

The Laws of Zambia

REPUBLIC OF ZAMBIA

THE VALUE ADDED TAX ACT

CHAPTER 331 OF THE LAWS OF ZAMBIA

CHAPTER 331 THE VALUE ADDED TAX ACT

THE VALUE ADDED TAX ACT

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An Act to impose a tax on the supply of goods and services in Zambia and the importation of goods into Zambia; to repeal the Sales Tax Act and the Insurance Levies Act; and to provide for matters connected with or incidental to the foregoing.

[1st May, 1995]

PART I

PRELIMINARY

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1. This Act may be cited as the Value Added Tax Act.*(1)

Short title

* The Value Added Tax Act came into operation on 1st May 1995. For the purposes of this Act, 1st July, 1995 is appointed as the tax commencement day. (S.I. No. 58 of 1995)

2. (1) In this Act, unless the context otherwise requires-

Interpretation

"authorised officer" means a person appointed under section *thirty-five* to be an authorised officer for the purposes of this Act;

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Cap. 322

"Authority" means the Zambia Revenue Authority established by the Zambia Revenue Authority Act;

"Commissioner-General" means the Commissioner-General appointed under the Zambia Revenue Authority Act;

"exempt importation" means an importation of goods described in the First Schedule;

"exempt supply" means a supply of goods or services described in the First Schedule;

"goods" means any article or substance of value, any immovable property and any interest in land, but does not include money, securities or any chose in action;

"Government agency" means-

- (a) any Ministry or Department of the Government;
- (b) any statutory corporation or board; or
- (c) any local authority.

"importation of goods" includes any dealing with goods that renders the goods liable to any duty or other impost under the Customs and Excise Act;

"input tax" has the meaning ascribed to it in section *eighteen*;

"prescribed accounting period", in relation to a taxable supplier, means the accounting period determined under section *sixteen* that is applicable to that supplier;

"prescribed interest rate" means the rate that exceeds, by two per centum per annum, the commercial bank lending rate for the time being determined by the Bank of Zambia, except where the Minister, by statutory order, determines a lower rate;

"registered" means registered under Part V;

"supplier" means-

- (a) a person, corporation, partnership or organisation that supplies goods or services; or
- (b) any Government agency.

"supply of a service" includes-

- (a) the provision of goods on lease, hire or loan;
- (b) a treatment of any goods;
- (c) any other activity which the Minister, by regulation, declares to be the supply of a service for the purposes of this Act;

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but does not include-

- (i) the provision of any service without consideration, except in so far as the Minister, by regulation, otherwise determines; or
- (ii) any other activity which the Minister by regulation declares not to be a supply of a service for the purposes of this Act.

"supply of goods" means-

- (a) a sale of goods;
- (b) a gift of goods;
- (c) where goods are obtained by a taxable supplier for the purposes of a business carried on by him or are, in the course of such a business, manufactured or produced for supply, an appropriation or transfer of possession of the goods-
 - (i) for his own use or consumption, or for use or consumption by him and others; or
 - (ii) for use or consumption by his employees or partners, or otherwise in connection with a business carried on by him; or
- (d) any other dealing with the goods (other than the supply, in relation thereto, of a service) which the Minister, by regulation, declares to be a supply of the goods for the purposes of this Act;

but does not include an importation of the goods, or any dealing with the goods which the Minister, by regulation, declares not to be a supply of the goods for the purposes of this Act;

"tax" means value added tax imposed by section *eight* or additional tax payable under section *seventeen*, and "taxation" shall be construed accordingly;

"tax commencement day" means such day, being the first day of a month, as the Minister may, by statutory order, appoint;

"tax invoice" means an invoice, showing such particulars as the Commissioner-General may, by administrative rule, prescribe, relating to a taxable supply of goods or services;

"tax return" means a return referred to in section *sixteen*;

"taxable importation" means an importation of goods that takes place in Zambia after the tax commencement day, other than an exempt importation;

"taxable supplier" means a person who is required by this Act to be registered;

"taxable supply" has the meaning ascribed to it in section *seven*;

"taxable value", in relation to goods or services supplied, or goods imported, means their taxable value ascertained in accordance with section *ten*;

"Tribunal" means the Value Added Tax Appeals Tribunal established by this Act;

"zero-rated supply" means a supply of goods or services described in the Second Schedule.

(2) In this Act, a reference to a supply of goods or services in the course of a business includes a reference to a supply of goods or services for the promotion, or otherwise in furtherance of a business.

3. (1) Where a firm consisting of two or more individuals in partnership is a registered supplier, the firm shall be taken, for the purposes of this Act, to be the supplier of any goods and services supplied in the course of the business of the firm; but in default of such registration, each partner shall be deemed to be the supplier of any such goods and services.

Application of this Act
to partnerships

(2) Without prejudice to any other law providing for the sufficiency of any means of giving notice to a partnership, any notice of assessment or other notice given under this Act to a partnership may be addressed to the partnership in the name under which it is registered under this Act.

(3) Subject to this section, in determining for the purposes of this Act whether any goods or services are supplied to, or by, a partnership, no account shall be taken of any change in the partnership.

(4) Without prejudice to the operation of any law providing for the imposition of liability on members of a partnership, until the date on which a change in the partnership is notified to the Commissioner-General, a person who has ceased to be a member of a partnership shall be regarded as continuing to be a partner for the purposes of this Act and, in particular, for the purpose of any liability for tax or interest due from the partnership under this Act.

(5) Where a person ceases, for the purposes of this Act, to be a member of a partnership, any notice of assessment or other notice given to the partnership under this Act that relates to any matter-

- (a) arising within or in connection with the prescribed accounting period during which he so ceased to be a member of the partnership; or
- (b) arising within or in connection with any earlier prescribed accounting period during which, or during any part of which, he was for the purposes of this Act a member of the partnership;

shall be deemed to have been served on him.

4. (1) Where a club, association or other unincorporated organisation is a registered supplier, the organisation shall be taken, for the purposes of this Act, to be the supplier of any goods and services supplied in the course of the business of the organisation; but in default of such registration, every member of the organisation shall be deemed to be the supplier of such goods and services.

Application of this Act
to unincorporated
organisations

(2) The names and other particulars of the members of the management committee of an unincorporated organisation that is a registered supplier shall be recorded in the register, and such members shall bear the liabilities of the organisation under this Act.

(3) Until the date on which a change in the management committee is notified to the Commissioner-General, a person who has ceased to be a member of the management committee of an unincorporated organisation that is a registered supplier shall be regarded as continuing to be such a member for the purposes of this Act and, in particular, for the purpose of any liability for tax or interest due from the organisation under this Act.

(4) Where a person ceases, for the purposes of this Act, to be a member of the management committee of an unincorporated organisation that is a registered supplier, any notice of assessment or other notice given to the organisation under this Act that relates to any matter-

- (a) arising within or in connection with the prescribed accounting period during which he so ceased to be a member of the management committee; or
- (b) arising within or in connection with any earlier prescribed accounting period during which, or during any part of which, he was for the purposes of this Act a member of the management committee;

shall be deemed to have been served on him.

(5) Where a person is a member of the management committee of an unincorporated organisation during part only of a prescribed accounting period, his liability for tax on the supply by the organisation of goods or services during that period, and any liability for payment of any interest or additional tax as a consequence, shall be limited to such proportion of the organisation's liability as may be just in the circumstances.

5 (1) For the purposes of this Act, two or more companies incorporated in Zambia are eligible to be treated as a recognised group if-

Application of this Act
to groups of
companies

- (a) one of them controls each of the others;
- (b) one person, whether a company or an individual, controls them all; or
- (c) two or more individuals carrying on a business in partnership control them all.

(2) On application made by a company naming itself and other companies in the application, or by the person or persons controlling the companies named in the application, the Commissioner-General, if satisfied that the companies named in the application are eligible to be treated as a recognised group, may by notice in writing-

- (a) declare that, as from a date specified in the order, they shall form a recognised group for the purposes of this Act; and

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(b) designate the representative member for the group.

(3) Where two or more companies form a recognised group, then, for the purposes of this Act, any business carried on by a member of the group shall be regarded as carried on by the representative member, and-

- (a) any supply of goods or services by a member of the group to another member of the group shall be disregarded;
- (b) any other supply of goods or services by or to a member of the group shall be regarded as a supply by or to the representative member; and
- (c) any tax paid or payable by a member of the group on the importation of any goods shall be regarded as paid or payable by the representative member, by whom the goods shall be deemed to have been imported.

(4) Notwithstanding sub-section (3), all members of a recognised group shall be jointly and severally liable for any tax due from the representative member.

(5) The Commissioner-General may, on application made on behalf of a recognised group, by notice declare that, as from a date specified in the notice-

- (a) a further eligible company shall be included in the group;
- (b) a specified member of the group shall be excluded from the group;
- (c) another member of the group shall be substituted as the representative member; or
- (d) the group shall no longer be a recognised group for the purposes of this Act.

(6) An application under this section shall not be refused unless the Commissioner-General considers it necessary to refuse it for the protection of the revenue.

(7) The Commissioner-General may, of his own motion, by notice exclude from membership of a recognised group any company which has ceased to be eligible to be a member.

(8) For the purposes of this section-

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- (a) one company shall be taken to control another if it is empowered by any written law to control the other's activities or if it is the other's holding company within the meaning of the Companies Act; and
- (b) one or more individuals shall be taken to control a company if, apart from being individual, he or they satisfy the criteria for being its holding company under that Act.

Cap 388

6. (1) Except to the extent to which provision is otherwise made by or under this Act, this Act applies to a Government agency as though a supply of goods or services to it for the purposes of the performance of its official functions were a supply of the goods or services for the purposes of a business carried on by it.

Application of this Act to Government agencies

(2) The Minister may, by regulation, provide for the modification of any provision of this Act, or of any regulation or rule made under this Act, in its application to a Government agency.

PART II

VALUE ADDED TAX

7. (1) For the purposes of this Act, any supply of goods or services made by a taxable supplier, in the course of a business, that takes place in Zambia on or after the tax commencement day, other than an exempt supply, is a taxable supply.

Taxable supplies

(2) Although tax is not payable on a zero-rated supply, the provisions of this Act, apart from section *eight*, shall otherwise apply to a zero-rated supply in the same way as to all other taxable supplies.

8. (1) A tax, to be known as value added tax, shall be charged, levied, collected and paid in respect of-

Imposition and scope of tax

(a) every taxable supply of goods or services in Zambia, other than a zero-rated supply; and

(b) every taxable importation of goods into Zambia; that takes place on or after the tax commencement day.

(2) The reference in sub-section (1) to a supply of goods or services in Zambia includes a reference to a supply that, by the operation of section *eleven* or *twelve* or of any rule made under those sections, is to be regarded as taking place in Zambia.

(3) Tax on a supply of goods and services is payable by the supplier of the goods or services and, subject to any other provision made by or under this Act in relation to accounting, is due and payable at the time of supply.

(4) Tax on an importation of goods shall be charged as if it were a duty of customs under the Customs and Excise Act, and is payable, accordingly, by the importer of the goods. Cap. 322

9. (1) Tax on a taxable supply of goods or services shall be charged on their taxable value, at the prescribed rate of tax. Rate of tax

(2) Tax on a taxable importation of goods shall be charged on their taxable value, at the prescribed rate of tax.

