



# GRA

## GHANA REVENUE AUTHORITY

**Practice Note on  
Supplies To and From Free Zones  
under the Value Added Tax Act, 2013 (ACT 870)**

**Practice Note Number: DT/2021/002**

**Date of Issue: 30<sup>th</sup> September, 2021**

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## **1.0 TAX LAW**

The Commissioner-General of the Ghana Revenue Authority is empowered under Section 100 of the Revenue Administration Act, 2016 (Act 915) to issue Practice Notes setting out the interpretations placed on provisions of the various Acts administered by the Commissioner-General. Accordingly, this Practice Note is issued in respect of supplies to and from Free Zone Enterprises (FZEs) under section 36 and item 1(6), 1(7), 1(8) and item 2(5) of the Second Schedule of the Value Added Tax Act, 2013 (Act 870).

## **2.0 PURPOSE**

This Practice Note is issued to provide direction and guidance to officers of the Ghana Revenue Authority, Tax Practitioners, Consultants, Taxpayers and the general public on the acceptable tax treatment of supplies of goods and services to and from FZEs, in order to achieve consistency in the administration of the Act.

## **3.0 INTERPRETATION**

In this Practice Note, the word “Act” means the Value Added Tax Act, 2013 (Act 870). Definitions and expressions used in this Practice Note have the same meaning as they have in the Act.

### **3.1 Meaning of Goods, Services, Free Zone, Free Zone Developer and Free Zone Enterprise**

#### **3.1.1 Goods**

“Goods” as defined under section 65 of Act 870 includes movable and immovable tangible property, thermal and electrical energy, heating, gas, refrigeration, air conditioning and water, but does not include money.

#### **3.1.2 Services**

“Services” means anything other than goods or money.

#### **3.1.3 Free Zone**

“Free zone” means an area or building declared as a free zone under the

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Free Zone Act, 1995 (Act 504), and includes single factory zones, free port, free airport, free river or free lake or port.

#### **3.1.4 Free Zone Developer**

“Free Zone Developer” means a person who acquires a free zone area and is licensed for its use or uses it for operations allowed under the Free Zone Act, 1995 (Act 504).

#### **3.1.5 Free Zone Enterprise**

“Free Zone Enterprise” means an industry, project, undertaking or business for commercial purposes licensed to carry out operations in a Free Zone under the Free Zone Act, 1995 (Act 504).

### **4.0 THE APPLICATION AND SCOPE OF THIS PRACTICE NOTE**

This Practice Note considers-

- a) Supply of goods
  - (i) Supply of goods from the domestic market to a Free Zone Developer or Enterprise
  - (ii) Supply of goods from a Free Zone Developer or Enterprise to the domestic market
- b) Supply of services
  - (i) Supply of services from the domestic market to a Free Zone Developer or Enterprise
  - (ii) Supply of services from a Free Zone Developer or Enterprise to the domestic market
- c) Supply of utilities
  - (i) Supply of electricity from the domestic market to a Free Zone Developer or Enterprise
  - (ii) Supply of utilities from a Free Zone Developer or Enterprise to the domestic market

***NOTE: Supply of goods/services from one Free Zone Enterprise to another Free Zone Enterprise is out of scope within the context of the VAT Act, 2013 (Act 870).***

#### **4.1 Supply of goods from the Domestic Market to a Free Zone Developer or Enterprise**

Supply of goods from the domestic market to a Free Zone Developer (FZD) or Free Zone Enterprise (FZE) is zero-rated, in accordance with Section 36 and the Second Schedule to Act 870. A VAT registered person in the domestic market that supplies goods to any FZD or FZE must issue a VAT invoice indicating a tax rate of zero on satisfaction of the underlisted conditions in the Free Zones Act, 1995 (Act 504), its Regulations and Ghana Free Zone Authority's Standard Operating Procedures.

- a) The local supplier must obtain a completed and duly signed Form 9A from the purchaser (i.e. the FZD or FZE) indicating the description and the value of goods
- b) The completed form 9A must be endorsed by the Ghana Free Zone Authority (GFZA)
- c) The local supplier must also obtain an introductory letter from the FZD or FZE issued by the GFZA and addressed to the local supplier.
- d) The goods must be covered by the appropriate Customs documentation

#### **Illustration 1**

XYZ Limited, a manufacturer of cement, supplied bulk cement worth GH¢30,000.00 to Adepa Limited, a company in the Free zone in March 2021.

A compliance check carried out on the supplies made by XYZ Limited revealed the following:

- i. A license from the Ghana Free Zone Authority (GFZA) confirming that Adepa Limited is indeed a company in the free zone.
- ii. A VAT invoice issued at the rate of zero.

