efficiency in audits and enforcement procedures.

3.6 INTRA GROUP EXCLUSION

In addition, the 2025 amendments introduced stricter requirements for intragroup exclusions.[91] Previously, electronic services supplied between related group companies qualified for relief where the services were consumed exclusively by the South African group entity. The new rules now require that the services must also have been specifically devised, developed, created, or produced for use by the South African entity.[92] This restriction aims to prevent abuse of the intragroup exclusion and ensure that only genuine internal group services benefit from the exemption.

3.7 CONCLUSION

This chapter has demonstrated that the taxation of cross-border electronic services in South Africa is based on a destination-oriented VAT system, as outlined in the Value-Added Tax Act 89 of 1991 and its Electronic Services Regulations. The framework uses a broad definition of "electronic services" to ensure that a wide range of digital products consumed in South Africa are taxed, although this can lead to some confusion in interpretation. Additionally, it sets a registration threshold for foreign suppliers, meaning only those with significant economic activity in South Africa need to register for VAT. Additionally, the framework makes a distinction between B2C and B2B transactions, implementing a simplified compliance process mainly for non-resident suppliers selling to consumers, while most supplies to VAT-registered businesses are excluded to lessen the administrative load. In summary, the system aims to strike a balance between effective revenue collection and efficient compliance.

[91] Ibid.
[92] Electronic Services Regulation of 2025.

4 CHAPTER FOUR

LEGAL GAPS IN ZAMBIA'S VALUE ADDED TAX (CROSS-BORDER ELECTRONIC SERVICES) REGULATIONS, 2024 IN LIGHT OF SOUTH AFRICA'S REGULATORY FRAMEWORK.

4.1 INTRODUCTION

Zambia has introduced the Value Added Tax (Cross-Border Electronic Services) Regulations, 2024,[93] known as SI No. 18 of 2024. This legislation, enacted under sections 8 and 51 of the VAT Act, Chapter 331,[94] is the country's first focused effort to tax digital services provided by non-resident suppliers to Zambian consumers and businesses. The 2024 Regulations came into effect on April 1, 2024, imposing a standard VAT rate of 16 percent on specific categories of cross-border electronic services. They also create a straightforward online registration process for non-resident suppliers.

A detailed look at the 2024 Regulations[95] reveals that, although they represent a meaningful first step, there are several important shortcomings. These shortcomings might undermine their effectiveness, reliability, and practical application. They are not merely theoretical but they become evident when reading the Regulations alongside what a comprehensive and coherent VAT system for cross-border electronic services like that of South Africa encompass. This chapter highlights and clarifies each of these shortcomings and discusses the rationale for adopting a comparative method based on the more developed South African framework to address these challenges.

4.2 THE USE OF A CLOSED LIST OF TAXABLE ELECTRONIC SERVICES

Regulation 3(1)[96] lists eleven specific types of cross-border electronic services that are subject to VAT. These include streaming services, software services, downloadable digital content, website-related services, subscription-based media, search engines, automated help desk services, electronic data management services, online presence services like advertising, ticketing services, online market services, and data monetisation. Regulation 3(2)[97] excludes

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[93] Value Added Tax (Cross Border Electronic Services) Regulations, 2024.
[94] VAT Act, Cap 331 of the Laws of Zambia, s8 & s51
[95] VAT (CBES) Regulations 2024, SI No 18 of 2024.
[96] VAT (CBES) Regulations 2024, reg 3(1).
[97] VAT (CBES) Regulations 2024, reg 3(2).

five categories from these regulations. These exclusions cover broadcasting and telecommunication services, various types of physical media, and professional services such as legal and financial advice provided via email.