(3) The prescribed rate of tax shall be seventeen and a half per centum, unless the Minister, by statutory order, determines a lower rate.

(4) For the purposes of any provision of this Act, or of the regulations or rules made under this Act, the prescribed rate of tax in the case of a zero-rated supply shall be regarded as zero.

(As amended by S.I. No. 11 of 1997)

10. (1) Subject to this section, where goods or services are supplied for a monetary consideration, the amount by which that consideration exceeds the tax payable in respect of the supply shall be the taxable value of the goods or services. Taxable value of supplies and importations

(2) Where goods or services are supplied-

- (a) otherwise than for a monetary consideration;
- (b) for a consideration that consists only partly of money; or
- (c) for a consideration that is less than the open market value of the goods or services;

the amount by which their open market value exceeds the tax payable in respect of the supply shall be the taxable value of the goods or services.

(3) The taxable value of imported goods shall be determined as for a duty of customs, but shall be taken to include the amount of any duty or other impost payable otherwise than under this Act in respect of the importation.

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(4) In this section, "open market value" means the price at which the goods or services concerned would have been supplied, in the ordinary course of business, to a person independent of the supplier.

11. (1) This section shall have effect for determining whether goods shall be regarded, for taxation purposes, as being supplied in Zambia. Place of supply of goods

(2) Goods shall be regarded-

- (a) as supplied in Zambia if they are exported from Zambia or if their supply does not involve their removal from or to Zambia;
- (b) as supplied in Zambia if their supply involves their installation or assembly at a place in Zambia to which they are removed; and
- (c) as supplied outside Zambia if their supply involves their installation or assembly at a place outside Zambia to which they are removed.

(3) For the purposes of the preceding provisions of this section, where goods, in the course of their removal from a place in Zambia to another place in Zambia, leave and re-enter Zambia, the removal shall not be regarded as a removal from or to Zambia.

(4) Where the Commissioner-General is of the opinion that, in relation to any case or class of cases-

- (a) the place at which goods are regarded, for taxation purposes, as supplied is doubtful; or
- (b) the application of the provisions of this section gives rise to inequity or anomaly, whether because of the taxation laws of any other country or for any other reason appearing to the Commissioner-General to be significant;

he may, in relation to that case or class of cases, make provision, by administrative rule, for or with respect to the determination, for taxation purposes, of the place of supply in a manner calculated to avoid any such doubt or rectify or mitigate any such inequity or anomaly; and any provision so made shall have effect in the relevant case or cases, instead of the foregoing provisions of this section.

12. (1) This section shall have effect for determining whether services shall be regarded, for taxation purposes, as being supplied in Zambia. Place of supply of services

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(2) Where a service consisting of the lease, hire or loan of any goods does not involve the removal of the goods from or to Zambia, the service shall be regarded as supplied in Zambia.

(3) For the purposes of sub-section (2), where goods, in the course of their removal from a place in Zambia to another place in Zambia, leave and re-enter Zambia, the removal shall not be regarded as a removal from or to Zambia.

(4) Services shall be regarded supplied in Zambia if the supplier of the services-

- (a) has a place of business in Zambia and no place of business elsewhere;
- (b) has no place of business in Zambia or elsewhere but his usual place of residence is in Zambia; or
- (c) has places of business in Zambia and elsewhere but the place of business most directly concerned with the supply of the services in question is the one in Zambia.

(5) Where the Commissioner-General is of the opinion that, in relation to any case or class of cases-

- (a) the place at which services are regarded, for taxation purposes, as supplied is doubtful; or
- (b) the application of the provisions of this section gives rise to inequity or anomaly, whether because of the taxation laws of any other country or for any other reason appearing to the Commissioner-General to be significant;

he may, in relation to that case or class of cases, make provision, by administrative rule, for or with respect to the determination, for taxation purposes, of the place of supply in a manner calculated to avoid any such doubt or rectify or mitigate any such inequity or anomaly; and any provision so made shall have effect in the relevant case or cases, instead of the forgoing provisions of this section.

13. (1) This section shall have effect for determining, for taxation purposes, the time at which goods or services are supplied.

Time of supply of goods or services

(2) The time at which any goods are supplied, or at which any service consisting of the lease, hire, loan or treatment of, or other activity in relation to, any goods, is supplied, shall be whichever is the earliest of the following times:

- (a) the time when goods are removed from the premises of the supplier;

- (b) the time when the goods are made available to the person to whom they are supplied;
- (c) the time when payment for the supply is received;
- (d) the time when a tax invoice is issued.

(3) Where, in respect of the supply of any goods, or of any service referred to in sub-section (2), payment is received or a tax invoice is issued in respect of part of the supply, paragraph (c) or (d) of that subsection shall apply to that part of the supply, and tax thereon shall be payable accordingly.

(4) Where electricity, water or any other commodity measured by meter is supplied, the time of supply shall be the time when the meter is next read after consumption of the commodity, except to the extent that payment is sooner made, or a tax invoice is sooner issued, in respect of the supply.

(5) Subject to the preceding provisions of this section, the time of supply of services shall be whichever is the earliest of the following times:

- (a) the time when payment for the supply is received;
- (b) the time when a tax invoice is issued; or
- (c) the time when they are actually rendered or performed.

(6) Where the Commissioner-General is on the opinion that, in relation to any case or class of cases-

- (a) the time at which goods or services are regarded, for taxation purposes, as supplied is doubtful; or
- (b) the application of the provisions of this section gives rise to some inequity or anomaly;

he may, in relation to that case or class of cases, make provision, by administrative rule, for or with respect to the determination, for taxation purposes, if the time of supply in a manner calculated to avoid any such doubt or rectify or mitigate any such inequity or anomaly; and any provision so made shall have effect in the relevant case or cases, instead of the foregoing provisions of this section.

14. For taxation purposes, goods shall be taken to be imported into Zambia at the time when they are regarded as so imported under the Customs and Excise Act.

Time of importation
Cap. 322

15. (1) A supply of goods or services, or an importation of goods, that is described in the First Schedule shall be exempt from taxation. Exemptions and zero-ratings

(2) A supply of goods or services that is described in the Second Schedule shall, unless it is an exempt supply, be a zero-rated supply.

(3) The Minister may, by statutory order, vary, add to or replace the First or Second Schedule.

PART III

ACCOUNTING FOR AND PAYMENT OF TAX

16. (1) Every taxable supplier shall, in respect of each prescribed accounting period, lodge with the Commissioner-General a tax return, in a form approved by the Commissioner-General, containing such information as the form requires in relation to the supply by him of goods or services, and the importation of goods, during that period, any tax deductions or credits and any other matter concerning his business. Tax returns

(2) The return shall be lodged within twenty-one days after the end of the prescribed accounting period to which it relates or within such other time as the Commissioner-General may in a particular case determine by notice.

(3) For the purposes of this Act, the prescribed accounting period for a taxable supplier shall be the month next succeeding the month in which he was registered and each succeeding calendar month, unless the Commissioner-General, by notice in writing to a particular supplier, determines another prescribed accounting period for that supplier.

(4) A form of return approved by the Commissioner-General for the purposes of sub-section (1) shall, on request, be made available to any taxable supplier.

17. (1) A taxable supplier who fails to lodge a return within the time allowed by or under this Act shall pay additional tax consisting of- Late lodgment of returns

(a) one thousand penalty units; or

(b) one-half of one per centum of the tax payable in respect of the prescribed accounting period covered by the return;

whichever amount is the greater, for each day the return is late.

(2) Additional tax prescribed by this section is payable twenty-one days after the date on which it is incurred.

(3) The imposition or payment of additional tax prescribed by this section does not affect any liability of the supplier to pay any interest or penalty elsewhere prescribed in this Act.

18. (1) The amount of any tax (in this Act referred to as "input tax") of the following character:

Tax deductions and credits

- (a) tax payable in respect of the supply of goods or services supplied to a registered supplier during a prescribed accounting period for the purposes of a business carried on or to be carried on by him; and
- (b) tax paid by a registered supplier on the importation, during a prescribed accounting period, of any goods used or to be used for the purposes of a business carried on or to be carried on by him;

may, so far as not previously deducted and subject to the exceptions contained in or prescribed under this section, be deducted from his tax liability or otherwise credited to him in respect of that prescribed accounting period or a later prescribed accounting period.

(2) Subject to the exceptions prescribed under this section, the input tax that may be deducted by, or credited to, a registered supplier shall be-

- (a) the whole of that tax, if all the supplies effected by him in the course of his business are taxable; or
- (b) such proportion of that tax as, in accordance with administrative rules made by the Commissioner-General, is attributable to taxable supplies, if some but not all of the supplies effected by him in the course of his business are taxable.

(3) Input tax shall not be deducted, credited or claimed unless the registered supplier, at the time of lodgment of the return in which the deduction or credit is claimed, is in possession of a tax invoice, or other evidence satisfactory to the Commissioner-General, relating to the goods or services in respect of which the tax is claimed or, in the case of imported goods, such documentary evidence of the payment of tax as the Commissioner-General may, by administrative rule, prescribe; and a person claiming input tax in contravention of this section shall, unless he satisfies the court to the contrary, be deemed to have taken steps for the fraudulent recovery of tax in contravention of section *forty-four*.

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(4) Input tax may not be deducted or credited after a period of three years from the date of the relevant tax invoice or other evidence referred to in sub-section (3), except in such circumstances as may be allowed by administrative rules made by the Commissioner-General.

(5) The Minister may, by regulation, determine cases in which a deduction or credit of input tax shall not be allowed, any such determination being made by reference to-

- (a) the goods or services supplied or the goods imported; or
- (b) the supplier or importer, or the person supplied; or such other factors as the regulations may prescribe.

(6) Without limiting the generality of paragraph (b) of sub-section (2), rules made by the Commissioner-General for the purposes of that paragraph may-

- (a) determine a proportion of supplies in any prescribed accounting period which is to be taken as consisting of taxable supplies; and
- (b) provisionally attribute input tax in accordance with the proportion so determined and adjust the attribution over two more prescribed accounting periods.

(7) The Minister may make regulations for or with respect to enabling a taxable supplier who was not a registered supplier at the time of supply or payment to claim, as input tax, tax on the supply to him of goods or services, or paid by him on the importation of goods.

19. (1) A taxable supplier whose tax liabilities in respect of a particular prescribed accounting period are not exhausted by allowable deductions shall, within the time allowed for lodgment of his tax return for that period, remit the tax amount due to the Commissioner-General.

Payment of tax or credit

(2) Where, in respect of a particular prescribed accounting period, a registered supplier's allowable credits exceed what would have been his tax liabilities, if any, for the period, the Commissioner-General shall, within twenty-one days after-

- (a) the end of the quarter that includes the last day of that period; or
- (b) receipt of the last outstanding tax return due for any prescribed accounting period falling within the quarter;

whichever is later, remit to him the amount to which he stands in credit by reason of the excess.

20. (1) Where any tax due and payable under this Act is not paid within the time allowed, interest at the prescribed interest rate shall be payable on the amount for the time being due and unpaid. Interest on overdue tax

(2) Interest payable under sub-section (1) shall, while it remains unpaid, attract interest as if it formed part of the tax owing.

