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EXPLORING THE LEGAL CHALLENGES IN IMPLEMENTING SMART INVOICING AND DIGITAL TAX COMPLIANCE IN ZAMBIA: A CASE STUDY OF VAT AND E-COMMERCE TRANSACTIONS

By:

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2025

DECLARATION

It is my declaration that this dissertation entitled **EXPLORING THE LEGAL CHALLENGES IN IMPLEMENTING SMART INVOICING AND DIGITAL TAX COMPLIANCE IN ZAMBIA: A CASE STUDY OF VAT AND E-COMMERCE TRANSACTIONS** which I hereby submit in partial fulfillment of the requirement for the award of a Bachelor's Degree at the University of Lusaka is my researched work and has not been previously submitted for the award of a degree at this University or any other Institution to the best of my knowledge.

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I recommend that this dissertation prepared under my supervision by the student Maluba Monze entitled **EXPLORING THE LEGAL CHALLENGES IN IMPLEMENTING SMART INVOICING AND DIGITAL TAX COMPLIANCE IN ZAMBIA: A CASE STUDY OF VAT AND E-COMMERCE TRANSACTIONS** be accepted for examination. I have thoroughly checked it carefully and I'm pleased to say that I am satisfied that it fulfills the requirement pertaining to the format laid down in the regulations governing directed research and should hereby be considered.

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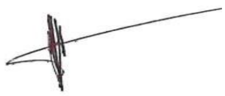

2025

DEDICATION

I, with all my being dedicate this dissertation to my mother Mrs. Patricia Kaliya Monze, siblings Mr. Sidney M. Monze and Ms. Mutinta Monze (Dr.) whose huge financial support, prayers and encouragement made it possible for me attain the knowledge in in the field of Law, which I always admired from afar. Special gratitude goes to my father Mr. Edgar Monze, and other siblings Mr. Milimo Monze, Ms. Luyando Monze, and Mr. Mike Monze you were all there for me and I thank you immensely.

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"THE DREAM HAS MANIFESTED"

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ABSTRACT

This research explored the legal challenges associated with implementing smart invoicing and digital tax compliance in Zambia, focusing more specifically on Value Added Tax (VAT) and e-commerce transactions. It examined the rationale for transitioning from the long practiced traditional paper-based invoicing into real-time electronic invoicing system, which was made mandatory by the Value Added Tax (Amendment) Act No. 27 of 2023 and further operationalized through the VAT (Electronic Invoicing System) Regulations and Statutory Instrument No. 58 of 2023. By use of qualitative legal analysis, the study assessed the coherence, enforceability, and practical implications of the existing legal framework, including related statutes such as the Electronic Communications and Transactions Act No. 21 of 2009 inclusive the Data Protection Act No. 3 of 2021. The findings rather revealed several challenges, namely, fragmented legislation, inadequate provisions for small and medium enterprises (SMEs) and informal digital traders, limited guidance on data privacy and cybersecurity, and challenges in enforcing cross-border digital VAT obligations. Well despite the potential benefits smart invoicing encompasses, like enhanced revenue collection, transparency, and auditability, these legal and operational constraints undermined effective compliance and equitable enforcement. The research study further recommended harmonizing existing legislation, introducing platform liability mechanisms, providing capacity-building support for SMEs, and strengthening data protection measures to ensure a balance between fiscal objectives and taxpayer rights. This research contributed to the understanding of digital fiscalization in developing economies and offered practical policy and legal interventions to enhance the effectiveness of electronic VAT compliance in Zambia as a whole.

CHAPTER ONE

1.0 GENERAL INTRODUCTION

In recent years, Zambia Revenue Authority (ZRA) has undertaken a transformative and progressive journey towards the digitalisation of its tax administration system, particularly in the realm of Value Added Tax (VAT). Central to this effort is the introduction of the Smart Invoice System (electronic invoicing) by ZRA, a significant digital transformation of its Value Added Tax (VAT) system, designed to modernise tax administration, enhance and improve revenue collection, and curb tax evasion through real-time electronic invoicing (e-invoicing).

The Smart Invoice initiative was officially launched on 19 March 2024, under the leadership of the Minister of Finance and National Planning, in collaboration with Rwanda aligning with South-Africa cooperation models aimed at fast-tracking e-invoicing capabilities.[1] It's legal foundation was laid through **Statutory Instrument No 58 of 2023** issued under the **Value Added Tax (Amendment) Act No 27 of 2023** and become effective on 1 July 2024.[2]

Under the new legal framework, all VAT-registered taxpayers are required to issue invoices through one of the four approved platforms namely; (i) a mobile application, (ii) a web-based portal, (iii) a desktop application, or (iv) an integrated ERP systems connected via a Virtual Sales Data Controller (VSDC).[3]The grace period for compliance extended until 30 September 2024, after which penalties and denial of input VAT claims began to apply from 1 October 2024 and January 2025, respectively.

While institutions like the Industrial Development Corporation (IDC) have lauded the system as a forward thinking initiative that enhances and streamlines tax compliance, boosts VAT collection, reduces tax evasion and enhances revenue integrity and

[1]Statutory Instrument No 58 of 2023 [Zambia], Value Added Tax (Amendment) Act No 27 of 2023

[2] Ministry of Finance and National Planning, Zambia. (2024, March 19). Launch of the Smart Invoice initiative in partnership with Rwanda. Lusaka, Zambia.

[3] Zambia Revenue Authority, 'Implementation Guidelines on Smart Invoicing' (2024) https://www.zra.org.zm accessed 11 August 2025.

transparency,[4] civil society groups have raised concerns about the system's affordability (that the system is expensive and adds to the already heavy burden of licenses, fees, and taxes for SMEs in the current economic climate), infrastructural limitations such as electricity load-shedding, and the high cost of doing business, which impair the ability of small and medium enterprises (SMEs) to effectively use the system.[5]

It is submitted that most SMEs may be unable to bear the cost of acquiring the appropriate devices, reliable internet service, software, or even adequate electricity to comply with the demands of e-Invoicing. This position is substantiated by many stakeholders such as Action Aid 2024, who stated that SMEs view Smart Invoicing as costly and difficult to adopt, especially amid infrastructural challenges.

The cost of doing business in Zambia is high and imposing e-invoicing on SMEs in its current form without incentives or adequate technical and financial support could drive small enterprises into further into distress rather than bringing them into compliance. Some studies have shown that the cost of tax compliance significantly affects SME compliance behaviour, due high compliance costs often leading to avoidance or informalisation of business operations[6]. Similarly, research in other developing countries demonstrates that SMEs face barriers such as limited technological readiness, system integration challenges, and infrastructural limitations when adapting to digital invoicing systems[7]. Evidently, studies from Rwanda further indicated that while e-invoicing improved VAT collection, the gains were largely attributed to enhanced audit efficiency rather than increased voluntary compliance[8].In contrast to the Zambian context, empirical findings reveal that SMEs continue to face high tax

[4] Industrial Development Corporation (IDC), 'IDC supports digital VAT reforms for enhanced compliance' (Press Statement, 2024) https://www.idc.co.zm accessed 11 August 2025.
[5] Civil Society for Poverty Reduction, 'Position Paper on Smart Invoice and its Impact on SMEs' (2024)
[6] Bruce-Twum, A. (2023). *The Impact of Tax Compliance Costs on SME Tax Behaviour in Ghana*. *Journal of Accounting and Economics Policy and Practice* (Vol. 5, Issue 2).
[7] San, L. Y., et al. (2025). *E-Invoicing Implementation and Its Challenges to Small and Medium-Size Enterprises in Malaysia: A Conceptual Paper. International Journal of Research and Innovation in Social Science* (Vol. IX, Issue III).
[8] Karangwa, C., et al. (2024). *E-Invoicing, Tax Audits and VAT Compliance: Evidence from Rwanda*. *Barcelona School of Economics Working Paper Series*.

burdens and complex filing procedures that deter compliance[9]. In addition, local economic analysts have cautioned that the rapid rollout of the Smart Invoice System without supportive mechanisms risks disenfranchising SMEs and broadening inequalities between large corporations and small enterprises[10]. Which without targeted incentives such as tax credits, subsidies, or extended compliance timelines, the e-invoicing regime could undermine the principles of tax equity and voluntary compliance thereof.

This study takes the view that infrastructure limitations such as load shedding and unreliable internet connectivity directly impact the reliability of e-invoicing and that compliance will require real-time data transmission. The current load shedding and poor internet connectivity factors are unable to consistently support real time data transmission.

Businesses are likely to be left vulnerable to hefty penalties for noncompliance even if efforts to comply are made. It is argued that without proper incentives and/or adequate infrastructural support, the enforcement of e-invoicing will amount to undue punishment of businesses especially those such as SMEs and consequently this will damage the trust in the tax system and could breed resistance and/or tax avoidance by tax payers in the near future.

Moreover, the growth of e-commerce transactions in Zambia, which are often conducted informally on platforms like WhatsApp, Facebook and Instagram, pose additional legal and practical complications, given the limited regulations, infrastructure gaps, and low consumer trust build.[11] It is then safe to say that the advent of digital VAT reforms thus intersects with broader challenges of then incorporating informal digital commerce into a formal tax and legal framework.

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[9] Thabani, M., & Mwale, G. (2024). *Determinants of Tax Compliance Among Small and Medium Enterprises in Lusaka, Zambia*. *Journal of Accounting and Corporate Compliance*, *Caritas University Journals*.

[10] Chisanga, B. (2025, 6 May). *Zambian Economic Analyst Warns Current Tax Implementation Models May Disenfranchise SMEs*. *Efficacy News Africa*.

The position also taken in this study is that the current **Value Added Tax (VAT) Act** and its related laws do not explicitly regulate cross-border digital services or informal digital commerce, nor do they impose obligations to abide fully to tax laws on online platforms such as Facebook Marketplace, Instagram, and TikTok. This is because the VAT Act lacks definitions for "digital services," "electronic commerce," or "digital marketplace," and primarily contemplates the taxation of goods and services supplied within Zambia's territorial jurisdiction[12].

Under section 7 of the VAT Act, a supply is taxable only where the supplier is a taxable person carrying on business in Zambia, thereby excluding non-resident digital platforms that have no physical or commercial presence in the country a serious omission[13]. Besides that, the Act in itself does not contain a reverse-charge or place-of-consumption rule to capture VAT on foreign-supplied digital services, leading to significant tax leakage on cross-border digital transactions such as online advertising or content streaming.[14] To add on, Informal online traders operating through social media platforms also remain outside the Smart Invoicing system, as it applies only to VAT-registered taxpayers capable of issuing invoices through approved channels[15].

Besides that, the VAT Act does not deem online platforms as withholding agents or "deemed suppliers," unlike other jurisdictions such as Kenya, South Africa, and Tanzania, who have introduced specific legal provisions requiring non-resident digital service providers to register and remit VAT. As a consequence, although Zambia has introduced Smart Invoicing to modernise domestic VAT compliance, the legal framework remains largely analogue and still fails to address the taxation of the fast-growing digital economy, leaving a substantial portion of cross-border and informal

[12] *Value Added Tax Act*, Cap. 331 of the Laws of Zambia (as amended by *Value Added Tax (Amendment) Act No. 27 of 2023*).
[13] Section 7, *Value Added Tax Act*, Cap. 331 of the Laws of Zambia.
[14] Organisation for Economic Co-operation and Development (OECD), *International VAT/GST Guidelines on the Place of Taxation for Cross-Border Supplies of Services and Intangibles* (OECD, 2017).
[15] *Statutory Instrument No. 58 of 2023*, *The Value Added Tax (Electronic Invoicing) Regulations*, issued under the *Value Added Tax (Amendment) Act No. 27 of 2023*.

digital commerce outside the tax net thereby losing out substantial revenue till date and continuing[16].

