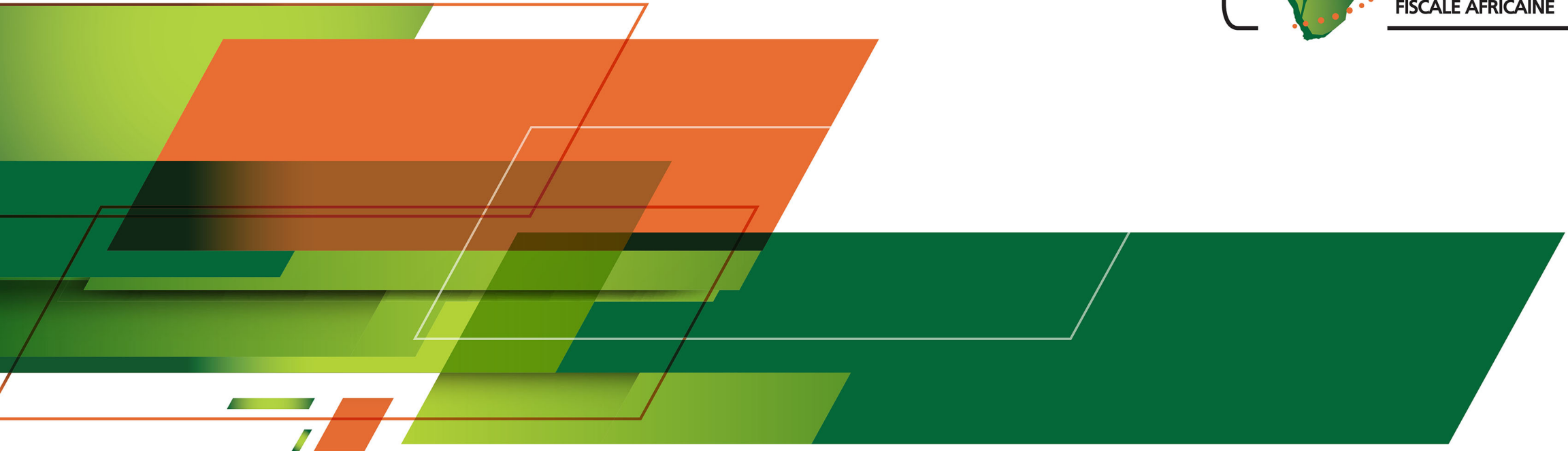




AFRICAN TAX
ADMINISTRATION FORUM

FORUM SUR
L'ADMINISTRATION
FISCALE AFRICAINE



VAT CONSIDERATIONS IN THE DIGITAL ECONOMY AND CROSS BORDER TRANSACTIONS



Introduction



- Entities are now able to scale their business across various countries without a physical nexus in those countries.
- The ability to scale a business across different countries without a physical nexus is enabled using the internet to initiate and conclude transactions involving the physical and non-physical supply of goods and services. This is generally referred to as the Digital Economy.
- The dynamic nature of the digital economy and the advent of various business models has been a point of continuous discussions and research for tax administrators as it presents a risk for the revenue base while creating an opportunity for improved revenue mobilization.