(3) Interest payable under this section shall be compounded at each prescribed accounting period for the supplier concerned, according to the number of such periods, or part of any such period, during which the tax, and any interest overdue and payable, remains unpaid.

21. (1) Where, in the opinion of the Commissioner-General, a taxable supplier has failed to pay any of the tax payable by him by reason of- Assessment of tax

(a) his failure to keep proper books of account, records or documents as required under this Act, or the incorrectness or inadequacy of any such books, records or documents; or

(b) his failure to make, or delay in making, any return required under this Act or the incorrectness or inadequacy of any such returns;

the Commissioner-General may assess the tax due and any interest payable thereon.

(2) Notice of an assessment shall be sent to the taxable supplier concerned; and the notice shall inform him of his rights of appeal under Part VI.

(3) Subject to any rights of appeal conferred by this Act or any other law, the assessment of the Commissioner-General is conclusive as to the amount of tax payable, the time when it was due and ought to have been paid, the amount of any interest payable thereon and all other matters incidental thereto.

(4) Notwithstanding the foregoing provisions of this section, an assessment based on the incorrectness or inadequacy of a return shall be void and of no effect if it is not made within two years after the Commissioner-General first had reason to believe it was incorrect or inadequate.

(5) On sufficient cause shown to the Commissioner-General within the appeal period, or within such further time as the Commissioner-General may allow, the Commissioner-General may make a revised assessment of tax and interest due from any taxable supplier, and such an assessment shall for all purposes rescind and replace any assessment formerly made in respect of the same liability.

(6) Tax and interest due in accordance with an assessment shall not be recoverable until the expiry of the appeal period.

(7) In this section, "the appeal period" means the time limited under Part VI for lodgment of an appeal against an assessment.

PART IV

DEFAULT IN PAYMENT OF TAX

22. (1) Tax and any interest due under this Act is a debt due to the Republic and shall be recoverable at the suit of the Commissioner-General, or any officer authorised by him, in any court of competent jurisdiction. Recovery of tax and interest

(2) Any amount shown on an invoice as tax chargeable on a supply of goods or services shall be recoverable as tax due from the person issuing the invoice, regardless of whether-

- (a) the invoice is made out in a form prescribed under this Act;
- (b) tax is chargeable in respect of the supply to which the invoice relates; or
- (c) the person issuing the invoice is a registered supplier;

and interest on the amount concerned may, in an appropriate case, be recovered accordingly.

(3) For the purposes of any provision of this Act or the regulations or rules under this Act relating to the collection or recovery of tax or interest, a reference in any such provision to a registered or taxable supplier shall include a reference to any person from whom tax or any interest is recoverable by virtue of this section.

23. (1) Where any tax or interest due from a taxable supplier remains unpaid, the Commissioner-General may, by notice in writing, require any other person- Attachment of debts, etc.

- (a) from whom any money is due, or is accruing or may become due, to the supplier;
- (b) who holds, or may subsequently hold, money on account of some person for or on account of, or for payment to, the supplier; or

(c) having authority from any person to pay money to the supplier;

to pay that money, or so much as is sufficient to discharge the tax or interest due from the taxable supplier, in the manner directed by the Commissioner-General as and when it would, but for the notice, be or become payable to the supplier.

(2) Upon service of a notice under this section, the money concerned, to the extent necessary to discharge the tax or interest due from the supplier, is a debt due to the Republic and shall be recoverable at the suit of the Commissioner-General, or any officer authorised by him, in any court of competent jurisdiction; and all claims by the supplier to such money shall, to the like extent, be thereby extinguished.

(3) A person on whom a notice under this section has been served and who fails to comply with the notice shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding five thousand penalty units or ten per centum of the amount demanded by the notice, whichever is the greater.

24. Where the Commissioner-General considers it necessary to do so for the protection of the revenue, he may, as a condition of allowing or repaying any input tax to any registered supplier, require the supplier-

Security and
production of evidence

- (a) to produce any documents, relating to any such tax, that were supplied to that supplier; or
- (b) to give security, or further security, of such amount and kind as the Commissioner-General may determine, for the payment of any tax which is due from him.

25. (1) Where the Commissioner-General has reason to believe that any tax or interest due under this Act from a taxable supplier may not be paid within the time allowed by or under this Act by reason of the loss, transfer or disposition by the supplier of his assets, the Commissioner-General may, by notice in writing to him, require payment of the money forthwith.

Requirement for early
payment

(2) Upon service of a notice under this section, the provision of this Act shall apply as though the time allowed by or under this Act for payment by the supplier of the tax or interest concerned had expired.

26. (1) Where any tax or interest due from a taxable supplier remains unpaid, an authorised officer may, under warrant by the Commissioner-General, levy distress upon the goods and chattels of the supplier.

Distress

(2) The officer executing the warrant, with a police officer or such other assistants as he may consider necessary, may, at any time between sunrise and sunset, break open any premises of the supplier.

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(3) Goods and chattels on which distress has been levied under this section shall be kept for ten days either at the premises at which distress was levied or at such other place as the officer executing the warrant may consider appropriate, at the cost of the supplier.

(4) If the supplier does not pay the amount due under this Act, together with any costs under sub-section (3), within the period of ten days mentioned in that subsection, the goods and chattels shall be sold by public auction.

(5) The proceeds of a sale under sub-section (4) shall be applied towards payment of those costs and any further costs of, or incidental, to the sale, and the surplus, if any, shall be applied towards payment of the amount due and the balance, if any, shall be paid to the supplier, after deduction of any further tax or interest by then due from him.

(6) A person on whose goods and chattels distress has been levied or is to be levied, or any other person, who fraudulently removes and takes away any such goods and chattels to prevent the Commissioner-General from distraining them or completing the distress so levied, or assists in the same, shall be guilty of an offence and shall be liable, upon conviction, to-

- (a) a fine not exceeding ten thousand penalty units or three times the value of the goods taken away, whichever is the greater; or
- (b) imprisonment for a term not exceeding twelve months; or to both.

PART V

REGISTRATION OF SUPPLIES

27. (1) There shall be a register of suppliers, in which shall be recorded such particulars of taxable suppliers and their businesses as the Commissioner-General may determine.

Register of suppliers

(2) Where two or more individuals in partnership carry on a business involving the supply of goods or services, registration may be effected in the name of the firm.

(3) Where a club, association or other unincorporated organisation carries on a business involving the supply of goods or services, registration may be effected in the name of the organisation.

(4) Where several companies constitute a recognised group for the purposes of this Act, registration may be effected in the name of the group, and such registration displaces any requirement under this Part to apply for, or effect registration of, any corporate member.

(5) The registration of a company carrying on business in several divisions may, if the company so requests and the Commissioner-General sees fit, be effected in the names of those divisions, and such registration displaces any requirement under this Part to apply or effect registration of the company.

(6) The Commissioner-General may, by administrative rule, make provision for requiring registered suppliers to notify the Commissioner-General of such particulars of changes in circumstances relating to them, or any business carried on by them, as appear to him necessary for the purpose of keeping the register up to date.

28. (1) Every supplier who is carrying on a business in Zambia whose taxable turnover exceeds the turnover prescribed by the Minister, by statutory order, shall make application to be registered.

Registration

(2) An application for registration shall be made in such manner and form as the Commissioner-General may, by administrative rule, prescribe.

(3) Subject to this section, the Commissioner-General shall register every applicant for registration who is carrying on a business in Zambia whose taxable turnover exceeds the turnover prescribed by sub-section (1).

(4) Where the Commissioner-General considers that there is good reason to do so, he may-

(a) register any supplier, whether or not an application for registration has been made; or

(b) refuse to register any supplier;

regardless of the turnover of the business conducted by the supplier.

(5) Where the Commissioner-General is satisfied that all the supplies effected in the course of a supplier's business would be zero-rated supplies, he may, by notice in writing, exempt a supplier from the requirement to be registered:

Provided that such an exemption may in like manner be rescinded by the Commissioner-General at any time whereupon the supplier shall apply for registration within such time as the Commissioner-General may allow.

(6) In this section, "taxable turnover" means that part of the turnover of a business that is attributable to taxable supplies, calculated in a manner, and in respect of a period, prescribed by the Minister by statutory order.

29. A supplier who-

Failure to register, etc.

- (a) being required to apply for registration under this Part, fails to do so within one month after becoming liable to apply;
- (b) contravenes any term or condition of his registration; or
- (c) not being a taxable supplier, holds himself out as such;

shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding twelve months, or both.

PART VI

APPEALS

30. (1) For the purpose of hearing and determining appeals as provided for in this Part, there shall be a Value Added Tax Appeals Tribunal, consisting of three persons appointed by the Minister on the recommendation of the Judicial Service Commission.

Value Added Tax
Appeals Tribunal

(2) A member of the Tribunal shall, subject to sub-section (3), hold office for a period of four years from the date of his appointment but shall be eligible for reappointment for one further term.

(3) The Minister may at any time remove a member from office and a member may resign his office by giving one month's notice to that effect in writing to the Minister.

(4) The Minister may appoint deputy members of the Tribunal, who shall have and may perform the functions of a member during the member's illness or absence.

(5) There shall be a Registrar of the Tribunal, who shall have such functions as may be conferred on him by regulations made under sub-section (6).

(6) The Minister may, by regulation-

- (a) prescribe the requisite qualifications or experience for appointment as a member of the Tribunal;
- (b) regulate the organisation, administration and procedure of the Tribunal; and

- (c) empower the Tribunal to summon and compel the attendance of witnesses, to require the production of documents, to award costs and to do and require all such matters and things as may be necessary, in the opinion of the Minister, for the due performance of its functions.

(7) Subject to any regulations made under this Act, the Tribunal may regulate its own procedure.

(8) A member of the Tribunal shall be entitled to receive such allowance as the Minister may determine.

31. (1) Any person aggrieved by a decision or determination made by the Commissioner-General under this Act, or any regulations or rules made under this Act, in respect of any of the following matters:

Appeals to Tribunal

- (a) the registration or cancellation of registration of, or a refusal to register, a supplier;
- (b) the tax assessed to be payable on any supply of goods or services or the importation of any goods;
- (c) the amount of any input tax that may be credited to any taxable supplier;
- (d) the application of any administrative rule providing for the apportionment or disallowance of input tax;
- (e) any notice under section *twenty-five*;
- (f) the requirement of the Commissioner-General for the provision of security;
- (g) any matter prescribed by the Minister, by regulation, to be a matter against which an appeal shall lie under this section;

may, in such manner and within such time as the Minister may, by regulation, prescribe, appeal to the Tribunal.

(2) No appeal shall be heard unless-

- (a) any and all tax returns required under this Act to be made by the appellant at the time the appeal is lodged have by that time been made; and

- (b) where the appeal is against an assessment of the Commissioner-General or otherwise involves a dispute over an amount of tax or interest allegedly due and unpaid by the appellant, the amount in dispute is lodged with Tribunal.

(3) The Tribunal may waive the requirements of paragraph (b) of sub-section (2) on the provision of such security by the appellant as it considers acceptable or may, in cases of hardship, waive the requirement absolutely or on such terms as it thinks fit.