It is further submitted that many informal traders lack the skills, devices and/or consistent access to electricity and/or internet to use e-invoicing systems effectively and as such expecting informal traders to use e-invoices without first addressing these constraints is impracticable. The author further takes the view that most informal businesses in Zambia prefer and operate on platforms like WhatsApp, Facebook, Instagram, TikTok etc without business registration, tax identification numbers, or formal accounting systems. However, the e-invoicing system is designed for registered VAT taxpayers who are able to issue tax invoices in real-time in an integrated system. The implication is that the lack of legal obligations and technical mechanism for informal digital sellers to comply makes them invisible to the tax system.

In most jurisdictions, digital platforms such as Facebook or online marketplaces are required by law to collect or report VAT on behalf of sellers. Zambia currently lacks such legislation. Therefore, the author argues that informal sellers can continue to operate outside the formal system while competing with registered businesses, leading to unfair competition and revenue loss.

This dissertation argues that incentives for informal sellers to register voluntarily for e-invoicing are non-existent and as such formalisation can be perceived as bringing additional burdens including additional taxes, fees and regulation without visible benefits such as credit access, market access and protection of taxpayers. Thus, in the absence of proper incentives or tailored compliance tools such as the presumptive tax schemes or simplified VAT, voluntary compliance will remain low.

Despite its good intentions, ZRA lacks the appropriate mechanisms (tools), data-sharing agreements and the technological capacity to track informal digital sales in real time especially in circumstances where transactions are conducted over encrypted messaging platforms or peer-to-peer payment applications. The implication

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[16] African Tax Administration Forum (ATAF), *Technical Note on the Taxation of the Digital Economy in Africa* (2021), pp. 7–9.

of this finding is that enforcement in such situations is costly, intrusive, and/or often ineffective without proper legislative and technological support put in place.

In Zambia there is a noticeable gap in its current VAT legal framework, i.e. the absence of explicit provisions regulating the taxation of cross-border digital services and informal digital businesses. While the Value Added Tax Act (Cap. 331) does govern general goods and services, it fails to clearly define or enforce VAT obligations for digital platforms, e-commerce transactions, and/or informal online traders, particularly those operating across borders without a physical presence in Zambia.[17] The Act also further omits a reverse-charge or place-of-consumption rule, meaning that foreign-supplied digital services consumed locally escape taxation without consequence[18]. Not only that, it imposes no obligations on online platforms to register, collect, and/or remit VAT, and informal digital traders remain outside the scope of the newly introduced electronic invoicing requirements. In order to close this gap, future policies should consider amending the VAT Act to include clear provisions governing the supply and taxation of digital services, digital marketplaces, and non-resident electronic platforms. In furtherance, the Government should also introduce platform liability legislation which will require online platforms such as Facebook Marketplace, Instagram Shops, and TikTok to report seller activity, collect VAT at source, and/or facilitate the registration of digital traders with the Zambia Revenue Authority. Additionally, Digital Services Tax Act (DST) could be enacted to ensure that revenues from cross-border digital service providers operating without a physical presence in Zambia are effectively captured and taxed. These measures would address the current regulatory deficiencies and align Zambia's tax framework with emerging international best practices for digital economy taxation.

It is proposed that the government introduce simplified tax regime for informal digital businesses, with minimal compliance requirements such as a flat tax rate and/or simplified return. It can also introduce a tiered compliance model where large

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[17] *Value Added Tax Act, Cap. 331 (Zambia)*. (Zambia Laws)
[18] Organisation for Economic Co-operation and Development (OECD), *International VAT/GST Guidelines on the Place of Taxation for Cross-Border Supplies of Services and Intangibles* (2017).

businesses should comply fully with e-invoicing whilst allowing SMEs explore and/or adopt a more gradual supported onboarding or alternative mechanisms.

The government can also offer incentives such as temporary tax amnesties, reduced penalties, start-up tax exemptions for first-time registrants, access to micro-loans, digital marketing support and/or government procurement opportunities for registered digital businesses.

The government can seek to explore partnerships with civil society organisations (CSOs), relevant business group and/or telecommunication companies to deliver domestic, local digital literacy training and provide low-cost invoicing applications adapted to mobile phones and further use community radio, WhatsApp groups, and social media influencers to help raise the much-needed awareness about the benefits of e-invoicing and tax compliance.

It was submitted that power outages, poor connectivity, and lack of devices directly hinder e-invoicing adoption. It is proposed that ZESCO and telecommunication companies can be encouraged to prioritise SME hubs and markets for power reliability and broadband expansion, provide affordable or subsidised e-invoicing kits, especially for mobile-based invoicing, through public-private partnerships and promote offline-compatible invoicing systems that can sync data once connectivity is restored.

The author submits that a one-size-fits-all rollout may overwhelm SMEs and small traders. This argument is supported by Chisala (2022) who stated that e-filing systems are often not user-friendly and overload users, delaying compliance. The government can introduce a rollout plan with differentiated and transitional deadlines based on business size and readiness and can also establish a multi-stakeholder advisory group, which can include ZRA, CSOs, SMEs, tech firms to co-design inclusive implementation strategies and troubleshoot challenges in real-time.

1.1 BACKGROUND OF THE PROBLEM

The ***Value Added Tax (Amendment) Act, 2023 (Act 27 of 2023)*** introduced a transformative revision to Zambia's VAT legal framework, formally replacing the term “electronic fiscal device” with “electronic invoicing system”. This marked a pivotal shift towards mandatory digital invoicing. The Act came into force on 1 January 2024**.** Prior to the amendment of Act No. 27 of 2023, the VAT Act relied on Electronic Fiscal Devices (EFDs) and paper-based invoicing systems that were susceptible to manipulation, non-reporting or underreporting of revenue. Taxpayers could easily issue parallel or fake invoices, leading to widespread VAT fraud, evasion, and under-collection. It is thus argued that the provision of the VAT Act then did not provide for real-time invoice verification or digital data transmission, which are essential in modern tax systems.

Although ZRA historically relied heavily on self-declared VAT returns and post-filing audits, it is legally empowered under the Zambia Revenue Authority Act, Cap. 322 to enforce compliance. Section 6 of the Act vests the Commissioner-General with authority to administer and enforce all revenue laws, including the power to require information, inspect records, and conduct audits[19]. Furthermore, sections 29–31 grant ZRA the right to access books, accounts, and documents of any taxpayer, and to summon persons for information relevant to assessing tax liabilities[20]. These powers mean that ZRA has legal authority to detect under-reporting or fraud, even if practical limitations such as infrastructure, staffing, or digital systems historically slowed real-time monitoring. In other words, the limitation was not a lack of legal authority but operational capacity, which the Smart Invoicing System seeks to address by enabling real-time reporting of sales transactions.

The VAT Act then, did not define or authorise electronic invoicing systems as valid methods for issuing tax invoices and as such even though some taxpayers had the technical capacity to use e-invoicing, there was no legal basis to transition from paper or EFDs to e-invoicing solutions. The gap made it challenging to administer modern VAT controls like the Smart Invoice System.
It is observed that the VAT Act was not well integrated with other relevant legislations such as the Electronic Communications and Transactions Act, 2009. The Income Tax

[19] **Legal authority exists** – ZRA does not require additional statutory powers to enforce VAT; the Commissioner-General’s office already confers these powers.
[20] **Operational challenges vs. legal gaps** – The issue is practical enforcement (e.g., lack of real-time systems, resource constraints), not legal incapacity.

legislation, the Data protection and cyber laws. The legal fragmentation made it hard to enforce tax obligations related to online or digital commerce, especially around privacy, data-sharing, and electronic signatures. While the Zambia Revenue Authority Act (Cap. 322) vests the Commissioner-General with broad powers to inspect records, summon taxpayers, and enforce tax obligations, the enforcement of VAT in the context of online and digital commerce is hampered by legal fragmentation. Laws such as the Data Protection Act No. 3 of 2021 limit how personal and commercial data can be accessed and shared, meaning that even with inspection powers, obtaining transaction data from platforms like Facebook, Instagram, or TikTok may be legally constrained. Similarly, the Electronic Communications and Transactions Act No. 21 of 2009 sets standards for electronic signatures and digital records, creating uncertainty about whether online invoices and platform-generated sales data can be treated as legally valid evidence for VAT assessments. Furthermore, the ZRA Act provides no explicit mechanisms to compel foreign-based platforms to disclose data or remit VAT, leaving cross-border digital transactions largely outside practical enforcement. Thus, although the Commissioner-General is legally empowered, these overlapping legal frameworks create structural and procedural barriers that significantly limit the effective enforcement of VAT in the digital economy.

Cross border digital services such as, Netflix, Amazon, Facebook were not expressly governed under the Zambian VAT net. The government missed out on significant potential VAT from cross-border digital services. Platform liability or third-party obligations such as requiring digital platforms to withhold or collect VAT at source were not regulated in the VAT Act. A growing segment of Zambia's digital economy especially informal commerce on WhatsApp, Facebook, Instagram remained untaxed and unregulated. This led to revenue loss, non-compliance, and unfair competition with formal businesses

The penalty structure under the VAT Act was not tailored to digital manipulation, such as use of ghost software or fake e-invoices. Thus, enforcement was weak, and the legal tools to prosecute digital fraud or unauthorised digital platforms were limited or unclear.

The **Value Added Tax (Amendment) Act, 2023 (Act 27 of 2023)** achieved the following;

(i) Replaced references to electronic fiscal devices" with electronic invoicing systems;
(ii) Defined e-invoicing legally and gave ZRA authority to administer digital invoice issuance;
(iii) Introduced Statutory Instrument No. 58 of 2023 to operationalise smart invoicing;
(iv) Set hefty penalties for noncompliance and transitional deadlines for mandatory compliance; and
(v) Laid foundation for real-time tax monitoring and modern tax enforcement.

Under the amended [21]***VAT Act (Chapter 331)***, a **"electronic invoicing system"** is defined broadly to include any software or web-based application capable of generating, storing, and transmitting fiscal data to the Zambia Revenue Authority (ZRA) in real time ***Subsections 7(3) and 7A***[22] of the Act now requires that all taxable suppliers use such a system to issue tax invoices and record transactions. The penalties for non-compliance are severe, potentially reaching 300,000 penalty units or imprisonment for repeated offenses.