Digital Economy



Digital Economy

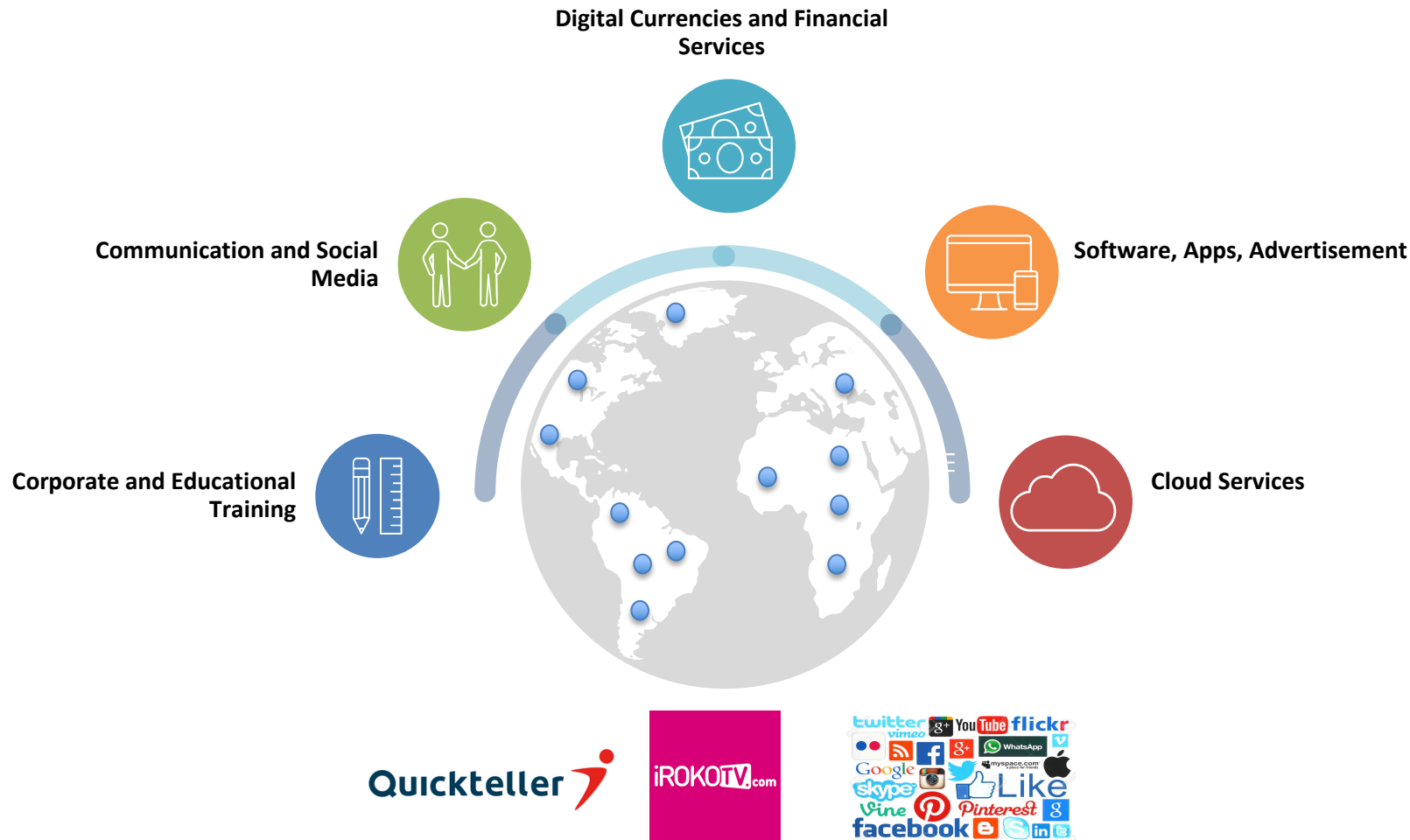
Risks

- Lack of visibility on transactions to determine VAT accruable
- Lack data integrity for assessment of VAT
- Late and /or poor remittance of VAT
- Inaccurate calculation of VAT
- Recurrent fraud and revenue leakages

Opportunities

- Expansion of tax base
- Technological advancement in revenue collection – Automation
- Domestic Revenue Mobilization
- Review and amendment of the extant laws to bring them up to date with the current environment.

Digital Goods & Services



- Scale to Mass: These entities have the ability to make supplies across jurisdictions without physical movement of supplies or need to have nexus in the jurisdiction of supply.
- Supply can be consumed on various devices or location at any point in time once there is connectivity. Mobility in consumption.
- Payments are made online using debit/credit cards, bank transfers or eWallet.



Online Transactions

Domestic

Cross Border

Supply of Goods



Companies are registered under jurisdiction's law therefore should comply with the extant laws/rules and can be effectively enforced.



Issue: How do we effectively improve VAT collection on Imports especially for B2C.

VAT: Extant Laws & Rules i.e. VAT invoicing, collection and remission by supplier, VAT on import at the border of entry, etc.

Supply of Services



Companies are registered under the jurisdiction's law therefore should comply with the extant laws/rules and can be effectively enforced.



Issue: How to effectively tax cross border supply of intangibles through the internet.

Where company has no physical presence and is not registered for tax in the jurisdiction that the supply is consumed.

VAT on Cross Border Supply of Digital Services



Not a New Tax

VAT on cross border supply of digital services is not a new tax but the implementation of VAT compliance rules and processes suitable for digital services.

New Compliance Regime

The new compliance regime is focused on consistency of rules and ease of compliance. It addresses the areas of compliance that may create challenges in adhering to the principles of VAT thus providing clarity and tax certainty.

Scope of VAT

Place of Supply

Collection Mechanism

Administrative Processes

These are the core areas that needs to be made effective for implementation of the compliance regime for cross border suppliers of digital services.