32. (1) The Tribunal, having regard to the provisions of this Act and to the circumstances of the case, shall hear and determine the appeal and may confirm, reverse or vary the decision of the Commissioner-General, as justice may require.

Determination of appeals

(2) The decision of the Tribunal shall be binding on the parties to the appeal, and in cases where the appeal is allowed, it shall be the duty of the Commissioner-General to give effect to the decision of the Tribunal.

(3) Interest shall be paid by the Authority, compounded in the manner prescribed and at the prescribed interest rate, in respect of the whole or part of any month during which a deposit was lodged by the applicant as a condition of the hearing of the appeal, to the extent to which that deposit exceeded any amount recovered against the appellant.

(4) Nothing in this section precludes the issue of any of the prerogative writs or limits any jurisdiction of the courts.

PART VII

ADMINISTRATION AND ENFORCEMENT

33. (1) The Authority shall be responsible for the administration of this Act and for the charging, levying and collection of tax.

Functions of Authority

(2) The Minister may approve the establishment by the Authority of a reserve account with the Bank of Zambia for the payment therefrom of any credits under section *nineteen*, and from tax collected under this Act, the Authority shall from time to time appropriate sufficient funds to meet the requirements of the reserve account.

(3) Except as provided by sub-section (2), tax collected under this Act shall be credited to the Treasury as soon as is reasonably practicable, and the provisions of sections *twenty-four* and *twenty-five* of the Zambia Revenue Authority Act, shall apply in respect of revenue derived from tax under this Act.

Cap. 321

34. (1) The Commissioner-General shall have and may exercise and perform the powers and functions conferred on him by or under this Act. Delegation by Commissioner-General

(2) The Commissioner-General may delegate any of his functions under this Act to the Commissioner of Value Added Tax or other officers of the Authority.

35. (1) Sufficient persons shall be appointed as authorised officers for the purpose of exercising and performing the powers and functions of authorised officers under this Act. Authorised officers

(2) Every authorised officer shall be issued with means of identification as to his appointment as such, and shall, when exercising any power under this Act, on demand, produce the same to any person of whom a requirement is made in the course of the exercise of that power.

36. (1) Where an authorised officer has reason to believe that it is necessary to do so for the protection of the revenue, he may take, from goods in the possession of any person who supplies goods, such samples as may be reasonably necessary to determine how the goods or the materials from which they are made ought to be or to have been dealt with for taxation purposes. Taking of samples

(2) No sample shall be taken under this section without the issue by an authorised officer of a receipt to the person from whom it was taken, and every sample shall be disposed of and accounted for in such manner as the Commissioner-General may direct.

(3) Where a sample taken under this section is not returned, within a reasonable time and in good condition, to the person from whom it was taken, the Authority shall pay him, by way of compensation, a sum equal to the cost of the sample to him or such larger sum as the Commissioner-General may determine.

37. (1) Every person who is concerned, in any capacity, in the supply of goods in the course of a business or to whom any goods are, in the course of a business, supplied shall- Furnishing of information and production of documents

(a) furnish to the Commissioner-General, within such time and in such form as he may require, such information as he may specify, being information to which the person has legitimate access and which concerns the goods or their supply; and

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- (b) upon demand made by an authorised officer, produce or cause to be produced any documents for inspection by the officer, being documents to which the person has legitimate access and which concern the goods or their supply, and permit the officer to make copies, of, or to take extracts from, them or to remove them at a reasonable time and for a reasonable period.

(2) Every person who is concerned in any capacity in the supply of any services for a consideration or to whom any services are, for a consideration, supplied, shall-

- (a) furnish to the Commissioner-General, within such time and in such form as he may require, such information as he may specify, being information to which the person has legitimate access and which concerns the consideration for the supply or the name and address of the person to whom the services are supplied; and
- (b) upon demand made by an authorised officer, produce or cause to be produced any documents for inspection by the officer, being documents to which the person has legitimate access and which concern any such consideration, and permit the officer to make copies of, or to take extracts from, them or to remove them at a reasonable time and for a reasonable period.

(3) The Commissioner-General or an authorised officer may, for the purpose of receiving any information or document under the foregoing provisions of this section, or for the purpose of examining the person concerned in relation to any such information or document, require the attendance of the person at the offices of the Commissioner-General or at such other place, and at such time or times, as the Commissioner-General or authorised officer may specify.

(4) For the purposes of this section, the documents relating to the supply of goods, or to the consideration for the supply of services, in the course of a business, shall be taken to include any profit and loss account and balance sheet or other book of account, and any correspondence or other writing, relating to that business and any certificate evidencing registration under this Act.

(5) Where any information or document is electronically stored, sub-sections (1) and (2) shall be deemed to empower the authorised officer, for the purpose of exercising the powers conferred by that subsection in relation to it-

- (a) to view the information or document and to copy or take extracts from it by electronic means; or
- (b) to require that it be reproduced in hard copy, or copied on to computer diskette or reduced to some other portable form suitable for removal and capable of reproducing the information or document for viewing.

(6) Where any documents, computer diskettes or other things removed under the powers conferred by this section are lost or damaged, the Authority shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing them.

38. (1) For the purpose of exercising any power conferred on him by or under this Act, an authorised officer may, at any reasonable time, enter any premises which he has reason to believe are used for or in connection with the carrying on of a business, including any premises used only for the storage of goods or documents, and shall have full and free access therein to open any packaging, take stock of any goods and do all such things as are reasonably necessary for the performance of his duties. Entry and search

(2) Where a magistrate is satisfied on sworn information that there is reason to suspect that any premises contain goods in respect of whose supply tax has been evaded, or tax deductions or credits have been wrongly made, or contain documents or other evidence of an offence against this Act, he may issue a warrant authorising an authorised officer to enter and search those premises, and the authorised officer executing the warrant may-

- (a) take with him such persons as appear to him to be necessary for its due execution;
- (b) search for and seize and remove any goods, documents or other things found on the premises which he has reason to believe to be evidence for the purpose of proceedings in connection with such an offence or for the assessment of any tax; and
- (c) search or cause to be searched any person found on the premises who he has reason to believe has committed such an offence or to be in possession of any such goods, documents or other things:

Provided that no person shall be searched by a person of the opposite sex.

(3) The authorised officer shall provide to the person apparently in charge of anything taken in execution of a warrant under this section a receipt for the thing taken.

(4) The authorised officer may seal off, lock up or in any other physical manner prevent access to any premises for the purpose of the exercise of any power under this section or for the safeguarding of evidence from tampering.

(5) The provisions of section *thirty-seven* relating to documents and to the electronic storage of documents shall apply in respect of the exercise by an authorised officer of a power conferred under this section.

39. A person who-

- (a) fails to comply with any requirements made of him under section *thirty-seven*; or
- (b) assaults, obstructs, hinders or resists an authorised officer in the exercise or performance of any of his powers or duties under this Act;

Obstruction of authorised officers

shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

40. A person who impersonates an authorised officer shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding twelve months, or to both.

Impersonation of authorised officers

41. No action or other proceedings shall lie or be instituted against an authorised officer for, or in respect of, any act or thing done or omitted to be done in good faith in the exercise or purported exercise of his functions under this Act.

Immunity of authorised officers

PART VIII

MISCELLANEOUS

42. (1) A taxable supplier shall keep such records relating to the business carried on by him, and preserve them for a period of five years or such longer period as the Commissioner-General may, by notice in writing, require in any particular case.

Records and Accounts

(2) A supplier who fails to keep any records required by or under this section to be kept by him, or who fails to keep them for the time so required, shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding twelve months, or both.

43. Any person who, in purported compliance with any requirement under this Act, makes a return or other declaration, furnishes any document or information or makes any statement, whether in writing or otherwise, that is false in any material particular shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

False returns and statements

44. (1) Any person who is concerned in, or takes steps with a view to, fraudulent evasion of tax or fraudulent recovery of tax shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding thirty thousand penalty units or six times the amount of the tax sought to be evaded or recovered, whichever is greater, or to imprisonment for a term not exceeding three years, or to both.

Evasion of taxation

(2) A person who deals in or accepts the supply or importation of any goods, or the supply of any services, having reason to believe that the proper tax has not been or will not be paid or that any deduction or credit has been or will be falsely claimed in relation thereto shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding thirty thousand penalty units or six times the amount of the tax, whichever is greater, or to imprisonment for a term not exceeding three years, or to both.

(3) Any goods which are the subject of an offence under this section shall, if the court convicts and so orders, be forfeited.

45. (1) If a person alleged to be an offender under this Act (hereinafter called the alleged offender) agrees to pay a specified fine proposed by the Commissioner-General, which does not exceed the maximum penalty provided by this Act for the offence in question, the Commissioner-General may impose that fine on the alleged offender:

Fine in lieu of prosecution

Provided that, if criminal proceedings have been instituted against the alleged offender for such offence, the power conferred by this subsection shall not be exercised without the written consent of the Director of Public Prosecutions.

(2) The Commissioner-General shall furnish the alleged offender with a certificate setting out the nature of the offence, the date of its occurrence, and the fine imposed under sub-section (1), and such certificate may be used by the alleged offender as *prima facie* proof of the facts stated therein.

(3) If any fine imposed in terms of sub-section (1) is not paid on demand, the Commissioner-General may take steps for, or towards, its recovery in any manner permitted by this Act with respect to the recovery of unpaid tax.

(4) The imposition of a fine under sub-section (1) shall not be treated as a conviction of the alleged offender of a criminal offence, but no prosecution for the offence in question shall thereafter be instituted or maintained.

(5) Nothing in this section shall in any way affect liability for the payment of tax or interest due under this Act.

46. (1) An advertisement made or published in respect of the supply by retail of any goods or services shall, if it mentions the price at which such goods or services may be obtained, state the price inclusive of tax.

Advertised retail prices to include tax

(2) A person who causes or permits any advertisement to be made or published in contravention of this section shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding ten thousand penalty units.

(3) In this section, "advertisement" includes any label attached to the goods and any sign displayed in connection with the goods or services and any quotation of their price.

47. Where, after the making of a contract for the supply of goods or services and before the goods or services are supplied-

(a) there is a change in the tax charged on the supply; or

(b) tax chargeable on the supply is introduced or abolished;

then, unless the contract otherwise provides, there shall be added to or deducted from the consideration for the supply an amount equal to the tax adjustment.

Adjustment of contracts on changes in tax

48. Where an individual has been declared bankrupt, any tax or interest due under this Act shall have priority over other debts proven against the bankrupt.

Priority of tax debts in bankruptcy

49. A certificate of the Commissioner-General that-

(a) a person was or was not, at any date, registered;

(b) any return required under this Act to be lodged has not been lodged or had not, on a specified date, been lodged; or

(c) any tax shown as due in any return or assessment lodged or made under this Act has not been paid;

shall be sufficient evidence of that fact until the contrary is proven.

