



**Strathmore**  
UNIVERSITY

**SCHOOL OF LAW**  
**MASTER OF LAWS**  
**JANUARY MODULE EXAMINATION**  
**LLM 8502: VALUE ADDED TAX (VAT)**

**DATE: Friday 22<sup>nd</sup> March**

**Time: 2 Hours**

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**Instructions**

1. Question **ONE** is **COMPULSORY**
2. Answer any other **THREE** Questions

**Question 1**

- a) The Government in the 2018/2019 has recently changed the status of Bread from a standard rated VATable Supply to a zero- rated supply. The common Mwananchi is complaining that the status should be changed to an exempt supply. With the use of a practical examples (use numbers) demonstrate to the common Mwananchi the impact each status has on the price of bread and which VAT status is beneficial to him?

(10 Marks)

- b) Explain the difference between the Destination Principle and the Origin Principle and the impact they have on VAT consequences. Most tax systems follow the Destination principle? Why is this? Are there any VAT Developments that would result into Countries moving from the application of the Destination Principle to the Origin principle?

(10 Marks)

- c) Your Company has been contracted by the foreign Parent Company to market its products in Kenya, provide IT support in instances where IT products are faulty and engage in consumer education on the benefits of these products. Your Company then bills the foreign parent company on a cost-plus basis and treats this sale as a zero-rated supply. The Revenue Authority has challenged the VAT treatment and insists that the use and consumption of these services is in Kenya and thus the cost recharge should be subject to VAT at 16%. With the help of decided cases, argue for the Company or the Revenue Authority in supporting the zero-rate OR standard rate VAT status.

(10 Marks)

## **Question 2**

- a) A popular argument against Value Added Tax is that it is not progressive that is, it is not based on the taxpayer's ability to pay. Can VAT and Excise taxes be made progressive? (5 marks).
- b) What is a deemed supply? With the help of decided cases, discuss the VAT treatment of demand supplies and rationale. (5 Marks).

## **Question 3**

- a) It is said that in life, we do not get what we deserve, we get what we negotiate for. Managing Tax Audits successfully require significant engagements with Revenue Authorities and leveraging on relationships. Explain the different stages of a Kenya Revenue Authority Audit and how you would manage the same in order to ensure that you close on most issues before issuance of an Audit Assessment. (5 Marks)
- b) Alternative Dispute Resolution (ADR)**  
Briefly explain the ADR process and its benefits to both the Kenya Revenue Authority and the Tax Payer. (5 Marks)

## **Question 4**

- a) The nature of indirect taxes is that they lack the visibility of direct taxes making it very difficult to tax plan around them. Most companies rely significantly on Enterprise Resource Planning (ERP) systems to generate output for indirect tax purposes. If not properly managed, this may result to tax non-optimization or penalties for non-compliance. Provide 3 tax planning opportunities for VAT purposes (5 marks)
- b) Outline three circumstances under which VAT can be refunded and highlight two items that fall under the category input VAT not claimable under the VAT Act 2013. (5 Marks)