Further solidifying the legal framework, the [23]***Value Added Tax (Electronic Invoicing System) Regulations (Statutory Instrument No. 58 of 2023)*** were promulgated to operationalise the amendment, making the Smart Invoice System mandatory from 1 July 2024**.** This system replaces traditional fiscal devices and aims to improve tax transparency and compliance. To facilitate implementation, the ZRA issued ***Practice Note No. 2 of 2024***[24] on 19 June 2024, offering guidance on transitioning to the Smart Invoice System. SI No. 58 of 2023 provides a comprehensive regulatory framework that includes authorised e-invoicing platforms such as mobile applications, web portal, desktop, ERP; requirements for invoice formats, technical standards, rules for

[21] Value Added Tax Act**, C**hapter 331 of the Laws of Zambia
[22] Ibid9
[23] Value Added Tax (Electronic Invoicing System) Regulations (Statutory Instrument No. 58 of 2023
[24] Practice Note No. 2 of 2024

onboarding taxpayers and ZRA's administrative role in compliance monitoring to ensure a tiered, standard, and enforceable implementation process.

Smart Invoicing platforms such as web, mobile, desktop, ERP can now be connected to ZRA via a Virtual Sales Data Controller (VSDC), enabling real-time invoice data submission and verification of invoice data, automated audit trails, and early detection of errors or non-compliance. It is submitted that the transformation enables a more proactive tax enforcement approach and audit model rather than reactive enforcement approach and audit model.

The amendment introduced a stricter enforcement mechanisms, which includes penalties of up to 300,000 penalty units, or imprisonment for repeated non-compliance and denial of input VAT claims for non-compliant invoices (effective from January 2025). It is submitted that this gives ZRA a stronger mechanism to enforce tax compliance.

Despite these legal provisions, implementation has not been seamless. The Zambia Institute of Chartered Accountants (ZiCA) reported recurring system glitches, delays, and increased administrative burdens on businesses since the system became operational on 1 October 2024. Meanwhile, ActionAid Zambia voiced serious concerns from SMEs, who argued that the system imposes excessive costs and is impractical amid frequent power outages and the high cost of doing business. They urged phased implementation, capacity building, and infrastructural support.

While Act No. 27 of 2023 made significant reforms, the amendment did not expressly resolve VAT regulation and enforcement of cross border digital services such as Netflix, Facebook, Instagram etc. and informal digital commerce. The amendment did not align with data protection laws. The amendment did not bridge infrastructure and affordability gaps for SMEs. These challenges present opportunities for further legal and policy reform, especially around platform liability, simplified digital tax regimes, and e-commerce-specific legislation.

1.2 STATEMENT OF THE PROBLEM

As Zambia moves towards digitalising its tax administration, the introduction of smart invoicing and electronic tax compliance tools has become a strategic priority, particularly for enhancing Value Added Tax (VAT) collection. However, the legal and regulatory framework has not kept pace with rapid evolution of digital commerce and technological innovation. Existing tax laws, including the VAT Act and ***Electronic Communications and Transactions Act***[25] contain significant gaps addressing the complexities of e-commerce transactions, cross-border digital services, and the enforcement of the electronic invoicing. Many VAT- registered business, especially in the informal and SME sectors, face challenges in complying due to limited digital infrastructure, legal ambiguity, and inadequate guidance.

Additionally, there is no clear legal mandate for digital platforms to collect or remit VAT on behalf of vendors, creating loopholes that reduce tax efficiency and revenue mobilization. Without a robust and updated legal foundation, Zambia risks underutilizing the potential of smart invoicing, losing valuable tax revenue, and creating compliance burdens that could undermine trust in the tax system.

1.3 RESEARCH OBJECTIVES

1.3.1 Main Objectives

To examine the legal and regulatory framework governing smart invoicing in Zambia**,** including ***the Value Added Tax (Amendment) Act, 2023 (Act 27)***[26]***, Chapter 331 of the VAT Act***[27], and SI No 58 of 2023[28] and assess the operational realities and challenges associated with implementation**,** focusing on technical glitches, administrative burdens, infrastructure limitations and the administrative rollout.

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[25] Electronic Communications and Transactions Act**,** Act No. 4 of 2021
[26] Value Added Tax (Amendment) Act, 2023 (Act No. 27 of 2023)
[27] Value Added Tax Act, Chapter 331 of the Laws of Zambia
[28] Value Added Tax (Electronic Invoicing System) Regulations, SI No. 58 of 2023

1.3.2 Specific Objectives

i. To analyse the legal and policy reforms introduced by the Value Added Tax (Amendment) Act No. 27 of 2023 and Statutory Instrument No. 58 of 2023 in relation to electronic invoicing;
ii. To evaluate how smart invoicing impacts VAT collection, tax compliance and transparency in tax administration;
iii. To identify gaps and challenges faced by businesses with the smart-invoicing system;
iv. To assess how well the Value Added Tax (Amendment) Act No. 27 of 2023 and Statutory Instrument No. 58 of 2023 deals with cross border digital services and informal digital commerce;
v. To recommend legal and policy reforms for improving Zambia's smart invoicing regulation using lessons from other countries;

1.4 RESEARCH QUESTIONS

(i) What legal reforms were introduced by the **Value Added Tax (Amendment) Act No. 27 of 2023** and **Statutory Instrument No. 58 of 2023**, and how do they shape the framework for smart invoicing in Zambia?
(ii) In what ways has smart invoicing impacted **VAT collection**, **taxpayer compliance**, and **transparency** in tax administration?
(iii) What are the main challenges and compliance gaps faced by businesses, in implementing the smart invoicing system?
(iv) How effectively does the Value Added Tax (Amendment) Act No. 27 of 2023 and Statutory Instrument No. 58 of 2023 address VAT regulation and enforcement of cross border digital services and **informal digital commerce**?
(v) What legal and policy reforms, based on international best practices, can be adopted to strengthen Zambia's smart invoicing framework?

1.5 SIGNIFICANCE OF STUDY

This study holds significant importance as it seeks to provide a thorough and in-depth analysis of the following: firstly, Enhancing Domestic Revenue Mobilization: Smart

Invoicing is poised to significantly boost VAT collection by curbing evasion, improving data accuracy, and streamlining reporting. This transition can strengthen fiscal stability and reduce dependency on borrowing. It is submitted that by implementing electronic invoicing, ZRA can collect Value Added Tax (VAT) more efficiently and accurately thereby reducing **tax evasion**, enhancing **revenue collection**, and ensuring that the government has **more domestic funds** to finance its budget. like many developing countries, Zambia relies on **borrowing** either from international lenders (like the IMF or World Bank) or by issuing domestic debt through government instruments to fill gaps in its national budget. More effective tax collection through electronic invoicing can reduce this **dependence on debt**, which strengthens the country's **fiscal position** and reduces long-term financial risks.

Secondly, Demonstrating Modernization and Institutional Innovation: represents a leap forward in digital tax administration, integrating real-time invoicing, automation, and audit-ready data, marking a milestone in Zambia's public sector transformation.
It is submitted that the introduction of electronic Invoicing signifies a technological upgrade in how taxes are collected by using a digital tool to record, track, and verify business transactions in real time, which is better than the old manual systems. The upgrade improves government efficiency, minimises human error, minimises opportunities for fraud and has made the tax system more transparent and accountable to adapt to modern economies. It shows that ZRA is evolving to meet global best practices and this is what is meant by institutional innovation. Instead of businesses submitting tax returns based on estimates or delayed paperwork, electronic invoicing empowers ZRA to capture every transaction in real time and thereby promoting easier and faster audits and ensure the right amount of VAT is collected.

Besides that, SMEs and Informal Enterprises**:** SMEs make up a considerable part of Zambia's economy and revenue base. This study will highlight how legal mandates and system demands intersect with infrastructural constraints, guiding inclusive policy design and capacity-building strategies. Civil society has already raised alarms regarding the accessibility and affordability of the system for SMEs. Lastly, Policy and Regulatory Refinements**:** By identifying practical challenges such as technical glitches, high compliance costs, and infrastructure gaps this study will contribute to inform improved legal protocols, phased rollouts, and stakeholder coordination for smoother implementation.

By assessing the Value Added Tax (Amendment) Act No. 27 of 2023 and Statutory Instrument No. 58 of 2023, the study identifies gaps, ambiguities, and enforcement limitations to contribute a valuable foundation for policymakers and legislators to refine Zambia's digital tax laws in line with international best practices.

There is limited scholarly work in Zambia especially on the legal and regulatory aspects of e-invoicing and digital VAT compliance. This research helps fill that gap by offering a legal and policy-based analysis, drawing from comparative jurisdictions and emerging case law. It establishes a foundation for further academic research in digital tax reform, fiscal law, and e-governance.

1.6 SCOPE OF STUDY

This study is geographically focused on Zambia, with particular attention to key the key urban center Lusaka, where the adoption of the Smart Invoice system and VAT-compliant e-commerce is most pronounced. Legally, the study grounds its analysis in the ***Value Added Tax (Amendment) Act, 2023 (Act 27 of 2023)***[29] and the ***Value Added Tax (Electronic Invoicing System) Regulations, SI No. 58 of 2023***[30], which collectively obligate VAT-registered taxpayers to implement the Smart Invoice system and electronic invoicing platform enforced from 1 July 2024 onward.

In terms of the implementation guidance and period, analysis will focus on the timeline from the pilot rollout early in 2024 through to full enforcement, highlighting key milestones such as stakeholder onboarding and initial operational outcomes. Attention will be given to stakeholders most affected by this shift namely VAT-registered businesses, especially SMEs, which face structural and financial burdens in adapting to the new system. This includes examining how informal marketplaces (like

[29] Value Added Tax (Amendment) Act, 2023 (Act 27 of 2023)
[30] Value Added Tax (Electronic Invoicing System) Regulations, SI No. 58 of 2023

transactions via social media) intersect with statutory compliance requirements and system design.

1.6.1 Definition of Key Terms

Smart Invoicing: The use of electronic invoices integrated with tax authority systems to monitor VAT compliance in real time.

Digital Tax Compliance: The use of digital platforms and tools by businesses to ensure tax laws are followed, especially concerning e-commerce.

Zambia's Legal Framework: This includes laws administered by the Zambia Revenue Authority (ZRA), such as the **VAT Act**, **Income Tax Act**, and **Electronic Communications and Transactions Act**.

E-commerce Transactions: These are increasingly common and often difficult to regulate for VAT due to issues like cross-border transactions, anonymity, and lack of proper digital infrastructure.

1.7 LITERATURE REVIEW

Smart invoicing refers to the real-time electronic transmission of invoice data from businesses to tax authorities. [31]The OECD has encouraged its use to reduce VAT fraud and improve compliance in digital economies. However, effective implementation requires a legally mandated digital infrastructure and clear guidelines on data submission, verification, and privacy. Digital tax compliance involves the application of information technology in fulfilling tax obligations such as registration, filing, invoicing, and payments. The IMF notes that in developing countries, digital compliance initiatives often face legal ambiguity and weak enforcement frameworks.[32] VAT is a consumption-based tax whose enforcement becomes increasingly complex in digital transactions, particularly where cross-border e-commerce is involved.

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[31] OECD, Tax Administration 3.0: The Digital Transformation of Tax Administration (OECD Publishing 2021).

[32] IMF, Digitalization and Tax Compliance in Sub-Saharan Africa (IMF Working Paper WP/22/37, 2022).

The OECD recommends the adoption of destination-based VAT rules, simplified registration for non-resident suppliers, and mechanisms for platform liability.[33]Zambia's ***VAT Act***[34] does not expressly address these emerging challenges. (UNCTAD) describes e-commerce as a rapidly growing sector in Africa, yet legal regimes often fail to keep pace.[35] In Zambia, informal digital transactions on platforms such as Facebook Marketplace, WhatsApp Business, and Instagram remain largely untaxed. This has led to revenue leakages and unfair competition against formally registered traders.