Evidence by certificate

50. (1) Notwithstanding any other provision of this Act, where the Commissioner-General is satisfied that any scheme that has the effect of conferring a tax benefit on any person was entered into or carried out-

Schemes for obtaining undue tax benefits

(a) solely or mainly for the purpose of obtaining that benefit; and

(b) by means or in a manner that would not normally be employed for *bona fide* business purposes, or by means of the creation of rights or obligations that would not normally be created between persons dealing at arm's length;

the Commissioner-General may determine the liability for any tax imposed by this Act, and the amount thereof, as if the scheme had not been entered into or carried out, or in such manner as, in the circumstances of the case, he considers appropriate for the prevention or diminution of the tax benefit sought to be obtained by the scheme.

(2) A determination under sub-section (1) shall be deemed to be an assessment, and the provisions of section *twenty-one* and of Part VI, and any other provision made by or under this Act in relation to assessments, shall apply accordingly.

(3) In this section-

"*bona fide* business purposes" does not include the obtaining of a tax benefit;

"scheme" includes any transaction, operation, understanding or arrangement, whether entered into or carried out before or after the commencement of this Act, whether or not involving the alienation of any property and whether or not enforceable, and all acts and things done or performed in furtherance thereof;

"tax benefit" includes-

- (a) any avoidance or reduction in the liability of any person to pay tax;
- (b) any increase in the entitlement of any registered dealer to a refund of tax;
- (c) any reduction in the consideration payable by any person in respect of any supply of goods and services or the importation of any goods; or
- (d) any other avoidance or postponement of liability for the payment of any tax;

51. (1) The Minister may make regulations for or with respect to any matter that by this Act is required or permitted to be prescribed, or that is necessary or expedient to be prescribed for carrying out or giving effect to this Act. Regulations

(2) Without limiting the generality of sub-section (1), regulations may be made for or with respect to-

- (a) the application of this Act in relation to supplies in the course of a business conducted by the administrator of a bankrupt or deceased estate;
- (b) de-registration of suppliers;
- (c) the transfer of businesses from one supplier to another;
- (d) the imposition, in prescribed circumstances, of liability for taxes and charges on taxation agents;
- (e) the issue and display of certificates of registration;
- (f) relief from taxation on account of bad debts; and
- (g) the service of notices or other documents for the purposes of this Act.

(3) the Regulations may create offences, and prescribe penalties not exceeding ten thousand penalty units, for any contravention of the regulations or of the rules made under this Act.

52. (1) The Commissioner-General may, by notification published in the *Gazette*, Administrative rules make administrative rules for or with respect to-

- (a) the keeping of accounts, the making of returns and accounting for tax for the purposes of this Act; and
- (b) any matter which he is authorised, by this Act or any regulations made under this Act, to prescribe or regulate by administrative rule.

(2) Rules under this section may require the keeping of accounts and the making of returns in such form and manner as may be prescribed by the rules and may require taxable suppliers supplying goods or services to other taxable suppliers to provide them with tax invoices containing statements of such particulars as may be so prescribed of the supply, the tax chargeable on it and the persons by and to whom the goods or services are supplied.

(3) Rules under this section may make provision for methods of tax accounting and, in particular, for special methods of tax accounting by such retailers or other suppliers of goods or services or any description of goods or services as may be prescribed by or under the rules.

(4) Rules under this section may make provision-

- (a) for treating tax chargeable in one prescribed accounting period as chargeable in another such period;
- (b) for the adjustment of accounts in cases where tax has become chargeable by reference to a consideration and the amount of the consideration is reduced or no consideration becomes payable and in such other circumstances as may be prescribed by the rules;
- (c) for the rounding-off of figures in tax returns; and
- (d) for the correction of errors.

(5) The Commissioner-General may, in addition to notifying administrative rules in the *Gazette*, publish them in such other manner as he considers desirable for the information of persons affected by them or of the general public.

53. (1) Every supplier who, on a date prescribed by the Minister by statutory order, is carrying on a business in Zambia whose taxable turnover exceeds or is likely to exceed the turnover prescribed by that order shall make application to be registered.

Transitional
registration provisions

(2) An application for registration shall be made in such manner and form as the Commissioner-General may, by administrative rule, prescribe.

(3) The Commissioner-General shall register every applicant for registration who, on the date prescribed for the purposes of subsection (1), was carrying on a business in Zambia whose taxable turnover exceeds or is likely to exceed such turnover as the Minister may, by statutory order, prescribe for the purposes of this subsection.

(4) Sub-sections (4) and (5) of section *twenty-eight* apply in respect of registration under this section in the same way as they apply in respect of registration under that section.

(5) In this section, "taxable turnover" has the same meaning as in section *twenty-eight*.

(6) A supplier required to apply for registration under this section who fails to do so within one month after becoming liable to apply shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding one thousand penalty units for each day that passes, after the expiry of that month, during which he fails to apply.

54. (1) A registered supplier who, immediately before the tax commencement day, was registered as a dealer under the Sales Tax Act shall be entitled to such relief from tax under this Act as may be determined by the Minister, by regulation, in respect of goods in stock immediately before that day that were eligible for tax relief under that Act.

Other transitional provisions Cap. 663 of the 1971 edition

(2) A taxable supplier shall be entitled to such relief from tax under this Act as may be determined by the Minister, by regulation, in respect of goods that were imported on or after the date prescribed under sub-section (1) of section *fifty-three* and that were in stock on the tax commencement day.

55. On the tax commencement day, the Sales Tax Act and the Insurance Levies Act shall stand repealed.

Repeal of Cap 663 of the 1971 edition and Act No. 25 of 1990

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FIRST SCHEDULE

(Section 15)

EXEMPT SUPPLIES AND IMPORTS

1. Water supply services

The supply of mains water and sewerage services, excluding sewerage pump out services.

2. Health supplies

- (a) The supply of health and medical services by a registered medical practitioner, optician, dentist, hospital or clinic.
- (b) Articles designed for use by the blind or disabled.

3. Educational supplies

- (a) Educational services provided to primary or secondary students.
- (b) Educational services provided to other students otherwise than for profit.

4. Books and newspapers

- (a) Books, Booklets, school exercise books, maps and charts.
- (b) Newspapers, journals and periodicals.

5. Transport services

- (a) Transportation of persons by road in a bus or coach licensed under the Roads and Road Traffic Act and having a seating capacity for fourteen or more adult persons.
- (b) Transportation of persons by air on any scheduled flight.
- (c) Transportation of persons by rail.
- (d) Transportation of persons or vehicles by boat.
- (e) Aircraft of an unladen weight exceeding 2000kgs and which is licensed for carrying 14 or more passengers.

6. Conveyance, etc. of real property

- (a) The sale or lease of an interest in land, other than the lease or rental of commercial property.
- (b) The sale or lease of domestic buildings.
- (c) Any fee, royalty or similar right to explore or remove any natural resource.

7. Financial and insurance services

- (a) The issue, transfer, receipt of or other dealing with, money (including foreign exchange) or any note or order for the payment of money.
- (b) The provision of credit.
- (c) The operation of any account at a bank or other financial institution.
- (d) The issue, allotment or transfer of ownership of shares in a company listed on a Stock Exchange approved under the Securities Act.

(As amended by S.I. No. 16 of 1997)

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8. Metals

The supply to a bank of gold in bullion form.

9. Funeral services

The supply of any goods or services in the course of a person's burial or cremation, including the provision of any licence or certificate.

10. Gaming and betting supplies

- (a) Acceptance of any lawful bet or wager.
- (b) Issue of any lottery ticket in a lawful lottery.
- (c) Use of any lawful gaming machine.

11. Reliefs at importation

- (a) Goods which are imported duty free under regulations 6, 7, 9, 11, 13, 14, 15, 16, or 23 of the Customs and Excise (Rebates, Refunds and Remissions) (General) Regulations, 1996, subject to the same limitations and conditions as pertain to such a rebate. S.I. No of 1996
- (b) Import goods in respect of which a funding of duty is available under the Customs and Excise (School, Hospital, Church and General Public Good) (Funding) Regulations, 1996, subject to the same limitations and to such modification as may be specified therein. S.I. No of 1996

12. Domestic kerosene

Domestic kerosene (paraffin).

13. Trade Union Subscriptions

Trade union subscriptions.

14. Goods under an Investment Certificate

Eligible goods specifically enumerated under the special incentives of an Investment Certificate which provides relief from import duties and sales tax, when imported on or before 31st December, 1996, by an investor holding an Investment Certificate issued before 1st July, 1995, under the Investment Act.

In this Schedule, unless the context otherwise requires -

"eligible goods" means those goods not previously imported as certified by the Director-General of the Investment Centre and such certification is accepted by the Commissioner-General of the Zambia Revenue Authority.

(As amended by S.I. No. 110 of 1996 and S.I. No. 16 of 1997)

The Statutory Instruments listed below are hereby revoked:

REVOKED STATUTORY INSTRUMENTS

The Laws of Zambia

<i>Statutory Instrument</i>	<i>Number</i>
1. Value Added Tax Exemptions and Zero-Rating Order, 1995	88 of 1995
2. Value Added Tax (Exemptions) Order, 1995	91 of 1995
3. Value Added Tax (Exemptions) (No. 2) Order, 1995	103 of 1995
4. Value Added Tax (Exemptions) (No. 3) Order, 1995	108 of 1995
5. Value Added Tax (Exemptions) (No. 4) Order, 1995	122 of 1995
6. Value Added Tax (Exemptions) (No. 5) Order, 1995	146 of 1995
7. Value Added Tax (Exemptions) (No. 6) Order, 1995	150 of 1995
8. Value Added Tax (Exemptions) Order, 1996	22 of 1996
9. Value Added Tax (Exemptions) (No. 2) Order, 1996	27 of 1996
10. Value Added Tax (Exemptions) (No. 4) Order, 1996	79 of 1996

(As amended by S.I. No. 110 of 1996)

SECOND SCHEDULE

(Section 15)

ZERO-RATED SUPPLIES AND IMPORTS

1. Foods and agriculture

(a) *Agricultural products*-fresh edible vegetables, fruit and nuts; maize and mealie meal; soya bean, millet, cassava, sorghum and flours produced from them; wheat and other cereals; except when any of the above products is:

- (i) canned; frozen or freeze dried; or
- (ii) supplied by a restaurant, cafeteria, canteen or like establishment.

(b) *Animal products*-meat and offal of cattle, swine, sheep, goats, and poultry (including eggs), except-

- (i) any of the above products that is supplied by a restaurant, cafeteria, canteen or like establishment; or
- (ii) cooked or smoked meats, meat processed beyond cutting, grinding or mincing including sausages, pate, and the fatty livers of geese or ducks; and any other product prescribed by the Minister by regulation; or
- (iii) pet foods.

(c) *Milk*-milk, except when canned or when supplied by a restaurant, cafeteria, canteen or like establishment.

(d) *Fish*-uncooked, frozen or dried fish, except shellfish, ornamental fish or any fish supplied by a restaurant, cafeteria, canteen or like establishment.

(e) *Agricultural supplies*-

- (i) bulbs, seeds and plants for producing agricultural products of sub item 1;
- (ii) fertilizers, insecticides, rodenticides, fungicides, herbicides, anti-sprouting products and plant growth regulators and similar products for agricultural use;
- (iii) live cattle, swine, sheep, goats, and poultry;
- (iv) stockfeeds for cattle, swine, sheep, goats or poultry.

(f) *Infant cereals*-When prepared and labelled as such.