Does the supply made by XYZ Limited to Adepa Limited qualify to be zero rated?

## **Solution**

XYZ Limited has not satisfied all the requisite requirements set out under 4.1 above to justify charging the VAT on the supply at the rate of zero. XYZ Limited must therefore account for the VAT and the levies on the supply.

### **4.2 Supply of goods from a Free Zone Developer or Enterprise to the domestic market**

Supply of goods by FZDs and FZEs to the domestic market are considered as imports into the domestic market. Thus, the recipient of such imports must fulfil all the necessary Customs requirements governing imports of goods.

The FZD or FZE must also comply with the provisions of the Free Zone Regulations, 1996 (L.I. 1618), on declaration of removal of goods from free zones as well as the standard operating procedures of GFZA on supplies of goods to the domestic market. These include:

- (i) Purchase of Form 9A from GFZA Secretariat.
- (ii) Completion of the Form 9A, indicating the description of goods and the CIF Value.
- (iii) Attachment of the invoice of goods to be sold into the domestic economy to the Form 9A.
- (iv) Presentation of the duly filled form and supporting documents to the GFZA Secretariat for endorsement.
- (v) Submission of the endorsed documents to the appropriate Customs office for tax assessment on the goods.
- (vi) Inspection of the goods by Customs to ensure that they tally with what has been indicated on the Form 9A and invoice before release onto the local economy.

**Note: The recipient must obtain and retain all relevant documentation.**

**4.3 Supply of services from the domestic market to a Free Zone Developer or Enterprise**

A VAT registered local service provider who makes a supply to a FZD or FZE is required to issue a VAT invoice indicating a tax rate of zero on satisfaction of the underlisted conditions in the Free Zones Act, 1995 (Act 504), its Regulations as well as Ghana Free Zone Authority's Standard Operating Procedures.

- (i) A written contractual agreement between the FZD or FZE and the service provider duly signed and witnessed.
- (ii) A completed Form 9E (issued by GFZA and completed by the FZD or FZE), indicating the description of services and the value.
- (iii) The completed form along with the proforma invoice of services to be purchased must be endorsed by the GFZA.
- (iv) An introductory letter from the GFZA addressed to the service provider introducing the FZD or FZE.

**4.4 Supply of services from a Free Zone Developer or Enterprise to the domestic market**

The supply of services from FZD or FZE into the domestic market becomes an import to the recipient and may come under any of the following:

- a) A recipient who exclusively uses the service to make exempt supplies.

Where a person imports services from a FZD or FZE and does **not** utilise the services for the making of taxable supplies, the supply constitutes imported service. The importer or recipient of the service is required to:

- (i) Obtain a written contractual agreement between the service provider (the FZD or FZE) and the recipient duly signed and witnessed.
- (ii) Obtain a completed Form 9E (issued by GFZA and completed by the FZD or FZE), indicating the description of services and the value. The completed form along with the proforma invoice of services to be purchased must be endorsed by the GFZA.

- (iii) Obtain an introductory letter from the GFZA addressed to the recipient of the service introducing the FZD or FZE.
- (iv) File imported service returns and account for the VAT and levies in accordance with section 53 of the VAT Act.

- b) A recipient who uses the service to make both exempt and taxable supplies.

Where a person imports services from a FZD or FZE and utilises the services to make both taxable and exempt supplies, the portion of the supply used in making exempt supplies constitutes imported service.

The importer or recipient of the service is required to fulfil requirements (i) to (iii) under (a) above, in addition to the following:

- (i) Indicate the relative portions utilised for making taxable and exempt supplies.
- (ii) Where it is impossible to determine the relative portions utilised in making the taxable and exempt supplies, a ratio of exempt supplies to total supplies is used to determine the portion of the cost of the service attributable to exempt supplies.
- (iii) File imported service returns on the portion used in making exempt supplies, and account for the VAT and levies.

- c) A recipient who uses the service to make only taxable supplies  
Where a person imports services from a FZD or FZE and utilises all of the services for the making of taxable supplies, the supply does not constitute imported service. The importer or recipient of the service is therefore not required to file an imported service return.

**Illustration 2**

ABC Limited is a company located in Tafo in the Eastern Region of Ghana. The company manufactures Exercise books and newspapers for sale on its website. The total sales made in the month of May 2021 was GH¢1,000,000.00. The value of exercise books sold in the month was GH¢700,000.00. In the same month, ABC Ltd contracted Doku Online, a Free Zone Enterprise, to develop and customise its website for GH¢50,000.00. The only purchase made in the month was the supply by Doku Online.