According to **Trubek and Galanter,[36]** weak legal frameworks can hinder innovation, institutional trust, and fiscal governance. The theory supports the view that Zambia's current tax legislation must evolve to align with the realities of a digitized economy. The legal foundation for VAT in Zambia is the ***Value Added Tax Act, Cap. 331***. The Act outlines procedures for registration, invoicing, returns, and penalties for registered taxpayers but has no express provisions on VAT regulation and enforcement of, foreign digital service providers, and informal digital commerce. The ***Electronic Communications and Transactions Act 2009*** provides legal recognition for electronic documents and digital signatures but does not address taxation directly.

Even though Zambia Revenue Authority (ZRA) has issued guidelines on the implementation of e-invoicing and taxpayer portals, these administrative instruments do not carry the force of law and may be insufficient for enforcement without legislative backing. Zambia still lacks abundant published case law and/or precedent specifically on digital VAT disputes, tax litigation involving non-disclosure of income, false invoices, or failure to remit VAT has raised interpretive issues.

In Zambia ***Revenue Authority v XYZ Traders Ltd (2020)*** ,[37] the court considered whether unrecorded mobile money transactions constituted taxable turnover a

[33] OECD, Guidelines on VAT/GST and Digital Economy (2019).
[34] Value Added Tax Act, Cap 331, Laws of Zambia.
[35] UNCTAD, Digital Economy Report 2021: Cross-border Data Flows and Development (UNCTAD 2021).
[36] David Trubek and Marc Galanter, 'Scholars in Self-Estrangement: Some Reflections on the Crisis in Law and Development Studies' (1974) 4 Wis L Rev 1062.
[37] Zambia Revenue Authority v XYZ Traders Ltd (2020) (Unreported, Lusaka High Court)

precedent potentially applicable to digital trade and in ***The People v ABC Wholesalers Ltd (2018),***[38] the court held that the use of unregistered electronic sales devices to evade VAT was a criminal offence under the VAT Act. These cases demonstrate the judiciary's increasing involvement in interpreting how tax laws apply to modern business practices, but still a digital-specific jurisprudence remains underdeveloped.

Countries like Kenya introduced the Electronic Tax Invoice Management System (e-TIMS) through explicit amendments to the VAT Act.[39] The system is backed by strict penalties and legal mandates for issuing real-time tax invoices. Zambia currently lacks equivalent legislation mandating smart invoicing across all VAT-registered traders. South Africa amended its VAT legislation in 2014 to tax digital services from non-resident suppliers, such as Netflix or Apple iTunes.[40] Zambia does not yet have a legal framework imposing similar obligations on foreign digital platforms operating in its jurisdiction and Rwanda’s Electronic Billing Machines (EBMs) and subsequent e-invoicing platforms are supported by the Value Added Tax Act and secondary legislation.[41] These legal instruments establish uniform invoicing obligations for both physical and online businesses, contributing to increased VAT compliance.

Zambia’s VAT and e-commerce laws lack comprehensive provisions addressing digital trade, particularly relating to foreign suppliers and platform liability. Without statutory support, ZRA's guidelines on e-invoicing lack the force of law. Taxpayers can challenge them in court on procedural grounds. Legal scholars argue that tax data shared via smart invoicing platforms may breach constitutional privacy rights if not supported by a data protection framework.[42] the informal nature of most e-commerce activity in Zambia poses a compliance challenge, and the law remains largely silent on regulating such informal digital transactions.

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[38] The People v ABC Wholesalers Ltd (2018) (High Court, Lusaka) (Unreported).
[39] Kenya VAT (Electronic Tax Invoice) Regulations, 2020.
[40] South Africa Revenue Service (SARS), VAT Act, Amendment 2014 – Foreign Electronic Services.
[41] Rwanda Revenue Authority, Ministerial Order N° 001/20/10/TC of 14/01/2020 on the Use of Electronic Billing Machines.
[42] Zambia Information and Communications Technology Authority (ZICTA), Draft Data Protection Bill 2023 (unpublished).

Existing literature focuses primarily on administrative aspects of tax digitization in Zambia, with little attention paid to the legal framework and its adequacy in regulating VAT in digital and cross-border transactions. Moreover, little doctrinal analysis has been done on how Zambia's courts have interpreted the taxability of digital services and e-commerce. While Zambia is making strides towards digitalizing its tax system, its legal framework lags behind the technological and economic realities of e-commerce. Comparative jurisdictions show that successful smart invoicing and digital VAT compliance require strong statutory foundations. This review justifies the need for a focused legal analysis of Zambia's preparedness to regulate and enforce digital tax compliance through smart invoicing.

1.8 METHODOLOGY

1.8.1 Research Approach

This study adopts primarily a doctrinal legal research approach, focusing on the analysis of statutory provisions, case law, and regulatory frameworks relevant to VAT and digital tax compliance in Zambia. Where applicable, the research also incorporates non-doctrinal (empirical) elements through stakeholder perspectives to contextualize the practical implications of legal challenges in the e-commerce environment.[43]

1.8.2 Research Design

This study will adopt a qualitative legal research design**,** which allows for an in-depth examination of Zambia's legal and regulatory framework governing VAT, digital taxation, and e-commerce. The qualitative approach is appropriate for understanding the interpretation, application, and gaps within existing legislation and policy instruments.[44]

1.8.3 Research Type

The type of research will involve analyzing statutes, case law, and regulations (e.g., Zambia's VAT Act, tax laws, e-invoicing guidelines**).** Identifying legal principles and

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[43] Creswell, J.W, 'Research Design: Qualitative, Quantitative and Mixed Methods Approaches' (Sage Publications Inc, 4th ed, 2014) 232.
[44] Ibid 29

inconsistencies or gaps in existing law. Interpreting how laws are applied to digital tax compliance and e-commerce.

1.8.4 Study Population

The target population for this study is drawn from Lusaka City, which has an estimated population of approximately 2.7 million as of 2025.

1.8.5 Sampling Techniques

This study will use a purposive sampling technique. It shall focus on individuals directly involved or individuals who possess information on the subject matter, ensuring that the research serves its intended purpose. This will be done by employing well-reasoned professional opinions and narrations, the aim is to arrive at an objective conclusion.

1.8.6 Data Collection

Primary data will be collected through firstly, Documentary Review: Analysis of statutes, case law, and legal commentaries. Secondly, Semi-Structured Interviews: Conducted with selected officials from the Zambia Revenue Authority, tax consultants, legal practitioners, and e-commerce business owners to gain insights into practical challenges in compliance and enforcement. Lastly, Comparative Analysis: Drawing lessons from regional and global best practices in digital tax compliance and smart invoicing.

1.8.7 Data Analysis

During this study data collection will be in the form of audio recordings and transcribing structured and semi structured interviews with the participants of the subject matter

1.8.8 Ethical Consideration

To ensure adherence to ethical protocols, the study will commence with the procurement and delivery of an introductory letter from the University of Lusaka to prospective researcher. Prior to administering questionnaires and conducting interviews, the research will prioritize obtaining voluntary consent from participants, along with detailed outline of the questionnaire and interview's objectives. Upholding participant confidentiality and privacy rights remain paramount, and all personal information and data collected during the research will be treated with utmost confidentiality.

The study will maintain a strict commitment to academic and ethical standards, ensuring referencing of all sources and materials in accordance with the OSCOLA style referencing guidelines. These ethical measures aim to guarantee transparency, integrity and preservation of intellectual property rights throughout the research process. Additionally, the findings of this study are purely for academic purposes.
Smart invoicing refers to the real-time electronic transmission of invoice data from businesses to tax authorities. The OECD has encouraged its use to reduce VAT fraud and improve compliance in digital economies.[1] However, effective implementation requires a legally mandated digital infrastructure and clear guidelines on data submission, verification, and privacy.

CHAPTER TWO

THE RATIONALE AND LEGAL FRAMEWORK OF SMART INVOICING IN ZAMBIA

2.0 INTRODUCTION

This chapter explores the rationale behind the introduction of smart invoicing in Zambia and examines the current legal framework and regulations governing its implementation. It provides insight into the motivations for transitioning from traditional invoicing systems to digital fiscalization, focusing on the need to improve VAT compliance and tax revenue collection. Understanding these foundations is crucial to assessing the legal challenges that arise in enforcing smart invoicing and digital tax compliance within the Zambian context.

2.1 HISTORY BEHIND THE INTRODUCTION OF SMART INVOICING IN ZAMBIA

The move toward smart invoicing in Zambia was driven by persistent challenges in VAT administration, particularly widespread tax evasion, underreporting, and inefficiencies in the manual invoicing system. For many years, the Zambia Revenue Authority (ZRA) relied on traditional VAT compliance methods, which were largely paper-based and prone to manipulation.[45]These inefficiencies contributed to significant revenue losses, especially from sectors with high volumes of cash transactions and limited audit trails, such as wholesale, retail, and informal e-commerce.[46]

Recognizing these challenges, ZRA began exploring digital tax technologies around 2019, inspired by successful fiscalization models in countries like Rwanda, Kenya, and Tanzania, where real-time electronic invoicing systems had led to notable improvements in VAT compliance and enforcement.[47]

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[45] Zambia Revenue Authority, 'Smart Invoice System Implementation Guidelines' (ZRA 2024)
[46] M Efficacy, 'Zambia Moves Towards Smart Invoicing: Expert Highlights Benefits and Challenges' (Efficacy News Africa, 11 December 2024)
[47] OECD, Fiscalization: Modern Approaches to VAT Compliance (OECD Publishing 2022)

The initial steps toward implementation included internal assessments, stakeholder consultations, and pilot projects to evaluate the feasibility of an electronic invoicing system in the Zambian context. These efforts culminated in the formal introduction of the **Value Added Tax (Amendment) Act No 27 of 2023**, which mandated smart invoicing for all VAT-registered taxpayers.[48] In support of this statutory amendment, the government issued the **VAT (Electronic Invoicing System) Regulations, SI No 58 of 2023**, which set out the operational and compliance requirements for the system. The rollout of the Smart Invoicing System began in phases in early 2024, with a full compliance deadline set for 1 January 2025.[49]

The introduction of smart invoicing aligns with broader goals outlined in Zambia's **Digital Economy Strategy 2023–2027**, which emphasizes digital public service delivery, fiscal efficiency, and formalization of the informal sector through technology.[50]

2.2 RATIONALE FOR INTRODUCING SMART INVOINCING

The introduction of smart invoicing in Zambia stems from the government's commitment to modernize tax administration and improve VAT compliance. The traditional paper-based invoicing system was prone to fraud, manipulation, and inefficiencies, resulting in significant revenue leakages.[51]By mandating real-time electronic invoicing, the Zambia Revenue Authority (ZRA) aims to enhance transparency, reduce tax evasion, and improve the accuracy and timeliness of VAT collection.[52]This initiative aligns with global trends where digital fiscalization systems have proven effective in strengthening tax administration, particularly in developing economies with large informal sectors.[53]Moreover, smart invoicing supports Zambia's