2. Exports

Cap. 3:

(a) Export of goods from Zambia by or on behalf of a taxable supplier, where such evidence of exportation is produced as the Commissioner-General may, by administrative rule, require.

(b) The supply of services, including transport and ancillary services, which are directly linked to the export of goods under sub item 1.

(c) The supply of freight transport services from or to Zambia, including transshipment and ancillary services that are directly linked to the transit of goods through Zambia to destinations outside Zambia.

(d) The supply of goods by a duty free shop, approved under the Customs and Excise Act, for export by passengers on flights to destinations outside Zambia.

(e) The supply of goods, including meals, beverages and duty free goods; for use as aircraft stores on flights to destinations outside Zambia.

(f) The supply of aviation fuel.

(g) The supply of services which are physically rendered outside Zambia.

(h) The supply, by a tour operator or travel agent, licensed as such by the Zambia Tourist Board, to a tourist of an inclusive tour, subject to such conditions as the Commissioner-General may require.

(i) Exportation of goods by a tourist, subject to such evidence and conditions as the Commissioner-General may require.

3. Supplies to privileged persons

- (a) Goods imported by the President.
- (b) Goods imported by diplomats or a diplomatic mission that is accredited by the Republic of Zambia for official purposes of that mission, but only, in the case of any diplomat or diplomatic mission of a foreign country, to the extent that the foreign country grants reciprocal privileges to diplomats and to the diplomatic mission of Zambia in that country.
- (c) The supply of goods or services to a donor in Zambia for the official purposes of that donor where evidence of purchase by that donor is produced as the Commissioner-General may require.
- (d) Goods or services supplied or imported under a technical aid programme or project which are-
- (i) paid through donor funding; and
 - (ii) provided by the donor, or by a contractor of the donor, under a written agreement with the Republic of Zambia where evidence of purchase under that agreement is produced as the Commissioner-General may require.
- (e) Eligible goods or services supplied to a diplomat or designated official where evidence of purchase by that diplomat or designated official is produced as the Commissioner-General may require.
- (f) Supplies or imports under a technical aid agreement or project providing for exemption from Zambia taxation which is either-
- (i) dated on or before 30th June, 1996; or
 - (ii) approved by the Minister of Finance.

4. Medical supplies

- (a) Medical supplies and drugs.
- (b) The supply to, or importations by, a registered medical practitioner, optician, dentist, hospital or clinic, or to a patient, of equipment designed solely for medical or prosthetic use.

(As amended by S.I. No. 109 of 1996)

SUBSIDIARY LEGISLATION

SECTION 54-THE VALUE ADDED TAX TRANSITIONAL REGULATIONS

*Statutory Instrument
65 of 1995*

Regulations by the Minister

1. These Regulations may be cited as the Value Added Tax Transitional Regulations. Title
2. In these regulations, "the repealed Act" means the Sales Tax Act. Interpretation
3. (1) Subject to this Regulation, a registered supplier referred to in sub-section (1) of section *fifty-four* of the Act may claim, as input tax, a credit or deduction in respect of the tax on goods referred to that subsection. Relief for registered dealers under the repealed Act
- (2) No claim under this regulation shall be allowed unless-

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- (a) the registered supplier has paid the supplier of the goods for them;
- (b) the registered supplier has lodged all sales tax returns and paid to the Commissioner-General all sales tax or other moneys due in respect of those returns or otherwise arising under the repealed Act;
- (c) the tax return by which the claim is made is supported by a Schedule of all goods to which the claim relates, and specifying, in relation to each consignment-
 - (i) the quantity, description and value of the goods;
 - (ii) the number and date of the purchase invoice or customs bill of entry;
 - (iii) the name and address of the supplier of the goods;
 - (iv) the sales tax paid.

4. (1) Subject to this regulation, a taxable supplier may claim, as input tax, a credit or deduction in respect of the tax on goods imported on or after 1st May, 1995.

Relief from tax in respect of certain imported goods

(2) No claim under this regulation shall be allowed unless-

- (a) the taxable supplier has paid the supplier of the goods for them;
- (b) the taxable supplier has lodged any sales tax returns due under the repealed Act and paid to the Commissioner-General all sales tax or other moneys due in respect of those returns or otherwise arising under the repealed Act;
- (c) the tax return by which the claim is made is supported by a Schedule of all goods to which the claim relates, and specifying, in relation to each consignment-
 - (i) the quantity, description and value of the goods;
 - (ii) the number and date of the purchase invoice and the customs bill of entry;
 - (iii) the name and address of the supplier of the goods;
 - (iv) the sales tax paid.

5. (1) No claim under these Regulations shall be allowed unless the claim is made by the return relating to the registered supplier's first prescribed accounting period.

General limitations

(2) A claim under these Regulations shall be allowed only to the extent and subject to the conditions prescribed by or under section *eighteen* of the Act in relation to input tax generally.

(3) Without limiting the generality of sub-regulation (2)-

- (a) where the supplier is not in possession of documentary evidence as prescribed for the purposes of sub-section (3) of that section, the claim shall be disallowed; and
- (b) a claim may be partly disallowed by rules of apportionment prescribed under that section and applying to the supplier's business.

(4) No claim under these Regulations shall be allowed in respect of goods in respect of which a drawback or other relief under the repealed Act has been claimed and allowed.

(5) A claim cannot be made under regulations *three* and regulation *four* in respect of the same goods.

SECTION 28-THE VALUE ADDED TAX (APPLICATIONS FOR REGISTRATION) ORDER

Statutory Instrument
77 of 1995

Order by the Minister

1. This Order may be cited as the Value Added Tax (Application for Registration) Order. **Title**

2. (1) In this Order-

"relevant quarter" means any period of three consecutive months commencing-

- (a) on 1st May, 1994; or
- (b) on the first day of any subsequent calendar month;

"relevant year" means any period of twelve months commencing-

- (a) on 1st May, 1994; or
- (b) on the first day of any subsequent calendar month.

Taxable turnover
requiring application
for registration to be
made

(2) For the purposes of sub-section (1) of section *twenty-eight* of the Act, the prescribed turnover shall be calculated by reference to the taxable turnover of the business concerned during any relevant year and, if necessary, during each relevant quarter.

(3) Where the taxable turnover of a business exceeds or is likely to exceed-

(a) twenty million kwacha in any relevant year; or

(b) five million kwacha in any relevant quarter;

the business shall be taken to exceed the prescribed turnover for the purposes of sub-section (1) of section *twenty-eight* of the Act, and the person carrying on the business shall be liable to make application to be registered accordingly.

(4) In calculating, for the purposes of this Order, that part of the turnover of a business that is attributable to taxable supplies, supplies made in the course of the business before the tax commencement day shall be regarded as taxable if they would have been taxable had they been made after that day.

SECTION 53-THE VALUE ADDED TAX
(FIRST REGISTRATION) ORDER

Statutory Instrument
60 of 1995

Order by the Minister

1. This Order may be cited as the Value Added Tax (First Registration) Order.

Title

2. (1) In this Order-

Taxable turnover
requiring registration

"relevant quarter" means any period of three consecutive months commencing-

(a) on 1st May, 1994; or

(b) on the first day of any subsequent calendar month;

"relevant year" means any period of twelve months commencing-

(a) on 1st May, 1994; or

(b) on the first day of subsequent calendar month.

(2) For the purposes of sub-section (3) section *fifty-three* of the Act, the prescribed turnover shall be calculated by reference to the taxable turnover of the business concerned during any relevant year and, if necessary, during each relevant quarter.

(3) Where, as at 1st May, 1995, the taxable turnover of a business exceeds or is likely to exceed-

(a) thirty million kwacha in any relevant year; or

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(b) seven million five hundred thousand kwacha in any relevant quarter;

the business shall be taken to exceed prescribed turnover for the purposes of sub-section (3) of section *fifty-three* of the Act, and, subject to the provisions of that section, the person carrying on the business shall be registered by the Commissioner-General accordingly.

(4) In calculating, for the purposes of this Order, that part of the turnover of a business that is attributable to taxable supplies, supplies made in the course of the business before the tax commencement day shall be regarded as taxable if they would have been taxable had they been made after that day.

SECTIONS 2, 18 AND 51-THE VALUE ADDED TAX (GENERAL) REGULATIONS

Statutory Instrument

78 of 1995

90 of 1995

191 of 1995

Regulations by the Minister

PART 1

PRELIMINARY

1. These Regulations may be cited as the Value Added Tax (General) Regulations. Title
2. In these Regulations, unless the context otherwise requires- Interpretation

"date of registration" means the date shown in the register kept for purposes of section *twenty-seven* of the Act as the date on which registration becomes effective;

"designated official" means a person who is confirmed by the Ministry of Foreign Affairs as being accorded rights and privileges under an international agreement;

"diplomat" means the head of a mission or a member of the diplomatic staff of a mission, of a country accredited to the Republic of Zambia, who is entitled to diplomatic rights and privileges under an international agreement.

(As amended by S.I. No. 191 of 1995)

PART II

SUPPLIES OF GOODS AND SERVICES

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- 3.** The supply of goods by any person in the course of a business conducted by him shall not constitute a supply of goods for the purposes of the Act, if-
- (a) the goods are supplied as samples or for promotional or publicity purposes;
 - (b) the goods are supplied without consideration; and
 - (c) each item of the goods so supplied has an open market value of not more than ten thousand kwacha.
- 4.** The disposal by a Government agency of any asset of the agency shall constitute a supply of goods for the purposes of the Act.
- 5.** (1) In this regulation, "services of the business", in relation to a business carried on by a taxable supplier, means services provided in connection with the carrying on of that business, whether or not they are services of the kind provided in the course of that business.
- (2) Where a taxable supplier causes any services of the business to be provided, with or without consideration-
- (a) for his own benefit;
 - (b) for the benefit of himself and others;
 - (c) for the benefit of his business partners, or of any directors of or persons employed in the business; or
 - (d) for the benefit of customers of the business;
- the supply of such services shall be a taxable supply.
- 6.** (1) Where, by reason of death, bankruptcy, winding-up or other legal process in respect of a taxable supplier whether individual or corporate, the property or control of a business carried on by the taxable supplier and in respect of which the taxable supplier is registered is vested in another person, the provisions of the Act and of any statutory instruments or administrative rules made thereunder shall, on such vesting and for as long as that other person remains in such control, apply to that other person as if he were the taxable supplier.
- (2) A person carrying on or controlling the business of a taxable supplier in the circumstances referred to in sub-regulation (1) shall notify the Commissioner-General in writing of that fact, giving full particulars of the circumstances in which control of the business concerned passed from the taxable supplier to him.

Supplies of promotional, etc., material

Disposal of assets by Government agency

Transactions constituting supplies of services

Supplies by bankrupt or deceased estates, companies in receivership, etc.

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(3) Notice under sub-regulation (2) shall be given within thirty days after control is acquired by the person giving the notice.

(4) A person who fails to give notice as required by this regulation shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten thousand penalty units.

6A. (1) A supplier registered under section *twenty-eight* of the Act may apply to the Commissioner-General to declare that a supply of goods or services made by the supplier should not be regarded as a supply of goods or services for the purposes of the Act, where-

Supplies acquired by diplomats, designated officials, etc.