This approach, with a detailed list of taxable services and a separate list of exclusions, contrasts sharply with technology-neutral methods. For instance, South Africa's electronic services regulations initially used a closed-list approach in 2014.[98] However, this was changed on 1 April 2019 to an open, technology-neutral definition.[99] This new definition broadly describes 'electronic services' as any service delivered through an electronic agent, electronic communication, or the internet for any payment, with only a few specific exclusions. The reason for this change, was the understanding that a fixed list would struggle to keep up with the rapid pace of innovation in digital business models.[100] It would require frequent legislative updates to stay relevant.

A closed list inherently leads to a binary outcome for any digital service that doesn't fit neatly into one of the specified categories. Such services remain untaxed, regardless of their economic nature or how similar they are to taxed categories. This issue stems from how the law is constructed, not just from policy choices. The eleven categories outlined in Regulation 3(1) cover major digital services in 2024, like streaming, software, cloud storage, and online marketplaces.[101] However, they were created based on existing business models and lack a way to include new digital services that may arise after the Regulations were established. New categories, such as generative AI subscription services, decentralized finance platforms, NFT marketplaces, and metaverse services, don't clearly fit into any of the eleven categories. A foreign provider of these services could argue that they fall outside the 2024 Regulations entirely.[102]

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[98] VAT (Cross Border Electronic Services) Regulations 2024.
[99] Government Notice R.429 in *Government Gazette* No. 42316 of 18 March 2019 (Regulations prescribing electronic services for the purpose of the definition of 'electronic services' in section 1 of the Value-Added Tax Act 1991).
[100] National Treasury (Republic of South Africa), *Draft Explanatory Memorandum on the Regulations Excluding Certain Electronic Services* (2024) https://www.treasury.gov.za accessed 26 June 2026.
[101] VAT (Cross Border Electronic Services) Regulations 2024, reg 3(1)
[102] VAT (Cross Border Electronic Services) Regulations 2024.

Additionally, the exclusion in Regulation 3(2)(e)[103] for 'professional services like advice from lawyers and financial consultants via email' adds to this issue. It doesn't connect to any existing exemption under the VAT Act and lacks clarity regarding the level of automation or human involvement. South Africa has found it necessary to define this distinction between taxable digital services and excluded professional advice delivered electronically. As it stands, this exclusion is vague and could allow digital advisory services to be wrongly classified as excluded professional services.

4.3 THE ABSENCE OF A REGISTRATION THRESHOLD FOR NON-RESIDENT SUPPLIERS

Regulation 4(1)[104] mandates that suppliers of cross-border electronic services register using an online form set by the Commissioner-General. However, the regulation does not specify a monetary threshold for registration. This means there is no clear indication in the regulation about how much a non-resident supplier must sell to Zambian customers before they need to register under the simplified regime. Sources suggest that non-resident suppliers should register once their taxable sales to Zambian recipients exceed ZMW 800,000 annually or ZMW 200,000 quarterly.[105] These figures align with the general VAT registration threshold for resident suppliers under the VAT Act.[106] Yet, this threshold is not explicitly mentioned in the 2024 Regulations.[107] Its application relies on administrative practices and secondary commentary, rather than a clear statutory requirement.

This lack of clarity creates a significant legal gap, not just a minor oversight. A non-resident supplier trying to understand their compliance obligations based solely on regulation[108] cannot determine the registration threshold, the measurement period, or whether it is based on a rolling or fixed-year basis. In contrast, South Africa clearly states its registration threshold currently ZAR 1 million over any consecutive twelve-month period within its regulations.[109] Additionally, SARS provides detailed guidance on the rolling measurement period and offers

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[103] VAT (Cross Border Electronic Services) Regulations 2024, reg 3(2)(e).
[104] VAT (Cross Border Electronic Services) Regulations 2024, reg 4(1).
[105] ZRA, *Practice Note No 1 of 2024* (12 April 2024) <https://www.zra.org.zm/wp-content/uploads/2024/02/2024-Practice-Note.pdf> accessed 30 June 2026.
[106] Cap 331 of the Laws of Zambia.
[107] VAT (Cross Border Electronic Services) Regulations 2024.
[108] Ibid.
[109] GN R.429, GG 42316 (18 March 2019).