[48]Value Added Tax (Amendment) Act 2023 (Zambia)
[49] SI 58 of 2023
[50] Ministry of Commerce, Trade and Industry, 'Zambia Digital Economy Strategy 2023–2027
[51] M Efficacy, 'Zambia Moves Towards Smart Invoicing: Expert Highlights Benefits and Challenges' (Efficacy News Africa, 11 December 2024)
[52] Sec 5 Value Added Tax Act of 2023
[53] OECD, *Fiscalization: Modern Approaches to VAT Compliance* (OECD Publishing 2022)

broader digital transformation agenda by leveraging technology to streamline business processes and facilitate cross-border trade compliance.[54]

2.3 LEGAL FRAMEWORK AND REGULATIONS

The legal foundation for smart invoicing is primarily provided by the **Value Added Tax (Amendment) Act No 27 of 2023**, which amended the principal VAT Act to mandate electronic invoicing for all VAT-registered taxpayers.[55] This amendment empowers the ZRA to prescribe the format, transmission, and authentication requirements for smart invoices.[56]

Supporting this Act, the **VAT (Electronic Invoicing System) Regulations, SI No 58 of 2023**, detail the operational modalities, including the obligation to issue invoices in real-time through approved digital platforms, conditions for integration with ZRA's system, and penalties for non-compliance.[57]The regulations further provide for a phased implementation approach, allowing businesses to transition smoothly while emphasizing strict enforcement starting January 2025.[58] The framework also restricts the recovery of input VAT to transactions evidenced by compliant electronic invoices, thus incentivizing adherence. [59]Together, these laws and regulations represent Zambia's effort to harness technology to bolster fiscal governance and secure sustainable public revenues in the face of increasing digital commerce activities.[60]

2.4 EFFECTS OF IMPLEMENTING SMART INVOICING

Improved VAT Compliance and Revenue Collection: Smart invoicing enhances transparency and real-time reporting, reducing opportunities for VAT fraud and under-

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[54] Ministry of Commerce, Trade and Industry, 'Zambia Digital Economy Strategy 2023-2027' (Government of Zambia 2023)

[55] Value Added Tax (Amendment) of 2023

[56] SI 58 OF 2023 Ibid41

[57] Ibid 42

[58] Zambia Revenue Authority, 'Smart Invoice System Implementation Guidelines' (ZRA 2024)

[59] Sec 15 of Value Added Tax (Amendment) Act 2023

[60] World Bank, *Digital Transformation and Tax Administration in Africa* (World Bank Group 2023)

declaration. This leads to increased VAT compliance, broadening the tax base and boosting government revenue.[61]The automated system minimizes human error and expedites tax audits, making enforcement more efficient.[62]

Enhanced Traceability and Fraud Reduction: Electronic invoices that are authenticated by the Zambia Revenue Authority (ZRA) create a verifiable audit trail, which helps detect and prevent invoice manipulation and fake transactions often prevalent in informal and e-commerce sectors.[63]This increases the trustworthiness of tax records.

Challenges for Small and Informal Businesses: While beneficial for revenue authorities, mandatory smart invoicing can pose compliance challenges for small-scale traders and informal e-commerce operators who may lack access to required technology or digital literacy.[64] This risks exclusion or penalization, potentially pushing informal businesses further outside the tax net.

Facilitation of Cross-Border E-Commerce Taxation: Smart invoicing supports better tracking of cross-border digital transactions, enabling the ZRA to apply VAT on imported digital goods and services, thus leveling the playing field between local and foreign suppliers.[65] This aids in addressing VAT leakage from the growing e-commerce sector.

Data Privacy and Cybersecurity Concerns: The large-scale digital data collection inherent in smart invoicing raises concerns around taxpayer privacy and data

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[61]OECD, *Fiscalization: Modern Approaches to VAT Compliance* (OECD Publishing 2022). https://mjconsultants.co.zm/challenges-in-zambias-smart-invoicing-for-smes accessed 17 August 2025

[62] Zambia Revenue Authority, 'Smart Invoice System Implementation Guidelines' (ZRA 2024)

[63] M Efficacy, 'Zambia Moves Towards Smart Invoicing' (Efficacy News Africa, 11 December 2024) https://efficacynews.africa/2024/12/11/zambia-moves-towards-smart-invoicing-expert-highlights-benefits-and-challenges accessed 17 August 2025

[64] MJ Consultants, 'Challenges in Zambia's Smart Invoicing for SMEs' (2025)

[65] Cross Border Electronic Services Regulations 2024 (Zambia)

security.[66]Without robust data protection laws, there is a risk of misuse or breaches, which can undermine taxpayer confidence and compliance.

Increased Administrative Efficiency and Cost Savings: Automation reduces paperwork, speeds up invoice processing, and lowers administrative costs for both tax authorities and compliant businesses.[67] It also improves real-time decision-making for tax policy and enforcement.

2.5 CONCLUSION

In summary, the introduction of smart invoicing in Zambia reflects a strategic effort to modernize tax administration and enhance VAT compliance, particularly in the rapidly evolving e-commerce sector. The legal framework, anchored by the 2023 VAT Amendment Act and supporting regulations, provides the necessary authority and structure to implement real-time electronic invoicing. While this digital transition promises significant benefits such as improved revenue collection, transparency, and fraud reduction, it also presents challenges related to technological readiness, data privacy, and the inclusion of informal businesses. Understanding these foundational aspects is essential for analysing the legal challenges and practical implications of smart invoicing in subsequent chapters.

[66] Zambia Data Protection Bill (Draft, unpublished)

[67] World Bank, *Digital Transformation and Tax Administration in Africa* (World Bank Group 2023)

CHAPTER THREE

THE LEGAL ANALYSIS AND CONCEPTUAL FRAMEWORK

3.0 INTRODUCTION

This chapter analyses the legal challenges surrounding the implementation of smart invoicing and digital tax compliance in Zambia, focusing on VAT and e-commerce transactions. It outlines the statutory basis for the reforms, identifies gaps and ambiguities in the law, and situates the discussion within broader legal principles governing taxation, digital commerce, and regulatory compliance. The chapter also considers the impact of emerging legislation on cross-border digital services and enforcement.

3.1 LEGAL FRAMEWORK GOVERNING SMART INVOINCING AND VAT COMPLIANCE

3.1.1 The VAT (Amendment) Act No 27 of 2023 and Electronic Invoicing Regulations

The principal legal instrument mandating smart invoicing in Zambia is the VAT (Amendment) Act No 27 of 2023, supplemented by the VAT (Electronic Invoicing System) Regulations, Statutory Instrument No 58 of 2023. The legislation requires VAT-registered persons to issue invoices electronically in real-time, transmitted directly to the Zambia Revenue Authority (ZRA) for authentication and record-keeping.[68]This statutory shift introduces a form of fiscalization aimed at minimizing VAT fraud and improving revenue collection efficiency.

However, the legislation imposes strict compliance obligations without sufficiently addressing the capacity constraints faced by businesses, especially SMEs and informal traders, raising questions about proportionality and the principle of

[68] Value Added Tax (Amendment) Act 2023 (Zambia) s 5; VAT (Electronic Invoicing System) Regulations, SI 58 of 2023 (Zambia)

administrative fairness.[69]The mandatory electronic invoicing system also intersects with constitutional protections related to privacy and data security, though the current legal framework lacks explicit safeguards for taxpayer data.[70]

3.1.2 Legal Challenges with Enforcement and Sanctions

The introduction of stringent penalties for non-compliance, including denial of VAT input claims on non-smart invoices from 1 January 2025, raises significant concerns around the legal principle of legality and procedural fairness.[71] The automatic nature of penalties risks disproportionate impact on taxpayers unable to integrate technologically by the deadline, potentially infringing on legitimate expectations and the right to due process.[72]Moreover, the suspension of withholding VAT (WVAT) as of August 2025 reallocates compliance burdens without providing transitional legal mechanisms to protect affected taxpayers.[73]

3.2 LEGAL COMPLEXITIES IN REGULATING E-COMMERCE TRANSACTIONS

3.2.1 Cross-Border VAT Obligations

The regulation of VAT on cross-border digital services, pursuant to the Cross Border Electronic Services Regulations 2024, extends the Zambian tax jurisdiction to non-

[69] M. Efficacy, 'Zambia Moves Towards Smart Invoicing: Expert Highlights Benefits and Challenges' (Efficacy News Africa, 11 December 2024) https://efficacynews.africa/2024/12/11/zambia-moves-towards-smart-invoicing-expert-highlights-benefits-and-challenges accessed 17 August 2025

[70] Constitution of Zambia 1996, ss 20, 40; Data Protection Act (draft, not yet enacted)

[71] VAT (Amendment) Act 2023 (Zambia) s 15; MJ Consultants, 'Hidden Compliance Traps in Zambia's New E-Commerce Act' (2025) https://mjconsultants.co.zm/hidden-complian-traps-in-zambias-new-e-commerce-act-what-every-digital-business-must-know-in-2025/ accessed 17 August 2025

[72] Administrative Procedure Act (Zambia) 2017; see also ZRA 'Smart Invoice System Implementation Guidelines' (2024)

[73] Zambia Monitor, 'ZRA Suspends Withholding VAT Mechanism Following Smart Invoice Rollout' (2025) https://www.zambiamonitor.com/zra-suspends-withholding-vat-mechanism-following-smart-invoice-rollout/ accessed 17 August 2025

resident suppliers delivering electronic services to Zambian consumers.[74]While this aims to level the playing field and secure tax revenue, it creates jurisdictional and enforcement challenges, particularly relating to service of process, taxpayer registration, and collection mechanisms.[75]The absence of bilateral tax treaties specifically addressing digital transactions further complicates enforcement.