- (a) in the case of goods, the invoice is in excess of an amount equivalent to fifty United States dollars;
- (b) in the case of services, the service is for electricity, telephone or security; and
- (c) the supply is used for vehicle servicing.

(2) Sub-regulation (1) shall apply where the goods or services are acquired by a diplomat or other designated official of an international organisation for their personal use or enjoyment, or in the performance of their official duties.

(3) The application shall not be granted unless-

- (a) the application is made on a form prescribed by the Commissioner-General for that purpose;
- (b) the Commissioner-General is satisfied that there is sufficient evidence that the tax described on the application has been paid; and
- (c) the application is made within two years of the date the tax was paid by the supplier.

(4) Where the Commissioner-General is satisfied that the goods or services are not a supply of goods or services for the purposes of the Act, the tax shall be refunded to the diplomat or designated official.

(As amended by S.I. No. 191 of 1995)

PART III

INPUT TAX

7. (1) Subject to this regulation, tax charged on the supply to or importation by a taxable supplier of a motor car shall be excluded from any claim, deduction or credit under section *eighteen* of the Act. Input tax not allowed on motor cars

(2) In this regulation, "motor car" means any motor vehicle of a kind normally used on public roads which has three or more wheels and which-

- (a) is constructed or adapted wholly or mainly for the carriage of passengers; or
- (b) has to the rear of the driver's seat roofed accommodation fitted with side windows, or is constructed or adapted for the fitting of side windows;

but does not include-

- (i) a vehicle capable of accommodating only one person or constructed or adapted for carrying twelve or more persons;
- (ii) a vehicle of not less than three tons unladen weight;
- (iii) an ambulance; or
- (iv) a vehicle constructed for a special purpose other than the carriage of persons and having no accommodation for carrying persons other than such as is incidental to that purpose.

(3) This regulation shall not apply to a supply or importation of a motor car-

- (a) by way of hire or rental; or
- (b) for the purposes of resale by a car dealer or for use in the course of a *bona fide* car hire or driving instruction business.

(4) Where a motor car is resold otherwise than at a profit, such resale shall not constitute a supply of goods for the purposes of the Act.

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8. (1) Tax charged on the supply to or importation by a taxable supplier of any goods, or on the supply to a taxable supplier of any services, used or to be used for the purposes of business entertainment shall be excluded from any claim, deduction or credit under section *eighteen* of the Act.

Input tax not allowed
on business
entertainment

(2) For the purpose of this regulation, "business entertainment" includes the provision of any food, beverages, accommodation, entertainment, amusement, recreation or hospitality of any kind, and any incidental transportation, provided to any person by a taxable supplier, whether directly or indirectly, in connection with a business carried on by him.

8A. Tax charged on the supply to a taxable supplier of telephone services shall be excluded from any claim, deduction or credit under section *eighteen* of the Act.

(As amended by S.I. No. 90 of 1995)

9. (1) Where-

Tax paid prior to
registration

- (a) for the purposes of a business carried on or to be carried on by him, any goods or services are supplied to, or any goods are imported by, a person who is not a registered supplier; and
- (b) the person afterwards becomes registered and is still carrying on that business;

the person may claim input tax or deduction in respect of those goods or services:

Provided that this sub-regulation shall not apply in respect of-

- (i) goods that were received more than six months before the date of his registration or that have been supplied by him; or
- (ii) services that were received more than six months before the date of his registration.

(2) Where-

- (a) for the purposes of a business carried on or to be carried on by him, any goods or services are supplied to, or any goods are imported by, an individual who is not a registered supplier; and
- (b) afterwards a company becomes registered and is carrying on that business;

the company may claim input tax credit or deduction in respect of those goods or services:

Provided that this sub-regulation shall not apply in respect of-

- (i) goods that were received more than six months before the date of registration of the company or that have been supplied by him or the company; or
- (ii) services that were received more than six months before the date of registration of the company.

(3) An amount of tax paid by a promoter of a company in respect of goods or services supplied to him in connection with the formation of the company may, subject to conditions imposed by the Commissioner-General, be claimed by the company as input tax as if the amount has been paid by the company on supplies effected to it for the purposes of a business carried on by it in the first month after its registration:

Provided that this sub-regulation shall not apply in relation to tax paid in respect of the supply of any services earlier than six months prior to the date of registration of the company concerned.

(4) A registered supplier, whether individual or corporate, taking the benefit of this regulation shall retain and produce all such records, invoices, accounts, and other information relating to the supply or importations as the Commissioner-General may require for the period prescribed by or under sub-section (1) of section *forty-two* of the Act.

(5) A claim under this regulation shall be allowed only to the extent and subject to the conditions prescribed by or under section *eighteen* of the Act in relation to input tax generally.

(6) Without limiting the generality of sub-regulation (5)-

- (a) where the supplier is not in possession of documentary evidence as prescribed for the purposes of sub-section (3) of section *eighteen* of the Act, the claim shall be disallowed; and
- (b) a claim may be partly disallowed by rules of apportionment prescribed under that section and applying to the supplier's business.

PART IV

MISCELLANEOUS

10. (1) A registered supplier who ceases to make taxable supplies, or whose taxable turnover falls below the turnover figure for the time being in force under sub-section (1) of section *twenty-eight* of the Act or, as the case may be, under sub-section (3) of section *fifty-three* of the Act, ceases to be liable to be registered.

De- registration of suppliers

(2) A registered supplier to whom sub-regulation (1) applies shall, within thirty days of ceasing to be liable to be registered, notify the Commissioner-General in writing of that fact, providing such information as the Commissioner-General may require; and the Commissioner-General may cancel the supplier's registration.

(3) Notice of cancellation shall be served on the supplier concerned.

(4) A registered supplier who fails to notify the Commissioner-General as required by this regulation shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten thousand penalty units.

11. (1) This regulation applies where a registered supplier (in this regulation referred to as "the transferor") assigns his business, or a part of the business capable of separate operation, to another supplier (in this regulation referred to as "the transferee") as a going concern.

Transfer of a business

(2) Where a business or part of a business is transferred, then for the purpose of determining whether the transferee is liable to be registered, the taxable turnover of the business or part transferred shall be added to the turnover of any business carried on by the transferee.

(3) Any liability of the transferor under the Act subsisting immediately before the transfer takes effect (other than any criminal liability already incurred by the transferor), including any liability-

- (a) to keep and preserve, or to produce, any records or accounts;
- (b) to furnish a tax return; or
- (c) to pay any tax or interest under the Act; or
- (d) to comply with any requirement made in particular in respect of the business by the Commissioner-General;

shall, on and from the transfer, and without affecting such liability of the transferor, subsist to the like extent and severally against the transferee.

(4) No tax shall be charged or input claimed in respect of the transfer where the transferee is registered.

(5) Except to the extent that, upon the written request of both parties, the Commissioner-General otherwise determines, any entitlement under the Act to credit or repayment of input tax that, immediately before the transfer takes effect, was vested in the transferor shall be extinguished so far as the transferor is concerned but shall vest in and become the entitlement of the transferee.

(6) A transferor who fails to notify the Commissioner-General of the fact of a transfer within thirty days after it takes effect shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten thousand penalty units.

12. (1) Where a taxable supplier does not have a business establishment in Zambia or, in the case of an individual or partnership, does not have a usual place of residence in Zambia, the Commissioner-General may request the taxable supplier to appoint another person resident in Zambia (in this regulation referred to as the "tax agent") to act on his behalf in matters relating to tax.

Tax agents

(2) If the Commissioner-General accepts the appointment of a tax agent, any liability of the taxable supplier under the Act (other than any liability subsisting before his appointment) including any liability-

- (a) to keep and preserve, or to produce, any records or accounts;
- (b) to furnish a tax return; or
- (c) to pay any tax or interest under the Act; or
- (d) to comply with any requirement made in particular in respect of the business by the Commissioner-General;

shall, on and from his appointment, and without affecting such liability of the taxable supplier, subsist to the like extent and severally against the tax agent until such time as the Commissioner-General accepts another appointment.

13. (1) The Commissioner-General shall issue to a registered supplier a certificate of registration containing such particulars as the Commissioner-General may determine.

Certificate of registration

(2) A registered supplier shall display the certificate in some prominent place at his principal place of business.

(3) A certificate of registration shall not be capable of assignment or transfer, and shall be surrendered to the Commissioner-General on demand.

14. Any notice or other document required or authorised to be given under the Act or any statutory instrument made thereunder may be given- Serving of notice

- (a) by delivering it to the person to whom it is directed;
- (b) by leaving it at the usual or last known place of abode of that person;
- (c) by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode, place of business or postal address;
- (d) in the case of a company, be delivering it to the secretary of the company at its registered or principal office, or by sending it in a prepaid registered letter addressed to the secretary of the company at that office; or
- (e) Where-
 - (i) the notice is to be given to a person in his capacity as the holder of any interest in land; and
 - (ii) it is not practical, after reasonable inquiry, to ascertain the person's name or address;

by addressing the notice to the person having that interest in the premises (specifying the premises and the interest concerned) and by delivering it to some person on the premises, or if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

PART V

PENALTIES

15. (1) A person who-

Penalties for
contravention of rules

- (a) being a registered supplier, fails to issue a tax invoice or credit note in the circumstances and containing the particulars required by rule *three*, *four* or *five* of the Value Added Tax General Rules;
- (b) being a registered supplier, fails to notify the Commissioner-General, under Rule *sixteen* of those Rules, of a change in circumstances within the time allowed under those Rules; or
- (c) not being a registered supplier, issues an invoice purporting to be a tax invoice;

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten thousand penalty units.

(2) A person who contravenes any other provision of the Value Added Tax General Rules shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand penalty units.

SECTION 15-THE VALUE ADDED TAX (ZERO-RATING) ORDER

Statutory Instrument
109 of 1996

Order by the Minister

1. This Order may be cited as the Value Added Tax (Zero-Rating) Order.

Title

2. In this Order, unless the context otherwise requires-

Interpretation

"designated official" means a person who is confirmed by the ministry responsible for foreign affairs as being accorded rights and privileges under an international agreement;

"diplomat" means the head of a mission or a member of the diplomatic staff of a mission, of a country accredited to the Republic of Zambia, who is entitled to diplomatic rights and privileges under an international agreement;

"Donor" means an accredited diplomatic mission or aid agency of such a diplomatic mission or any aid agency that may be approved by the Government of the Republic of Zambia;

"donor funding" does not include funding provided in the form of a loan other than development credit to the Government of the Republic of Zambia;

"eligible goods or services" means goods or services acquired by a diplomat or a designated official for their personal use or enjoyment, or in the performance of their official duties subject to the following limitations;

(a) in the case of a diplomat, to the extent that the foreign country grants reciprocal privileges to diplomats accredited to that country from Zambia; or

(b) in the case of a designated official to the extent allowed by the ministry responsible for foreign affairs;

"inclusive tour" means a published package of tourist services booked before a visitor arrives in Zambia, which includes-

(a) accommodation and any provision of meals; and

- (b) other tourist services, not ancillary to accommodation and meals, which account for a significant proportion of the package when sold, or offered for sale, at an inclusive price and when the service covers a period of more than twenty-four hours or includes overnight accommodation;

"medical supplies and drugs" means any substance or mixture of substances prepared, sold or represented for use in-

- (a) the diagnosis, treatment, mitigation or prevention of a disease, disorder or abnormal physical state, or the symptoms thereof, in man or animal; or
- (b) restoring, correcting or modifying organic functions in man or animal; but does not include preparations, whether or not possessing therapeutic or prophylactic properties, commonly used for toilet purposes or in connection with the care of the human body, whether for cleansing, deodorising, beautifying, preserving or restoring;

"poultry" means chickens, ducks, geese and turkeys;

"technical aid programme or project" means the provision of goods or services under a technical aid agreement or project with the Government of the Republic of Zambia;

"tourist" means a person who is neither a citizen nor a resident of Zambia.