relief for suppliers who temporarily exceed the threshold due to unusual circumstances.[110] Zambia's framework lacks clear certainty. Without a specific threshold, it's unclear how the Zambia Revenue Authority can confirm if a non-resident supplier has surpassed it. This is complicated by the fact that the supplier's sales records might be kept outside Zambia, as stated in Regulation 9, and are only available upon request.[111]

4.4 THE FAILURE TO DISTINGUISH BETWEEN B2B AND B2C TRANSACTIONS

One major concern from the critical review of the 2024 Regulations is the lack of distinction in Regulation 3.[112] It does not differentiate between cross-border electronic services supplied to businesses and those supplied to individual consumers. Regulation 3(1)[113] imposes VAT on specified electronic services without considering the recipient's status. As a result, the obligations to register, invoice, file returns, and remit tax under Regulations 4,[114] 5,[115] 7,[116] and 8[117] apply equally, whether the Zambian recipient is a VAT-registered business or an individual consumer who cannot recover input tax.

The only time the Regulations recognize a difference for business recipients is in Regulation 6, which deals with input tax.[118] Regulation 6(1) states that non-resident suppliers cannot claim or deduct input tax.[119] Meanwhile, Regulation 6(2) allows recipients of CBES to claim input tax according to section 18 of the VAT Act.[120] However, this is only relevant for VAT-registered taxable suppliers. Aside from this specific input tax rule, the registration and compliance requirements for non-resident suppliers remain the same, regardless of whether their Zambian customer is a large business that can recover input tax or an individual streaming subscriber who cannot.

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[110] GN R.429, GG 42316 (18 March 2019).
[111] VAT (Cross Border Electronic Services) Regulations 2024, reg 9.
[112]VAT (Cross Border Electronic Services) Regulations 2024, reg 3.
[113] 2024 Regulations, reg 3(1).
[114] 2024 Regulations, reg 4
[115] 2024 Regulations, reg 5
[116] 2024 Regulations, reg 7
[117] 2024 Regulations, reg 8
[118] 2024 Regulations, reg 6(1)
[119] 2024 Regulations, reg 6(2)
[120] Cap 331 of the Laws of Zambia.

This design choice reflects the stance taken by South Africa since 2019,[121] which mandated that non-resident electronic service providers register and account for VAT on B2B transactions. In the same way as B2C transactions, irrespective of whether the business recipient would recover the VAT charged as input tax were necessary to register and account for VAT. South Africa's subsequent experience with this uniform approach offers valuable insights. Starting from 1 April 2025, South Africa revised its electronic services regulations to exclude supplies made by non-resident suppliers solely to VAT-registered vendors from the definition of 'electronic services.'[122] This decision was based on a clear policy rationale outlined indicating that such supplies provided minimal or no net benefit to the treasury, as the VAT charged by the foreign supplier would merely be reclaimed by the South African business recipient as input tax, while imposing significant compliance costs on both the foreign supplier and SARS.[123]

Zambia's 2024 Regulations, by implementing the same undifferentiated approach without any qualifications, pose the same fundamental policy question that South Africa faced and ultimately revised after five years of practical experience. The question remains on whether it is truly efficient to require full VAT compliance from a non-resident supplier for B2B transactions that are likely to be fiscally neutral once input tax is reclaimed, or would it be more effective to manage such transactions through a reverse charge mechanism that shifts the compliance responsibility to the Zambian business recipient? South Africa's 2025 reform[124] has also faced criticism from tax professionals for being too narrowly defined stipulating that a non-resident supplier must exclusively engage with VAT-registered vendors for the exclusion to apply, without any de minimis provision for incidental supplies to non-registered customers. Zambia's takeaway is not just that an exclusion should be implemented, but rather that great attention must be paid to the design of such an exclusion.