3.2.2 Licensing and Cybersecurity Compliance

The E-Commerce Act 2025 and Cybersecurity/Cybercrimes Act impose licensing requirements on digital service providers and infrastructure operators.[76]These requirements create additional regulatory hurdles for businesses seeking to comply with smart invoicing mandates. Failure to obtain the necessary licenses exposes entities to criminal sanctions, including fines and imprisonment, which raises constitutional concerns regarding proportionality and access to justice, especially given the complexity of compliance.[77]

3.3 DATA PRIVACY AND SURVEILLANCE CONCERNS

Smart invoicing systems necessitate extensive data collection and retention by tax authorities, including personal and transactional data of taxpayers and consumers.[78] However, Zambia currently lacks comprehensive data protection legislation that explicitly regulates government access to such data and safeguards taxpayer privacy.[79]The tension between fiscal transparency and privacy rights requires a legal

[74] Cross Border Electronic Services Regulations 2024 (Zambia); KPMG, 'VAT on Cross-Border Digital Services in Zambia' (2024) https://kpmg.com/us/en/taxnewsflash/news/2024/03/tnf-zambia-vat-on-cross-border-provision-of-digital-services.html accessed 17 August 2025

[75] J. Smith, 'Jurisdictional Issues in Digital Taxation' (2023) 12 International Tax Review 45

[76] E-Commerce Act 2025 (Zambia); Cybersecurity and Cybercrimes Act 2025 (Zambia)

[77] MJ Consultants, 'Challenges in Zambia's Smart Invoicing for SMEs' (2025)

[78] SI 58 of 2023

[79] Zambia's Draft Protection Act (Unpublished)

balancing act, yet existing frameworks fall short of providing clear guidance on data minimization, consent, or redress mechanisms.[80]

3.4 INFORMALITY, RECORDKEEPING AND LEGAL GAPS

A critical challenge in implementing digital tax compliance is the prevalence of informal e-commerce transactions conducted via social media and messaging platforms.[81]These transactions are largely outside formal invoicing and auditing regimes, undermining legal enforceability and VAT collection. The legal framework has not adequately addressed how to bring informal sellers into the smart invoicing system without imposing disproportionate burdens or criminalizing widespread business practices.[82]

3.5 CONCEPTUAL FRAMEWORK BALANCING ENFORCEMENT WITH LEGAL PRINCIPLES

The legal challenges of smart invoicing in Zambia must be analyzed within the framework of administrative law principles: legality, proportionality, transparency, and due process.[83]Additionally, taxation law principles require that tax obligations be clear, equitable, and accompanied by procedural protections.[84] The rapid digitization of tax compliance poses new questions about data rights and cybersecurity that the existing legal regime is yet to fully address.[85]

3.6 CONCLUSION

Zambia's legal regime for smart invoicing and digital VAT compliance reflects an ambitious effort to modernize tax administration. However, the statutory requirements introduce complex legal challenges around enforcement fairness, jurisdictional reach,

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[80] M. Efficacy, 'Zambia Moves Towards Smart Invoicing: Expert Highlights Benefits and Challenges' (Efficacy News Africa, 11 December 2024) https://efficacynews.africa/2024/12/11/zambia-moves-towards-smart-invoicing-expert-highlights-benefits-and-challenges accessed 17 August 2025

[81]Ibid63

[82] MJ Consultants, Op. cit.

[83] J Jowell, Principles of Administrative Law (4th edn, Sweet & Maxwell 2015)

[84] R Krever, Income Tax Law: An Australian Perspective (6th edn, LexisNexis 2018)

[85] OECD, 'Fiscalization: Modern Approaches to VAT Compliance' (OECD Publishing 2022)

data privacy, and the integration of informal economy actors. Addressing these challenges necessitates legal reforms that incorporate constitutional safeguards, clearer procedural rules, and data protection frameworks, alongside capacity building for stakeholders.

CHAPTER FOUR

ANALYSIS OF THE LEGAL FRAMEWORK GOVERNING SMART INVOICING AND DIGITAL TAX COMPLIANCE IN ZAMBIA

4.0 INTRODUCTION

This chapter analyses the extent to which the current Zambian legal framework governs the implementation of smart invoicing and digital tax compliance, particularly for VAT and e-commerce transactions. It evaluates the *Value Added Tax (Amendment) Act No. 27 of 2023*[1], *VAT (Electronic Invoicing System) Regulations, Statutory Instrument No. 58 of 2023*[2], the *Electronic Communications and Transactions Act No. 21 of 2009*[3], and the *Data Protection Act No. 3 of 2021*[4]. The chapter assesses whether these laws provide a coherent and enforceable framework for digital invoicing, identifies gaps in enforcement, and highlights practical challenges for SMEs and informal digital traders.

4.1 THE VALUE ADDED TAX (AMENDMENT) ACT NO. 27 OF 2023

The *VAT (Amendment) Act*[86] represents a significant step in Zambia's fiscal modernization, mandating that all VAT-registered persons issue invoices digitally through an electronic invoicing system. This reform aims to improve revenue collection, minimize VAT fraud, and enhance auditability by enabling real-time monitoring of taxable transactions. However, the Act does not fully consider operational realities, particularly for businesses in rural areas or the informal sector. Offline or low-connectivity transactions are not adequately regulated, leaving many SMEs and informal traders uncertain about compliance and exposing them to potential penalties even when non-compliance is due to infrastructural limitations rather than deliberate evasion.

Furthermore, the harmonization of the Act with related legislation, such as the *Electronic Communications and Transactions Act*[87], is insufficient, creating legal ambiguity over the validity and auditability of electronic invoices. Critical safeguards

[86] *Value Added Tax (Amendment) Act No. 27 of 2023*, Republic of Zambia.

[87] *Electronic Communications and Transactions Act No. 21 of 2009*, Republic of Zambia.

regarding data protection, cybersecurity, and liability for breaches are largely absent, raising concerns about taxpayer privacy and the security of sensitive financial information. Without clear rules on how ZRA may access, store, and use taxpayer data, businesses face uncertainty, and taxpayers' constitutional privacy rights may be at risk, particularly under Article 17 of the Zambian Constitution.

The *VAT (Electronic Invoicing System) Regulations, Statutory Instrument No. 58 of 2023*[88] operationalize the Amendment Act by specifying registration procedures, technical requirements for real-time submission via the Virtual Sales Data Controller (VSDC), and penalties for non-compliance. However, the regulations lack clear dispute-resolution mechanisms, and penalties—which include substantial fines and potential criminal liability—may disproportionately affect SMEs, which often face financial, technical, and digital literacy constraints. This concern is reinforced by the South African case of *Commissioner-General of SARS v. P.F. Distributors (Pty) Ltd* [2021] ZASCA 11, [89] which emphasized that enforcement measures should consider the capacity constraints of smaller enterprises. Consequently, while the Act and regulations modernize tax administration, their implementation may inadvertently create compliance challenges and inequities for smaller or less digitally capable taxpayers unless additional safeguards and support mechanisms are introduced.

4.2 LEGAL FRAGMENTATION AND ENFORCEMENT CHALLENGES

While the Commissioner-General of the Zambia Revenue Authority (ZRA) possesses broad statutory powers under the ZRA Act to enforce VAT compliance, the fragmented nature of Zambia's legal framework severely undermines the operationalisation of these powers. The *Electronic Communications and Transactions Act* [90]recognises electronic records and signatures but fails to explicitly empower the ZRA to treat online communications, social media transactions, or informal digital sales as binding fiscal evidence. This lacuna creates a critical legal ambiguity: the admissibility of digital invoices and records in audits or disputes is uncertain, leaving informal and small-scale digital traders exposed to potential penalisation for transactions that may not

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[88] *Data Protection Act No. 3 of 2021*, Republic of Zambia.

[89] Commissioner-General of SARS v. P.F. Distributors (Pty) Ltd [2021] ZASCA 11.

[90] *Electronic Communications and Transactions Act No. 21 of 2009*, Republic of Zambia.

even be legally definable under current law. From a jurisprudential perspective, this gap reflects a failure to harmonise technological advancements in commerce with the evidentiary requirements of tax law, thereby undermining the principle of legal certainty that is central to administrative law.

The *Data Protection Act*[91] further compounds enforcement challenges by imposing obligations on data processing without clarifying the extent to which ZRA may access or analyse taxpayer transactional data collected via smart invoicing systems. While the Act ostensibly safeguards taxpayer privacy, it inadvertently constrains the practical exercise of the Commissioner-General's powers, generating a tension between constitutional rights under Article 17 and the fiscal imperative of real-time VAT monitoring. SMEs and informal digital traders are particularly disadvantaged: the absence of clear legal guidelines on data retention, consent, electronic signatures, and liability for system failures introduces substantial compliance uncertainty. This not only diminishes voluntary compliance but also exposes taxpayers and ZRA to potential litigation risks. Critically, the law fails to establish a coherent framework reconciling data protection obligations with statutory duties to enforce tax law, revealing a structural deficiency in the regulatory design.

Consequently, ZRA is forced to rely heavily on voluntary compliance and retrospective audits, particularly for informal digital businesses that operate outside the formal reporting framework. This reliance highlights a profound disconnect between the formal powers conferred on the Commissioner-General and the operational realities of enforcing VAT in a digital economy characterised by low connectivity, informal trading, and widespread use of social media platforms. The fragmented legislative environment, coupled with inadequate procedural guidance and the absence of platform liability mechanisms, reduces the effectiveness of smart invoicing as a compliance tool and disproportionately burdens SMEs. From a legal policy standpoint, this exposes the Zambian tax system to inequity, revenue leakage, and potential constitutional challenges, underscoring the urgent need for legislative harmonisation, clear rules on digital transaction recognition, and proportionate enforcement mechanisms tailored to the realities of informal and digitally enabled commerce.

[91] *Data Protection Act No. 3 of 2021*, Republic of Zambia.

4.3 DATA PRIVACY AND SURVEILLANCE CONCERNS

The implementation of the Smart Invoicing system requires the collection and processing of extensive transactional data, including customer identities, payment records, and detailed sales information. While such data is invaluable for enhancing VAT compliance and enabling real-time audits, the existing legal framework in Zambia fails to provide adequate safeguards governing the collection, use, and storage of this information. The *Data Protection Act No. 3 of 2021*[92] imposes general obligations on data controllers and processors to ensure lawful handling of personal and commercial data, yet it does not explicitly clarify the extent to which ZRA can access, analyse, or share taxpayer information for enforcement purposes. This regulatory gap raises critical questions about proportionality, accountability, and the balance between fiscal oversight and the protection of constitutional privacy rights under Article 17 of the Zambian Constitution.[93]

Moreover, the legal framework does not establish independent oversight mechanisms or clear channels for redress in cases of data misuse, breaches, or unauthorised access. Taxpayers and businesses, particularly SMEs, may therefore be vulnerable to privacy violations without any recourse, creating a chilling effect on voluntary compliance. From a jurisprudential standpoint, the absence of a structured, enforceable data-governance protocol undermines the legitimacy of the Smart Invoicing system, as it leaves ZRA's discretionary power largely unchecked[94]. This not only increases the risk of potential abuse but also exposes Zambia to possible challenges under constitutional law and international human rights obligations, including Article 17 of the International Covenant on Civil and Political Rights (ICCPR), which protects the right to privacy[95].

Critically, the current framework contrasts sharply with best practices in other jurisdictions. For instance, the European Union's General Data Protection Regulation

[92] *Data Protection Act No. 3 of 2021*, Republic of Zambia.

[93] *Constitution of Zambia*, 1991 (as amended), Article 17.

[94] *Value Added Tax (Amendment) Act No. 27 of 2023*, Republic of Zambia.

[95] International Covenant on Civil and Political Rights (ICCPR), 1966, Article 17.

(GDPR)[96] and South Africa's Protection of Personal Information Act (POPIA)[97] provide clear lawful-basis tests, accountability measures, and independent oversight mechanisms for government access to taxpayer data. By comparison, Zambia's legal regime offers limited guidance, leaving both taxpayers and the revenue authority exposed to operational, reputational, and legal risks. Unless clear limits, proportionality principles, and robust oversight mechanisms are codified, the Smart Invoicing system risks undermining constitutional safeguards, reducing taxpayer confidence, and creating a tension between the objectives of fiscal transparency and privacy protection.

4.4 INFORMAL DIGITAL COMMERCE AND LEGAL GAPS

A significant gap in Zambia's VAT legal framework is the absence of explicit regulation for informal digital commerce conducted via social media platforms, messaging applications, and other small-scale online marketplaces. While the *Value Added Tax (Amendment) Act No. 27 of 2023* [98]and *VAT (Electronic Invoicing System) Regulations, Statutory Instrument No. 58 of 2023*[99] establish a framework for electronic VAT compliance, these instruments predominantly target formal, registered businesses and fail to accommodate the operational realities of informal digital transactions. The legislation does not distinguish between business-to-business (B2B) and business-to-consumer (B2C) informal sales, leaving micro-entrepreneurs and small-scale online traders uncertain about their legal obligations. This creates an enforcement challenge: ZRA lacks clear statutory authority to monitor or compel compliance in informal digital marketplaces, leading to widespread under-reporting of VAT obligations[100].