3. The Statutory Instruments listed in Part II of the Appendix to this Order are hereby revoked.

Revocation of
statutory instruments

APPENDIX

REVOKED STATUTORY INSTRUMENTS

<i>Statutory Instrument</i>	<i>Number</i>
1. Value Added Tax (Zero-Rating) Order, 1995	104 of 1995
2. Value Added Tax (Zero-Rating) (No. 2) Order, 1995	202 of 1995
3. Value Added Tax (Zero-Rating) Order, 1996	61 of 1996

SECTION 2-THE VALUE ADDED TAX (TAXABLE VALUE)
REGULATIONS

Regulations by the Minister

1. These Regulations may be cited as the Value Added Tax (Taxable Value) Regulations.*(2) Title

* The Value Added Tax (Taxable Value) Regulations came into force on 1st April, 1997.

2. In these Regulations, unless the context otherwise requires "specified supplies" means the goods set out in the First and Second Schedule to these Regulations. Interpretation

3. When specified supplies are supplied by a taxable supplier, the taxable value of such supplies shall be the greater of- Taxable value of specified supplies

- (a) the taxable value ascertained in accordance with section *ten* of the Act; or
- (b) a minimum taxable value set out in the Second Schedule to these Regulations:

Provided that where the quantity is other than that specified in the Second Schedule, the minimum value shall be determined by the use of the following formula-

$$\frac{\text{quantity}}{\text{quantity shown in the Second Schedule}} \times \text{minimum value shown in the Second Schedule}$$

4. When specified supplies are imported, the taxable value of such supplies shall be the greater of- Taxable value of imported specified supplies

- (a) the taxable value ascertained in accordance with sub-section (3) of section *ten* of the Act; or
- (b) a minimum taxable value set out in the Second Schedule to these Regulations:

Provided that where the quantity is other than that specified in the Second Schedule, the minimum value shall be determined by the use of the following formula-

$$\frac{\text{quantity}}{\text{quantity shown in the Second Schedule}} \times \text{minimum value shown in the Second Schedule}$$

* The Value Added Tax (Taxable Value) Regulations came into force on 1st April, 1997.

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FIRST SCHEDULE

(Regulation 2)

SPECIFIED SUPPLIES

1. Beer, clear and opaque
2. Cigarettes

SECOND SCHEDULE

(Regulations 3 and 4)

SPECIFIED SUPPLIES

<i>Specified Supplies</i>	<i>Quantity</i>	<i>Minimum taxable value</i>
Beer produced in Zambia:		
Mosi beer	375 ml bottle	K700
Ohlsson's beer	375 ml bottle	K800
Rhino beer	375 ml bottle	K700
Ndola Supreme beer	375 ml bottle	K800
Opaque beers:		
1. 1 litre carton		K600
2. Per litre of bulk quantity		K300
Imported beers:		
1. Ohlsson's	330 ml bottle	K1,500
2. Others	375 ml bottle	K1,500
3. Others	330 ml can	K1,500
4. Others	750 ml bottle	K2,600
Cigarettes produced in Zambia:		
1. Guards	packet (20)	K514
2. Rothmans	packet (20)	K850
3. Peter Styversant	packet (20)	K742
4. Planters leaf	packet (10)	K167
5. Other brands	packet (20)	K900
Cigarettes imported	packet (20)	K1,200

SECTION 30-THE VALUE ADDED TAX (APPEALS TRIBUNAL) REGULATIONS

Statutory Instrument
169 of 1995

Regulations by the Minister

PART I

PRELIMINARY

1. These Regulations may be cited as the Value Added Tax (Appeals Tribunal) Regulations. Title

2. In these Regulations, unless the context otherwise requires- Interpretation

"deputy member" means a deputy member appointed under section (4) of section *thirty* of the Act;

"member" means a member appointed under subsection (1) of section *thirty* of the Act;

"Registrar" means the Registrar referred to in subsection (5) of section *thirty* of the Act.

PART II

MEMBERSHIP OF THE TRIBUNAL

3. A member or deputy member shall have the following qualifications: Qualifications

- (a) he must be a citizen of Zambia; and
- (b) he must be under the age of sixty-five years:

Provided that a member shall not be qualified for appointment as Chairman or Deputy Chairman unless the member is a legal practitioner who has practised in Zambia for at least five years.

PART III

ADMINISTRATION

4. (1) The Registrar shall be responsible, under the direction of the Chairman, for the effective and efficient provision of such administrative support as may be necessary to enable the Tribunal to carry out its functions, including the management and organisation of support procedures and support staff, the provision of suitable accommodation and other facilities required for sittings of the Tribunal. Functions of Registrar

(2) Without limiting the generality of sub-regulation (1), the Registrar shall be responsible for ensuring:

- (a) that notices, summons, or other documents are served not less than seven days before the date of hearing;
- (b) that the requirements of subsection (2) of section *thirty-one* of the Act are met in relation to an appeal, subject to any decision by the Tribunal under subsection (3) of that section;
- (c) that the dates and times for a hearing are set down; and
- (d) that the decisions of the Tribunal are sent to parties to an appeal, and published in the *Gazette* within a period of fourteen days from the date the decision was made.

(3) The Registrar may, subject to the consent of the Chairman, delegate such of his functions as he thinks fit to any member of the staff of the Tribunal.

PART IV

PROCEEDINGS OF THE TRIBUNAL

5. (1) Appeals shall be heard by the three persons being members or deputy members sitting together. Quorum

(2) The Chairman, or in his absence the Deputy Chairman shall preside over the sittings of the Tribunal.

(3) The determination of any matter before the Tribunal shall be according to the opinion of the majority of the members of the Tribunal considering or hearing the appeal.

(4) A member shall not sit or act as a member of the Tribunal if he has any interest, direct or indirect, personal or pecuniary, in any matter before the Tribunal.

6. (1) An appeal to the Tribunal shall be made in writing and shall provide- Appeal to be in writing

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- (a) details of the decision against which the appeal is made;
- (b) the date of the decision;
- (c) the office giving the decision;
- (d) the grounds for appeal; and
- (e) such other information as the Tribunal shall prescribe.

(2) An appeal shall be lodged with the Tribunal within thirty days from the date of the decision or determination by the Commissioner-General.

7. (1) Subject to sub-regulation (2) the Registrar shall acknowledge receipt of the appeal, in writing, and copy all documents to the Commissioner-General, within seven days of receipt thereof. Acknowledgement appeal

(2) If the appeal is lodged after expiry of the time limit prescribed in Regulation 7, or if the appeal does not lie with the Tribunal, the Registrar shall so advise the appellant, copying the correspondence and documents to the Commissioner-General, within seven days of receipt thereof.

8. (1) The Commissioner-General shall, within thirty days of receipt of appeal documents under sub-regulation (1) of Regulation 8, lodge with the Tribunal a written statement of the cases setting out the facts and reasons for the disputed decision. Commissioner's statement of case

(2) The Registrar shall acknowledge receipt of the statement of the case and copy all documents to the appellant, within seven days of receipt thereof.

9. The Tribunal may at any time direct that the statement of the case, or other document relevant to the appeal proceedings be amended in such terms as they think fit. Amendment

10. (1) A party to an appeal shall within thirty days lodge with the Tribunal a list of all documents the party proposes to produce at the hearing. Documents

(2) The Registrar shall acknowledge receipt of the list and shall send a copy to the other party within seven days of receipt thereof.

(3) The Tribunal may require any person who it believes has in that person's possession documents which may assist the Tribunal in its deliberations, to produce those documents.

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11. (1) An appellant may withdraw an appeal or the Commissioner-General may withdraw the decision against which the appellant is appealing any time before or during the hearing, in writing, and the Registrar shall send a copy of the withdrawal and any other documents to the other party within seven days of receipt of such withdrawal. Withdrawal of an appeal

(2) Withdrawal of an appeal or decision shall not prevent a party from applying for costs.

12. The Tribunal may, on application by a party to an appeal, extend the time limit prescribed for lodging an appeal for a period of twenty-one days. Power to extend time limit

13. (1) The Registrar shall advise all parties to an appeal, in writing, of the time and place of the hearing, and shall give the parties not less than fourteen days notice. Hearing

(2) A hearing shall be in public unless, on application by a party to the appeal, the Tribunal directs that the appeal, or part of it, shall be heard in camera.

(3) An appellant may appear in person at a hearing or be represented by any person that person may appoint, and the Commissioner-General may be represented by any person the Commissioner-General may appoint for the purpose.

(4) If a party to an appeal or that party's representative fails to appear at the hearing the Tribunal shall proceed in the manner it thinks fit.

14. (1) The Tribunal may call any person to attend a hearing and give evidence if the Tribunal believes that evidence will assist its deliberations. Witnesses

(2) A witness attending a Tribunal hearing shall be paid allowances and expenses at the rates specified by the Registrar.

(3) Any person who-

- (a) being required to attend the proceedings in the manner provided in this Part, fails without reasonable excuse, to attend;
- (b) being summoned to produce any document, book or paper, in that person's possession or under that person's control, fails to produce the same; and
- (c) refuses to answer any question put to that person by the Tribunal;

shall be guilty of an offence and liable to a fine not exceeding one thousand penalty units.

PART V

COSTS

15. (1) The Tribunal may award such costs as it considers appropriate to a party to an appeal to be paid to the other party within such period as the Tribunal may prescribe. Costs

(2) The Registrar shall be the taxing officer for the purpose of taxing any costs relating to an appeal.

(3) An appeal against taxation of costs ordered by the Registrar shall be heard by the Chairman or Deputy Chairman sitting alone or with another member or deputy member of the Tribunal.

PART VI

DECISIONS

16. (1) The Tribunal may deliver its decision at the end of a hearing, but in any case the decision shall be put in writing and sent to all parties to the appeal within fourteen days of delivering the decisions. Pronouncement of decisions

(2) The Registrar shall keep copies of all decisions endorsed with date of issue to all parties.

(3) The Registrar shall publish the decision of the Tribunal in the *Gazette* within fourteen days of the decision being delivered.

17. Any party aggrieved with any award, declaration or decision of the Tribunal may appeal to the High Court. Appeals to High Court

Endnotes

1 (Popup - Popup)

*The Value Added Tax Act came into operation on 1st May 1995. For the purposes of this Act, 1st July, 1995 is appointed as the tax commencement day. (S.I. No. 58 of 1995)

2 (Popup - Popup)

*The Value Added Tax (Taxable Value) Regulations came into force on 1st April, 1997.