[121] GN R.429, GG 42316 (18 March 2019).
[122] Regulation 5993 in *Government Gazette* No. 52293 of 14 March 2025 (South Africa) (Regulations prescribing electronic services for the purpose of the definition of "electronic services" in s 1(1) of the Value-Added Tax Act 1991).
[123] National Treasury (Republic of South Africa), *Draft Explanatory Memorandum on the Regulations Excluding Certain Electronic Services* (2024) https://www.treasury.gov.za accessed 26 June 2026.
[124] Reg 5993, GG 52293 (14 March 2025).

4.5 COMPOUNDING EFFECTS ON EFFICIENCY AND PRACTICAL APPLICATION

When looked at separately, each of the three gaps mentioned above presents a specific legal or design issue. However, when considered together, they collectively contribute to confusion at every stage of the compliance lifecycle set by the 2024 regulations.[125] The closed list in Regulation 3(1)[126] leads to uncertainty about whether a particular digital service is taxable. The lack of a clear registration threshold creates doubt about when the registration requirement under Regulation 4(1)[127] comes into play. Finally, the uniform treatment of B2B and B2C transactions raises questions about whether the compliance burden for a specific transaction is fair compared to the net revenue it might bring in for the government. This isn't just a problem for Zambia. South Africa's 2014[128] framework had similar issues, which were only resolved after a decade of legislative updates.

4.6 CONCLUSION

Since 2014, South Africa has been gradually improving its VAT system for electronic services with changes made in 2014, 2019, and 2025. These updates show how the country is adapting to the challenges of taxing the digital economy, with each change fixing issues that came up during the previous system's rollout. The 2019 change from a limited list of electronic services to a broader, technology-neutral definition helped overcome the problems of having a strict list of taxable services, making sure that new digital services are automatically included in the VAT system. Additionally, the ongoing adjustments to the registration threshold have given non-resident suppliers more legal clarity by clearly outlining when they need to register.

South Africa's experience with these laws offers important insights for Zambia's VAT (CBES) Regulations, 2024. The changes directly tackle the main issues found in this study, such as the narrow definition of electronic services in Regulation 3(1), the unclear registration threshold in Regulation 4, and the same treatment for B2B and B2C transactions. Even though South Africa's 2025 exclusion for some B2B transactions has faced criticism for being too limited, it

[125] VAT (Cross Border Electronic Services) Regulations 2024.
[126] VAT (Cross Border Electronic Services) Regulations 2024, reg 3(1).
[127] 2024 Regulations, reg 3(2).
[128] Government Notice R.221, *Government Gazette* No. 37489 (28 March 2014) (South Africa).

still shows an understanding that different types of transactions need different rules. Therefore, Zambia can learn significant lessons from South Africa's developing framework to boost legal clarity, enhance compliance, and improve the effectiveness of its VAT system for cross-border electronic services.

5 CHAPTER FIVE
FINDINGS, CONCLUSION AND RECOMMENDATIONS

5.1 INTRODUCTION

This research paper thoroughly examines the taxation of cross-border electronic services in Zambia while drawing lessons from South Africa. This chapter consolidates the study's findings and directly addresses the issue highlighted in Chapter One regarding Zambia's VAT (CBES) Regulations, 2024. While this regulation is a crucial initial step in broadening Zambia's VAT base to include non-resident digital suppliers, it reveals three significant legislative gaps that could weaken the efficiency and practical implementation of the system. Firstly, the reliance on a closed list of taxable electronic services, the lack of a clear registration threshold for non-resident suppliers, and the omission of a distinction between business-to-business and business-to-consumer transactions. The chapter reviews how Chapters Two, Three, and Four identified and supported these gaps, and it translates insights from South Africa's more advanced framework into specific recommendations for each identified gap.