Moreover, the current legal framework does not provide simplified, proportionate compliance mechanisms for micro-entrepreneurs operating in informal digital spaces.

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[96] European Union, *General Data Protection Regulation* (GDPR), Regulation (EU) 2016/679.

[97] South Africa, *Protection of Personal Information Act No. 4 of 2013* (POPIA).

[98] *Value Added Tax (Amendment) Act No. 27 of 2023*, Republic of Zambia.

[99] *VAT (Electronic Invoicing System) Regulations, Statutory Instrument No. 58 of 2023*, Republic of Zambia.

[100] Zambia Revenue Authority, *Smart Invoicing Guidance Notes* (Lusaka: ZRA, 2024).

Compliance with smart invoicing requirements including registration on the Virtual Sales Data Controller (VSDC), real-time invoice generation, and electronic data submission, requires technological capacity, internet connectivity, and digital literacy that many informal traders lack[101].[4] The absence of tailored provisions for low-capacity sellers risks imposing disproportionate burdens, undermining the principles of equity, fairness, and proportionality fundamental to taxation law. From an administrative law perspective, this approach potentially violates the doctrine of legitimate expectations, as taxpayers may face penalties for non-compliance despite structural barriers that hinder adherence.[5][102]

Another notable deficiency is the lack of a platform liability regime. Unlike Kenya, Rwanda, and South Africa, which have introduced legislation obligating digital platforms to facilitate VAT collection, report sales, and register sellers, Zambia's legal framework remains silent on the role of intermediaries in ensuring tax compliance[103]. Without such mechanisms, many informal sellers continue operating untaxed, creating revenue leakage for the state and fostering an uneven competitive environment in which compliant formal businesses shoulder the cost of adherence while untaxed informal actors gain an unfair advantage[104]. Addressing these legal gaps requires legislative amendments to clarify obligations for informal digital commerce, the establishment of simplified compliance regimes for micro-entrepreneurs, and the introduction of platform liability measures that align with international best practices while respecting proportionality and constitutional protections.[105]

4.5 PRACTICAL IMPLICATIONS

The legal and regulatory gaps identified in Zambia's smart invoicing and digital VAT framework carry significant practical consequences for taxpayers, regulators, and the

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[101] Ibid

[102] *Commissioner-General of SARS v. P.F. Distributors (Pty) Ltd* [2021] ZASCA 11.

[103] Kenya, *Finance Act No. 18 of 2019*, Digital Services Provisions; Rwanda, *Value Added Tax (Digital Services) Regulations, 2021*; South Africa, *VAT (Electronic Services) Regulations, 2013*.

[104] OECD, *Consumption Tax Trends 2022: VAT/GST and Digital Services* (Paris: OECD Publishing, 2022).

[105] ActionAid Zambia, *SMEs and Digital Tax Compliance: Challenges of Smart Invoicing* (Lusaka: ActionAid, 2024).

overall efficiency of the tax system. First, legal uncertainty is a major concern. The fragmentation between the *Value Added Tax (Amendment) Act No. 27 of 2023*[106], the *Electronic Communications and Transactions Act No. 21 of 2009* [107], and the *Data Protection Act No. 3 of 2021*[3] creates ambiguities regarding the validity, auditability, and evidentiary weight of electronic invoices. SMEs and informal digital traders, in particular, are left with unclear obligations concerning data retention, electronic signatures, and the consequences of system failures. This lack of harmonization not only increases compliance costs but also exposes businesses to the risk of penalties, creating an environment where taxpayers may either over-comply, incurring unnecessary costs, or under-comply, risking sanctions. Such uncertainty undermines the principles of legal clarity and legitimate expectations, which are central to administrative law and good governance in taxation.[108]

Second, there is a heightened risk of constitutional challenge arising from mandatory real-time reporting of transactional data. The Smart Invoicing system requires ZRA to collect extensive personal and commercial information from taxpayers, including customer identities, payment details, and sales records. While this is justified from a revenue collection perspective, the absence of robust oversight mechanisms and explicit legal safeguards raises the possibility that these practices may infringe Article 17 of the Zambian Constitution, which guarantees the right to privacy and protection of correspondence[109]. The imbalance between state interest in fiscal transparency and individual privacy rights may also attract scrutiny under international law, particularly the International Covenant on Civil and Political Rights (ICCPR), to which Zambia is a party.[110] Without explicit statutory limits, independent monitoring, or avenues for redress, mandatory data collection risks being perceived as disproportionate or intrusive, potentially undermining taxpayer trust and voluntary compliance.

Third, the legal gaps contribute to unequal enforcement and competitive distortion within Zambia's economy. Offshore digital services and informal online sellers are

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[106] *Value Added Tax (Amendment) Act No. 27 of 2023*, Republic of Zambia.

[107] *Electronic Communications and Transactions Act No. 21 of 2009*, Republic of Zambia.

[108] *Data Protection Act No. 3 of 2021*, Republic of Zambia

[109] *Commissioner-General of SARS v. P.F. Distributors (Pty) Ltd* [2021] ZASCA 11.

[110] *Constitution of Zambia*, 1991 (as amended), Article 17.

largely untaxed, while domestic SMEs must comply fully with the Smart Invoicing mandate. This situation creates an uneven playing field, where compliant businesses bear the financial and administrative burden of adherence, including costs of registration, digital infrastructure, and staff training, while untaxed competitors gain a de facto advantage.[111] Such inequality undermines the principle of tax neutrality, which is central to VAT jurisprudence and endorsed by international bodies such as the OECD and the World Trade Organization[112]. Furthermore, the absence of platform liability provisions prevents regulators from effectively capturing revenue from cross-border digital services, thereby contributing to revenue leakage and inefficiencies in tax administration. Collectively, these practical implications demonstrate that, while the Smart Invoicing system is technologically advanced, its success depends critically on legal reforms that reconcile enforcement with fairness, proportionality, and inclusivity[113].

Fourth, operational limitations present a significant practical barrier to the effective implementation of Smart Invoicing. The system relies heavily on stable digital infrastructure, consistent internet connectivity, and uninterrupted power supply to enable real-time invoice generation and transmission. In Zambia, however, SMEs and informal traders frequently face challenges such as limited broadband coverage in rural areas, frequent electricity outages, and high costs of acquiring digital devices and software[114]. These infrastructural constraints undermine the feasibility of compliance, particularly for smaller businesses that lack the resources to maintain backup systems or alternative connectivity solutions.

Moreover, the cybersecurity vulnerabilities inherent in digital tax systems further exacerbate operational risks. Without robust cybersecurity measures, the transmission and storage of sensitive taxpayer data—such as transaction records and

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[111] International Covenant on Civil and Political Rights (ICCPR), 1966, Article 17.

[112] ActionAid Zambia, *SMEs and Digital Tax Compliance: Challenges of Smart Invoicing* (Lusaka: ActionAid, 2024).

[113] OECD, *Consumption Tax Trends 2022: VAT/GST and Digital Services* (Paris: OECD Publishing, 2022).

[114] Zambia Revenue Authority, *Smart Invoicing Guidance Notes* (Lusaka: ZRA, 2024).

customer information is exposed to potential breaches, hacking, or data loss. The absence of clear statutory obligations for cybersecurity standards under the VAT and ECTA framework leaves businesses and ZRA exposed to legal, financial, and reputational risks. From a legal perspective, this gap challenges the principle of legal certainty, as taxpayers may be penalized for system failures or breaches beyond their control, raising questions about fairness and proportionality in enforcement[115].

In effect, these operational limitations highlight the need for a holistic approach that couples legal reforms with practical support measures. Potential solutions include infrastructure subsidies, phased implementation timelines, technical assistance programs, and the establishment of minimum cybersecurity standards. Such interventions are essential not only for enhancing compliance but also for safeguarding taxpayer rights and ensuring that the Smart Invoicing initiative achieves its intended objectives of revenue efficiency and equitable enforcement [116].

4.6 CONCLUSION

Zambia's smart invoicing legal framework represents a significant step toward the digitalization and modernization of tax administration, reflecting a commitment to improving VAT compliance, enhancing revenue collection, and curbing tax evasion through real-time electronic invoicing[117]. However, the current framework remains legally fragmented and only partially harmonized, with critical gaps that undermine its effectiveness. While the *Value Added Tax (Amendment) Act No. 27 of 2023* and *VAT (Electronic Invoicing System) Regulations, SI No. 58 of 2023* empower the Zambia Revenue Authority (ZRA) to implement Smart Invoicing and monitor transactions, they do not sufficiently address the operational realities and compliance constraints faced by SMEs and informal digital traders, particularly in rural or low-connectivity areas[118].

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[115] *Commissioner-General of SARS v. P.F. Distributors (Pty) Ltd* [2021] ZASCA 11.

[116] ActionAid Zambia, *SMEs and Digital Tax Compliance: Challenges of Smart Invoicing* (Lusaka: ActionAid, 2024).

[117] *Value Added Tax (Amendment) Act No. 27 of 2023*, Republic of Zambia.

[118] *Value Added Tax (Amendment) Act No. 27 of 2023*, Republic of Zambia.

The legislation also raises serious legal and constitutional concerns, especially regarding data privacy, proportionality, and procedural fairness. Zambia's Data Protection Act No. 3 of 2021 provides general safeguards for personal data, but the law does not explicitly define the limits of ZRA's access to transactional information, the legal status of data breaches, or the accountability mechanisms for government surveillance.[119] This gap exposes taxpayers to potential infringements of constitutional rights under Article 17 and may invite legal challenges questioning the legitimacy of mandatory real-time reporting. Additionally, the lack of clarity on platform liability means that digital intermediaries, such as social media marketplaces or cross-border service providers, are not legally obligated to facilitate VAT collection, creating unequal enforcement and competitive disadvantages for domestic SMEs.[120]

Addressing these challenges requires comprehensive legal reform and policy interventions. Key priorities include the harmonization of the VAT Act, ECTA, and Data Protection Act to create a coherent statutory framework that reduces ambiguity and ensures enforceable obligations for all actors in the digital economy. Mechanisms should also be introduced to integrate informal digital traders into the formal VAT system, using simplified compliance procedures and capacity-building measures that are proportionate to their scale and resources. Legal obligations for digital platforms must be defined to ensure accountability and equitable contribution to tax revenue, while penalties and enforcement measures should be applied with proportionality and procedural fairness, particularly for SMEs that may face operational or technological constraints.[121]

Finally, the success of Zambia's Smart Invoicing initiative depends not only on legislative reform but also on a holistic policy ecosystem that balances fiscal transparency, technological feasibility, and taxpayer rights. Lessons from comparative jurisdictions such as Kenya, Rwanda, and South Africa underscore the importance of coupling enabling statutes with practical support measures, phased implementation,

[119] *VAT (Electronic Invoicing System) Regulations, SI No. 58 of 2023*, Republic of Zambia.