VAT Administration for Digital Economy – VAT Scope



Tax Base

Are digital services within the scope of VAT?

Definition of Goods & Services

- Does the current definition cover all possible forms and substance that may be possible in online transactions e.g.
 - Intangible goods
 - Supply of Rights vs Services

Suggested Approach

- Definitions of goods and services should be encompassing in scope in line with the VAT principle of wide base while being unambiguous
- Exceptions to the base should be through an exemption schedule
- Intangible goods should be covered in the definition of services not goods to avoid inconsistency in application of place of supply rules



Place of Supply Rules

Is the implementation of destination principle based on place of consumption effective or does it limit the scope of VAT on digital services?

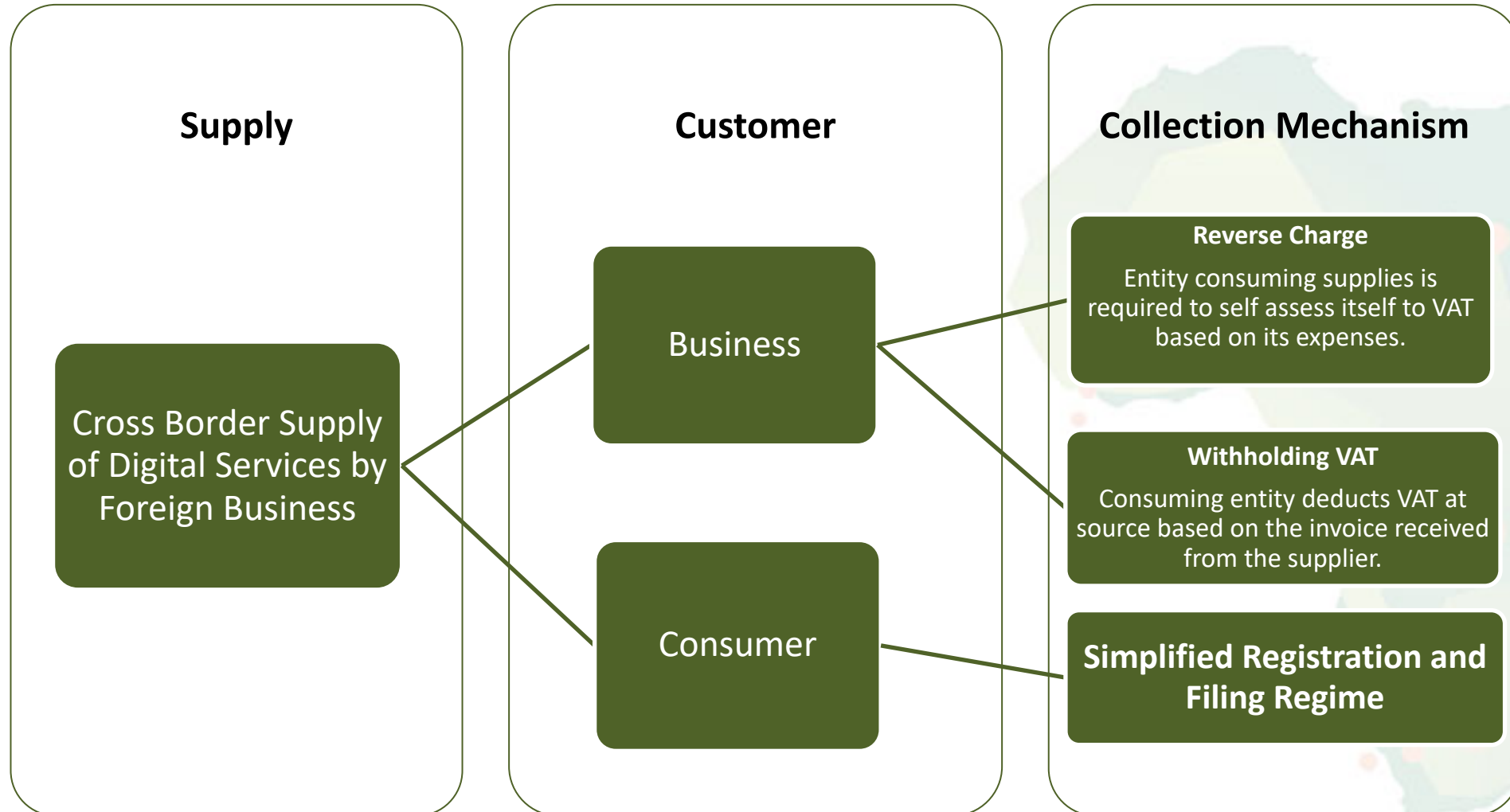
Challenges with Place of Consumption

- Digital services have high mobility in use thus the supply of a digital service can be consumed across multiple jurisdictions simultaneously or while in transit.
- No physical presence or interaction between supplier and customer thus had to tell final place of consumption or physically enforce