5.2 SUMMARY OF FINDINGS

Chapter Two outlined the legal framework that regulates the taxation of cross-border electronic services in Zambia. It looked into the details of VAT (CBES) Regulations, 2024,[129] including how it defines cross-border electronic services by referencing the VAT Act. The chapter also discussed the simplified registration process under Regulation 4[130] and the compliance requirements for registered suppliers. By analyzing the Regulations provision by provision, this chapter highlighted the specific textual foundation for the closed list in Regulation 3(1)[131] and pointed out that there is no registration threshold in Regulation 4. This establishes, through statutory interpretation rather than just general claims, the first two gaps mentioned in the problem statement.

Chapter Two's findings show that Zambia's current legal system for taxing cross-border electronic services through the VAT (CBES) Regulations, 2024 has several structural and

[129] VAT (CBES) Regulations 2024,
[130] VAT (CBES) Regulations 2024, reg 4.
[131] 2024 Regulations, reg 3(1).

interpretative issues that could impact its ability to effectively manage the digital economy. Although these Regulations mark an important step in policy aimed at collecting revenue from cross-border digital transactions, their design exposes gaps that hinder clarity, scope, and administrative efficiency.

To start, the Regulations use a closed list method to define taxable electronic services, which limits VAT to only those services that are specifically listed. This means that new and unlisted digital services are left out of the VAT system until formal changes are made, leading to possible revenue loss and making it harder for the legal framework to adapt to new technology. Additionally, while there is a simplified online registration process for non-resident suppliers, the Regulations do not clearly state a registration threshold. Instead, they depend on thresholds found in the general Value Added Tax Act, which creates confusion and may discourage foreign suppliers from complying voluntarily with Zambia's broader tax laws.

Thirdly, the results show that the Regulations do not make a distinction between business-to-business (B2B) and business-to-consumer (B2C) transactions. Consequently, all non-resident suppliers must adhere to the same registration and compliance requirements, no matter who their customers are. This uniform approach could create unnecessary compliance challenges for foreign suppliers who mainly deal in B2B transactions, and it also misses out on the administrative benefits that could come from allowing VAT-registered business recipients to self-account for tax. In summary, the chapter concludes that these limitations hinder the effectiveness, clarity, and flexibility of Zambia's VAT system for cross-border electronic services.

Chapter Three looked into the similar legal structure in South Africa, following the development of the electronic services system under the VAT Act 89 of 1991.[132] It started with the closed list from 2014,[133] moved to the technology-neutral definition introduced in 2019,[134] and then included the partial business-to-business exclusion that came in 2025.[135] This chapter set up a comparison to evaluate the gaps found in Zambia's framework, demonstrating that

[132] Value-Added Tax Act 89 of 1991
[133] Electronic Services Regulation of 2014
[134] Electronic Services Regulation of 2019
[135] Electronic Services Regulation of 2025

each of the three gaps in the VAT (CBES) Regulations, 2024,[136] relates to a design decision that South Africa made earlier in its own system's evolution, which was later adjusted based on the experience gained from implementation.

Chapter Three's findings show that South Africa's VAT system for cross-border electronic services offers important insights for Zambia in managing its digital economy. The research indicates that South Africa has continuously improved its laws through amendments made in 2014, 2019, and 2025, demonstrating a proactive strategy to tackle the real-world issues of taxing cross-border digital transactions.

Additionally, the chapter highlights that South Africa's use of a broad, technology-neutral definition of electronic services has increased the adaptability of its VAT system. This ensures that new and emerging digital services are automatically included in the tax framework without needing constant legislative updates. Moreover, the system has a clear registration threshold, backed by detailed administrative guidance from the South African Revenue Service (SARS), which enhances legal certainty and encourages voluntary compliance from non-resident suppliers.

Lastly, the findings indicate that South Africa has acknowledged the importance of differentiating between business-to-business (B2B) and business-to-consumer (B2C) transactions by excluding services provided solely to VAT-registered businesses from the electronic services category. While this change has faced criticism for its limited scope and practical challenges, it marks a significant move towards easing compliance burdens on non-resident suppliers and enhancing the efficiency of the VAT system. In summary, the chapter concludes that South Africa's experiences offer valuable legislative and administrative insights that Zambia could use to improve its own regulatory framework for cross-border electronic services.