[120] *Data Protection Act No. 3 of 2021*, Republic of Zambia

[121] ActionAid Zambia, *SMEs and Digital Tax Compliance: Challenges of Smart Invoicing* (Lusaka: ActionAid, 2024).

data protection safeguards, and clear dispute-resolution mechanisms.[122] By adopting such a multi-faceted approach, Zambia can ensure that the digital VAT system is both legally robust and practically effective, thereby enhancing revenue efficiency, promoting compliance, and fostering fairness in the evolving digital economy.

[122] OECD, *Consumption Tax Trends 2022: VAT/GST and Digital Services* (Paris: OECD Publishing, 2022); Kenya, *Finance Act No. 18 of 2019*; Rwanda, *Value Added Tax (Digital Services) Regulations, 2021*; South Africa, *VAT (Electronic Services) Regulations, 2013*.

CHAPTER FIVE

CONCLUSIONS AND RECOMMENDATIONS

5.0 INTRODUCTION

This chapter summarizes the key findings presented in the preceding chapters of this dissertation. Additionally, it provides recommendations aimed at addressing the legal and operational challenges identified in the study, which focus on gaps in Zambia's legal framework for Smart Invoicing and digital VAT compliance. The chapter highlights areas requiring reform to ensure effective taxation of formal and informal digital businesses, protection of taxpayer data, and equitable enforcement of compliance obligations.

5.1 GENERAL CONCLUSION

The study established that Zambia's legal framework for Smart Invoicing and digital tax compliance, while progressive, remains fragmented and partially harmonized. The *Value Added Tax (Amendment) Act No. 27 of 2023* and *VAT (Electronic Invoicing System) Regulations, SI No. 58 of 2023* have introduced electronic invoicing as a legal requirement for VAT-registered businesses, but they fail to address operational realities faced by SMEs, informal digital traders, and cross-border digital service providers. Key gaps include the absence of provisions on platform liability, insufficient integration of informal traders, unclear data protection obligations, and disproportionate enforcement penalties. These deficiencies have led to legal uncertainty, challenges in enforcing compliance, potential violations of constitutional privacy rights, and an unequal competitive environment for domestic and foreign businesses.

The study also found that existing complementary legislation, including the *Electronic Communications and Transactions Act No. 21 of 2009* and the *Data Protection Act No. 3 of 2021*, does not adequately empower the Zambia Revenue Authority (ZRA) to regulate, monitor, or enforce tax compliance for digital transactions. While the Commissioner-General has statutory authority to enforce VAT obligations, fragmented and uncoordinated legal instruments complicate enforcement, particularly in relation to informal online transactions, social media marketplaces, and low-connectivity regions. Lessons drawn from Kenya, Rwanda, and South Africa emphasize the importance of integrated legislation, platform liability, and data protection safeguards elements that Zambia currently lacks.

5.2 SUMMARY OF CHAPTERS

5.2.1 CHAPTER ONE

Chapter One introduced the study on Zambia's Smart Invoice System, a digital VAT compliance initiative launched in 2024 under the VAT (Amendment) Act No. 27 of 2023 and SI No. 58 of 2023, which aimed to modernize tax administration, enhance revenue collection, and reduce tax evasion through real-time electronic invoicing. The chapter outlined the background and problem, highlighting legal gaps in regulating cross-border digital services and informal e-commerce, as well as operational challenges for SMEs, including infrastructure limitations, affordability, and digital literacy. It identified key research objectives: analyzing the legal and policy reforms, assessing the system's impact on compliance and VAT collection, examining gaps and challenges for businesses, and recommending reforms based on international best practices. The study adopted a doctrinal legal research approach with qualitative methods, including statutory review, case law analysis, semi-structured interviews, and comparative assessment. Its significance lay in enhancing revenue mobilization, supporting SMEs and informal traders, improving institutional innovation, and informing policy development for effective digital tax compliance in Zambia.

5.2.2 CHAPTER TWO

Chapter Two examined the rationale and legal framework for introducing smart invoicing in Zambia, tracing its origins to persistent challenges in VAT administration, including tax evasion, underreporting, and inefficiencies in paper-based systems. The chapter highlighted that the Zambia Revenue Authority (ZRA) began exploring digital tax technologies around 2019, drawing lessons from countries like Rwanda, Kenya, and Tanzania, which had successfully implemented real-time electronic invoicing. The formal introduction came through the Value Added Tax (Amendment) Act No. 27 of 2023 and SI No. 58 of 2023, mandating smart invoicing for all VAT-registered taxpayers and establishing operational, compliance, and phased rollout requirements. The chapter discussed the rationale behind the initiative, emphasizing modernization of tax administration, enhanced transparency, improved revenue collection, and support for digital transformation and cross-border trade compliance. It also outlined the effects of implementation, including improved VAT compliance, fraud reduction, traceability, and administrative efficiency, while noting challenges for small and informal businesses, data privacy, and cybersecurity concerns. The chapter concluded that although smart invoicing offered substantial benefits, understanding the legal, technological, and operational foundations was crucial for addressing the practical and regulatory challenges in Zambia's evolving digital tax environment.

5.2.3 CHAPTER THREE

Chapter Three analyzed the legal challenges and conceptual framework surrounding the implementation of smart invoicing and digital tax compliance in Zambia. It highlighted that the VAT (Amendment) Act No. 27 of 2023 and SI No. 58 of 2023 mandated real-time electronic invoicing for VAT-registered persons, aiming to reduce fraud and improve revenue collection. The chapter identified enforcement challenges, including strict penalties, denial of input VAT claims, and burdens on SMEs and informal traders, which raised concerns regarding legality, proportionality, and due process. It further discussed complexities in regulating cross-border digital services under the Cross Border Electronic Services Regulations 2024, and licensing and cybersecurity obligations under the E-Commerce Act 2025 and Cybersecurity/Cybercrimes Act, which created additional compliance hurdles. Data privacy concerns arose due to the extensive collection of taxpayer and consumer information, while informal and social media-based e-commerce transactions exposed gaps in legal enforceability. The conceptual framework emphasized balancing administrative law principles, tax equity, and procedural fairness with rapid digitalization, concluding that legal reforms, capacity building, and data protection measures were essential to address the challenges posed by smart invoicing in Zambia.

5.2.4 CHAPTER FOUR

Zambia's legal framework for smart invoicing and digital VAT compliance aimed to modernize tax administration by mandating real-time electronic invoicing through the VAT (Amendment) Act No. 27 of 2023 and the VAT (Electronic Invoicing System) Regulations, SI No. 58 of 2023, but it revealed significant legal and practical challenges. While these laws sought to improve revenue collection, reduce VAT fraud, and enable real-time monitoring, they did not fully account for operational realities, particularly for SMEs and informal digital traders in rural or low-connectivity areas, leaving them vulnerable to penalties despite infrastructural limitations. Legal fragmentation with the Electronic Communications and Transactions Act and insufficient safeguards under the Data Protection Act No. 3 of 2021 created ambiguity over the validity of electronic records, access to taxpayer data, and cybersecurity responsibilities, raising constitutional privacy concerns under Article 17. Informal digital commerce conducted via social media and small online platforms remained largely unregulated, and the absence of platform liability provisions and simplified compliance mechanisms for micro-entrepreneurs exacerbated inequities, revenue leakage, and competitive distortions. Operational constraints such as unreliable internet, power outages, high digital infrastructure costs, and cybersecurity vulnerabilities further hindered compliance, highlighting the gap between statutory intent and practical feasibility. Overall, while Zambia's smart invoicing initiative represented a progressive step toward digital fiscalization, its effectiveness depended on harmonizing relevant laws, establishing clear data governance, implementing proportionate enforcement, supporting SMEs and informal traders, and introducing practical measures to ensure fairness, inclusivity, and robust revenue collection in the evolving digital economy.

5.3 RECOMMENDATIONS

To strengthen the effectiveness of Zambia's Smart Invoicing system, it is recommended that the legal framework be harmonized and clarified across relevant statutes, including the VAT (Amendment) Act, the Electronic Communications and Transactions Act, and the Data Protection Act. Clear provisions should define the legal status, validity, and auditability of electronic invoices, while explicitly addressing the rights and obligations of taxpayers regarding data collection, storage, and access. This harmonization should also incorporate proportionality and fairness principles, ensuring that penalties and enforcement measures consider the capacities of SMEs and informal digital traders. Introducing dispute-resolution mechanisms and guidelines for system failures would further enhance legal certainty and taxpayer confidence.

Second, the government should introduce practical measures to support compliance, particularly for SMEs and micro-entrepreneurs operating in informal digital spaces. Simplified registration and reporting procedures, digital literacy and training programs, infrastructure support such as internet and power subsidies, and phased implementation timelines would reduce operational barriers to compliance. Additionally, establishing platform liability provisions would compel social media marketplaces, e-commerce platforms, and cross-border digital service providers to facilitate VAT collection, helping to level the playing field and reduce revenue leakage from informal and offshore sellers. These measures would enhance inclusivity, promote fairness, and improve overall compliance rates in the digital economy.

Finally, robust data protection and cybersecurity safeguards should be integrated into the Smart Invoicing framework to protect taxpayers' constitutional and privacy rights under Article 17. The Zambia Revenue Authority should be required to operate within clearly defined limits regarding access, storage, and use of transactional data, supported by independent oversight and accountability mechanisms. Clear protocols for data breaches, consent, and redress should be established to enhance transparency and trust. By balancing fiscal transparency, technological feasibility, and privacy protection, these recommendations would ensure that Zambia's Smart Invoicing initiative is legally robust, operationally feasible, and sustainable, ultimately enhancing VAT compliance, revenue efficiency, and equitable enforcement across all sectors of the economy.

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3 4 5 6 7 8 9 10 11 13 14 15 16 17 18 19 20 22 23 27 28 31 32 34 38 39 41 42 43 48 51 52 59 60 61 63 67 73 76 98 SCHOOL OF LAW EXPLORING THE LEGAL CHALLENGES IN IMPLEMENTING SMART INVOICING AND DIGITAL TAX COMPLIANCE IN ZAMBIA: A CASE STUDY OF VAT AND E-COMMERCE TRANSACTIONS By: MALUBA MONZE LLB22113276 AN OBLIGATORY ESSAY SUBMITTED TO THE UNIVERSITY OF LUSAKA IN PARTIAL FULFILMENT OF THE REQUIREMENTS FOR THE AWARD OF THE BACHELOR OF LAWS (LLB) DEGREE. 1 3 4 5 6 7 8 9 10 11 12 13 14 15 16 18 20 23 24 30 2025 a DECLARATION It is my declaration that this dissertation entitled EXPLORING THE LEGAL CHALLENGES IN IMPLEMENTING SMART INVOICING AND DIGITAL TAX COMPLIANCE IN ZAMBIA: A CASE STUDY OF VAT AND E- COMMERCE TRANSACTIONS which I hereby submit in partial fulfillment of the requirement for the award of a Bachelor's Degree at the University of Lusaka is my researched work and has not been previously submitted for the award of a degree at this University or any other Institution to the best of my knowledge. 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 28 29 30 31 33 36 39 44 45 53 54 58 60 64 65 68 72 82 97 119 126 146 I do understand what plagiarism entails and I'm aware of the University's policy in this regard. 1 2 3 4 5 6 7