Suggested Approach

- Place of residence as proxy for place of consumption
- Set clear indicators for determining place of residence
- The indicators should be information foreign suppliers easily obtain from normal business processes or can obtain without material disruption to operations

Collection Mechanism



Simplified Compliance Regime for Foreign Suppliers in B2C Transactions



Registration

- Simplified Registration regime for foreign suppliers without fixed base/permanent establishment in the jurisdiction
- Registration done online and accessible remotely

Filing

- Simplified Returns Filing regime through an efficient online system for foreign suppliers registered under the simplified registration regime
- Simplified returns that contains basic information to determine the total VAT accruable on the foreign supplies into the jurisdiction by the foreign entity.

Payment

- Provision of effective digital channels for payment will ease compliance
- Ease of compliance will be enhanced by allowing payment in the currency of transaction.



Administrative Processes



Communication

Digital and Effective

- Availability of digital channels for communication between foreign supplier and tax authorities
- Effective channels for response to enquires for both technical, administrative and technology issues

Taxpayers Identification

Integrity and Accessibility

- Integrity of taxpayers identification database
- Availability to foreign suppliers of access to the database for the identification of VAT status (B2B or B2C) of customer for the application of the relevant collection mechanism

Dispute Resolution

Accessible, Fair and Efficient

- Effective channels for dispute resolution on technical VAT issues with regards to interpretation of legislation, administrative obligations, VAT payable, etcetera.
- Preferably use of digital channels e.g. acceptance of emails as official communication



Next Steps for African Countries



Stakeholders
Engagement and
Consultation

Provision of Enabling
Legal Frameworks

Provision of Necessary
Infrastructure

Development of
Relevant Guidelines
and Implementation of
Stakeholders
Enlightenment

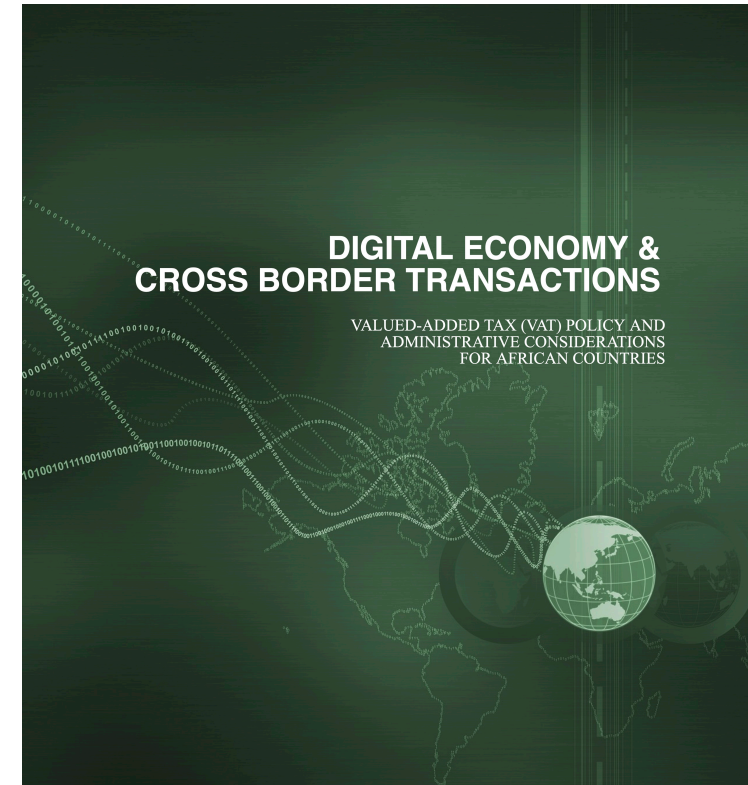
Sustain or improve the
Efficiency of the VAT
System



ATAF Guideline



- ATAF suggested approach(es) are in line ***International Best Practice*** to facilitate ***Consistency and Ease of Compliance***
- ATAF has included VAT on digital services as part of the technical assistance being provided to its members
- ATAF is collaborating with the OECD and World Bank to produce a detailed VAT toolkit on digital services for African countries



An ATAF Publication





More Information



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