Chapter Four conducted a detailed comparative analysis, evaluating Zambia's regulations against South Africa's framework on a gap-by-gap basis. It looked into the practical impacts of each gap on revenue collection, administrative certainty, and the compliance burden faced by both non-resident suppliers and the Zambia Revenue Authority. Additionally, this chapter

[136] VAT (CBES) Regulations, 2024.

carefully examined the wider implications of these gaps, particularly their potential impact on the competitiveness of local Zambian digital service providers, who still carry the entire compliance burden of domestic VAT registration.

Chapter Four's findings show that while Zambia's VAT (CBES) Regulations, 2024 are a significant step towards taxing the digital economy, there are still many legal and operational issues that could weaken its effectiveness. A comparison with South Africa reveals that Zambia's system hasn't yet adapted to handle the complexities of cross-border electronic services and new digital business models.

The chapter highlights three main findings. First, the use of a closed list of electronic services in Regulation 3 restricts the VAT regime's reach by leaving out new and emerging digital services until changes to the law are made. Second, the lack of a clear registration threshold in the Regulations creates confusion for non-resident suppliers about their registration duties, which decreases legal certainty and might lower voluntary compliance. Third, the Regulations treat business-to-business (B2B) and business-to-consumer (B2C) transactions the same, leading to a one-size-fits-all compliance system that could place unnecessary administrative burdens on non-resident suppliers while providing minimal extra revenue benefits.

Additionally, the findings indicate that South Africa's legislative changes offer valuable insights for Zambia. By implementing a technology-neutral definition of electronic services, establishing clear registration thresholds, and adopting a more tailored approach to B2B and B2C transactions, South Africa has created a more adaptable and efficient VAT system. Therefore, the chapter concludes that Zambia's regulatory framework could greatly improve with similar legislative and administrative changes to boost legal certainty, enhance compliance, strengthen enforcement, and ensure the VAT system keeps up with the changing digital economy.

5.3 RECOMMENDATIONS

Based on the gaps identified in this chapter, the following recommendations are proposed as a preliminary response to the problem:

(a) Adoption of a Technology-Neutral Definition of Electronic Services

It is suggested that Regulation 3(1) of the VAT (CBES) Regulations, 2024 be updated to include a broad, technology-neutral definition of "electronic services," similar to what South Africa has done. The current method of using a fixed list of services is becoming less effective in our fast-changing digital economy, where new types of digital offerings keep appearing. A better way to write this would be to define electronic services generally as those provided via the internet, electronic communication networks, or automated systems that need little human involvement, making sure the definition can adapt and stay relevant in the future.

With this new approach, the current eleven categories should not be seen as a complete definition but rather as examples to help with interpretation. This would provide more legal clarity while also making sure the VAT system can include new digital products and services without needing constant changes to the law. Specifically, advancements like AI-driven subscription services, cloud platforms, and automated digital solutions would automatically be taxed, which would help prevent revenue loss due to technology moving faster than legislative updates.

Furthermore, it is recommended that the current exclusion under Regulation 3(2)(e), which relates to professional services delivered via electronic communication such as email, be refined to avoid overly broad exemptions that may undermine the tax base. Such an exclusion should be narrowly construed and limited only to services that are explicitly exempt under section 12 of the Value Added Tax Act. This would ensure coherence between the Regulations and the primary legislation, prevent interpretative inconsistencies, and strengthen the overall integrity of the VAT framework governing cross-border electronic services.