- a) Assuming the website was used exclusively for the sale of newspapers in the month, determine
  - i. The input tax deductible
  - ii. Imported service taxes payable (VAT and levies)
  
- b) Assuming the website was used to sell both exercise books and newspapers during the month, determine the input tax deductible and the imported service tax payable if:
  - i. 10% of the cost of the website is directly attributable to the sale of newspapers
  - ii. The cost attributable to the sale of exercise books and the newspaper is not known
  
- c) Assuming the website was used exclusively for the sale of exercise books during the month, what are the tax implications?

**Solution**

- a) Exclusively exempt supply
  - i. Since the supply of newspaper is exempt in the First Schedule, ABC is not entitled to input tax deduction for the month.
  - ii. The website was used in furtherance of only exempt supplies and thus constitutes imported service. Imported service taxes payable for the month:

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	GH¢	GH¢
Cost (Exclusive of taxes)		50,000.00
NHIL @ 2.5% (50,000*2.5%)	1,250.00	
GETFund Levy @ 2.5% (50,000*2.5%)	1,250.00	
Covid-19 Health Recovery Levy @1% (50,000*1%)	<u>500.00</u>	<u>3,000.00</u>
Taxable Value		<u>53,000.00</u>
VAT @ 12.5% (53,000*12.5%)	-	<u>6,625.00</u>
Total taxes payable (1,250 + 1,250 + 500 + 6,625)		<u>9,625.00</u>

b) Partially exempt taxpayer (attributable portions known)

- i. ABC Ltd is not entitled to input tax deduction for the month because the website was utilised to make taxable supply. However, the 10% that was used in the sale of newspapers (which is an exempt supply) will constitute imported service. The taxes payable thereon are computed as follows:

	GH¢	GH¢
Cost attributable to exempt supply (10% * 50,000)	5,000.00	
NHIL @ 2.5% (5,000*2.5%)	125.00	
GETFund Levy (5,000*2.5%)	125.00	
Covid-19 Health Recovery Levy @1% (5,000*1%)	<u>50.00</u>	<u>300.00</u>
Taxable Value		<u>5,300.00</u>
VAT @ 12.5% (5,300*12.5%)		<u>662.50</u>
Total taxes payable (125 + 125 + 50 + 662.50)		<u>962.50</u>

ii. Partially Exempt taxpayer (attributable portions not known)

The ratio of exempt supplies to total supplies:

Total supplies: 1,000,000

Exempt supplies: (1,000,000 – 700,000) = 300,000

Total cost of website = 50,000

Therefore, cost attributable to exempt supplies:

$(300,000/1,000,000) * 50,000 = 15,000$

	GH¢	GH¢
Cost attributable to exempt supply		15,000.00
NHIL @ 2.5% (15,000*2.5%)	375.00	
GETFund Levy @2.5% (15,000*2.5%)	375.00	
Covid-19 Health Recovery Levy @1% (15,000*1%)	<u>150.00</u>	<u>900.00</u>
Taxable Value		<u>15,900.00</u>
VAT @ 12.5% (15,900*12.5%)		<u>1,987.50</u>
Total taxes payable (375 + 375 + 150 + 1,987.50)		<u>2,887.50</u>

- c) ABC Ltd is not entitled to input tax deduction for the month, and is also not required to account for taxes on imported service because the website was exclusively used for the sale of exercise books (taxable supply).

#### 4.5 Supply of Electricity from the domestic market to a Free Zone Developer or Enterprise

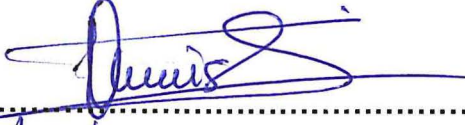
The supply of electricity to a FZD or FZE is supply of goods. However, due to its unique nature, the following requirements should apply in zero-rating the supply:

- a) The FZD or FZE should Purchase Form 9B from the GFZA Secretariat.
- b) The form should be filled indicating the meter number and payment point.
- c) GFZA then writes to the Commissioner-General to authorize the zero-rating of the supply. The GFZA letter should attest:
  - i. to the FZD's or FZE's good standing,
  - ii. that the meters are located within the free zone.

**Note: The authorization to zero-rate is granted annually.**

**4.6 Supply of utilities from a Free Zone Developer or Enterprise to the domestic market**

The purchase of utilities from an FZD or FZE by a domestic recipient is an import of goods, hence the requirements under 4.2 should apply.

Signed .....  


Date .....  
*09/10/21*

**Ammishaddai Owusu-Amoah  
Commissioner-General**