(b) Introduction of a Clear Registration Threshold for Non-Resident Suppliers

It is advisable to enhance Regulation 4 of the VAT (CBES) Regulations, 2024 by clearly including a straightforward registration threshold for non-resident suppliers. Currently, the regulations do not specify the monetary threshold within the text itself; instead, the ZMW 800,000 annual threshold is mentioned in secondary legislative documents and administrative guidance. This situation leads to confusion and accessibility issues, especially for non-resident suppliers who mainly depend on the Regulations to understand their VAT responsibilities. The lack of a clearly defined threshold in the Regulations creates legal uncertainty and may cause compliance issues, particularly for taxpayers who are not familiar with the additional documents provided by the tax authority.

By directly incorporating the threshold into Regulation 4, it would improve transparency and make the essential compliance requirements easily identifiable within the main regulatory text. Additionally, the threshold should be explicitly stated in both monetary terms and time frame, ideally using a rolling twelve-month period to maintain consistency in measurement and align with global best practices in VAT management. This would help eliminate confusion about when registration requirements begin and allow non-resident suppliers to more easily assess their tax obligations without needing to refer to various documents.

Moreover, while the current ZMW 800,000 limit might be suitable for local situations, its relevance for non-resident digital providers needs to be reassessed to see if it truly matches the economic conditions of international electronic services. Therefore, it's important to think about whether a different or specially adjusted limit for non-resident suppliers would better meet the goals of protecting revenue, improving administrative efficiency, and making compliance easier. Lastly, it is suggested that the Zambia Revenue Authority should be clearly given the authority in the Regulations to identify and register non-compliant non-resident suppliers who go over the limit but do not register voluntarily, which would enhance enforcement and ensure the regime works effectively.

(c) Review and Reform of the B2B and B2C Distinction

It is suggested that the current uniform method for handling business-to-business (B2B) and business-to-consumer (B2C) supplies under Zambia's VAT (CBES) Regulations, 2024 undergo a thorough review after a set period of implementation and monitoring. Although the current system offers administrative ease by using a generally uniform compliance model for non-resident suppliers, it may miss key functional differences between B2B and B2C transactions. Specifically, it does not adequately address the varying compliance risks, administrative challenges, and revenue effects tied to business customers, who are usually

VAT-registered and can manage VAT through local systems, unlike final consumers who do not have that ability.

When reforming this system, it is crucial for Zambia to steer clear of a too-strict classification system that automatically excludes or imposes the same VAT obligations on all B2B supplies just based on a supplier's overall customer profile. This could lead to unnecessary compliance expenses for non-resident suppliers and might compromise the principle of tax neutrality, especially since input tax credits would ultimately reduce the revenue risk in B2B transactions. Instead, a more adaptable and functionally responsive model should be considered, one that differentiates transactions based on the customer's status in each specific supply rather than applying broad classifications.

A more suitable and administratively effective option could be to implement a targeted reverse charge mechanism for VAT-registered businesses receiving cross-border electronic services. In this setup, the duty to account for VAT would transfer from the non-resident supplier to the local business recipient. This would lessen the compliance burden on foreign suppliers while still ensuring revenue protection for the government. Each case would need strong verification processes to check the VAT registration status of recipients, but this approach would bring Zambia's system closer to internationally accepted best practices for taxing cross-border B2B digital services. Ultimately, this reform would improve tax neutrality, cut down on administrative inefficiencies, and enhance the overall consistency of Zambia's digital VAT system.

5.4 CONCLUSION

Zambia's taxation of cross-border electronic services brings both challenges and opportunities. Although the legal framework is established, the real challenge is effective implementation. This demands ongoing commitment, investment, and adaptability to evolving technology and digital business models. Success should be measured not just by revenue but also by fairness, practicality, and support for Zambia's digital economy growth.

Zambia requires a tax system that generates revenue without hindering innovation, entrepreneurship, or access to digital services. The recommendations in this chapter outline a path to achieve this, but their effectiveness hinges on strong coordination among government bodies, active stakeholder engagement, sufficient resources, and the political will to balance immediate revenue needs with long-term economic growth.

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