LAWS OF GUYANA

REVISED EDITION

VALUE-ADDED TAX ACT

CHAPTER 81:05

PUBLISHED BY THE GOVERNMENT OF GUYANA

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VALUE-ADDED TAX ACT

Chapter 81:05

Amended by

Resolution 5 of 2006
Reg. 13/2006
(O) 23 of 2006
(O) 3 of 2007
VAT (Amendment) Act 6 of 2007
(O) 11 of 2008
(O) 29 of 2008
(O) 178 of 2012
(O) 30 of 2014
(O) 12 of 2015
(O) 6 of 2016
(O) 18 of 2016
3 of 2017
40 of 2017
2 of 2018
Reg. 12/2018
(O) 48 of 2018
(O) 49 of 2018
7 of 2019
Reg. 2 /2020
8 of 2020
(O) 78 of 2020
(O) 6 of 2021
(O) 1 of 2022
(O) 9 of 2022
(O) 10 of 2022
(O) 23 of 2022

Guyana

ACT No. 10 of 2005

Value-Added Tax Act 2005

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An Act to provide for the imposition and collection of Value-Added Tax
Enacted by the Parliament of Guyana:-

AD 2005

PART I – Preliminary

Short title and commencement.

1. (1) This Act may be cited as the Value-Added Tax Act 2005.

(2) This Act shall come into operation on such date as the Minister may by order appoint and different dates may be prescribed for different provisions of this Act.

Definitions.
(2 of 2018
7 of 2019)

2. In this Act, unless the context indicates otherwise–

"appealable decision" means an assessment or a decision described in sections 12(6), 13(13), 25(7), 31(4), 32(3), 35(13), 38(6), 39(7), 46(4), 54(2), and 85(4);

"auctioneer" means a person engaged in a taxable activity that includes the supply of goods by auction as an auctioneer or agent for or on behalf of another person;

"capital goods" means an asset, or a component of an asset, which is of a character subject to an allowance for depreciation or comparable deduction for income tax purposes, and which is used in the course or furtherance of a taxable activity;

"cash value", in relation to a supply of goods under a credit agreement, means–

(a) where the seller or lessor is a bank or other financial institution, an amount equal to the sum of–

(i) the consideration paid by the bank or other financial institution for the goods or the fair market value of the supply of the goods to the bank or other financial institution, whichever is the greater; and

(ii) any consideration for erection, construction, assembly, or installation of the goods borne by the bank or other financial institution; or

(b) where the seller or lessor is a dealer, an amount equal to the sum of–

(i) the consideration at which the goods are normally sold by the dealer for cash; and

(ii) any consideration for erection, construction, assembly, or installation of the goods borne by the dealer;

"charity" means an association not for gain, including an institution of religious worship, a charitable organization, or any other society, association, or organization, whether incorporated or not, that–

(a) is carried on otherwise than for the purposes of profit or gain to any proprietor, member, or shareholder; and

(b) is, in terms of its memorandum, articles of association, written rules, or other document constituting or governing its activities–

(i) required to use any assets or income solely in the furtherance of its aims and objects; and

(ii) prohibited from transferring any portion of its assets or income directly or indirectly so as to profit any person other than by way of (1) the provision of charitable assistance, or (2) the payment in good faith of reasonable remuneration to any of its officers or employees for any services actually rendered to it; and

(iii) upon its winding-up or liquidation, obliged to give or transfer its assets remaining after the satisfaction of its liabilities to another society, association or organization with objects similar to those of the first-mentioned society, association, or organization;

"Commissioner" means the Commissioner General of the Revenue Authority, who is the person responsible for administration of this Act;

"consideration", in relation to a supply or import of goods or services, means the total amount in money or kind paid or payable (including a deposit on a returnable container) for the supply or import by any person, directly or indirectly, including any duties, levies, fees, and charges (other than VAT) paid or payable on, or by reason of, the supply or import, reduced by any price discounts or rebates allowed and accounted for at the time of the supply or import, but does not include–

(a) a cash payment made by any person as an unconditional gift to an association not for gain; or

(b) a deposit (including a deposit on a returnable container), whether refundable or not, given in connection with a supply of goods or services unless and until the supplier applies the deposit as consideration for the supply or such deposit is forfeited;

"credit agreement" means a hire-purchase agreement or a finance lease;

"days" means official working days for the Guyana Revenue Authority, excluding all public holidays;

"employee" means any person receiving remuneration and includes an officer, servant, or person holding a position of employment;

"employment" means the position of an individual in the service of some other person (including the Government);

"exempt supply" means a supply of goods or services to which section 18 applies;

"finance lease", in relation to goods, means a lease of goods where–

(a) the lease term exceeds seventy-five percent of the expected life of the goods; or

(b) the lease provides for transfer of ownership at the end of the lease term or the lessee has an option to purchase the goods for a fixed or determinable price at the expiration of the lease; or

(c) the estimated residual value of the goods to the lessor at the expiration of the lease term (including the period of any option to renew) is less than twenty percent of its fair market value at the commencement of the lease; or

(d) the leased goods are custom-made for the lessee and at the end of the lease term will not be usable by anyone other than the lessee;

"game of chance" includes a raffle or lottery, or gaming by playing table games or gaming machines;

"goods" means all kinds of corporeal movable or immovable property, thermal or electrical energy, heat, gas, refrigeration, air conditioning, and water, but does not include money;

"immovable property" includes–

(a) any estate, right, interest, or servitude on or over any land, and things attached to land or permanently fastened to anything attached to land; or

(b) any real right in any such property;

"import" means–

(a) in the case of goods, to bring or cause to be brought into Guyana; or

(b) in the case of services, to supply services to a resident person–

(i) by a non-resident person; or

(ii) by a resident person from a business carried on by the resident person outside Guyana,

to the extent that such services are utilised or consumed in Guyana, other than to make taxable supplies;

"importer", in relation to an import of goods, includes the person who owns the goods, or any other person for the time being possessed of or beneficially interested in the goods;

"input tax" means VAT paid or payable in respect of a taxable supply to, or an import of goods by, a taxable person;

“invoice” means a document notifying an obligation to make a payment;

“Minister” means the Minister responsible for Finance;

"money" means–

(a) a coin or paper currency recognized in Guyana as legal tender; or

(b) a coin or paper currency of a foreign country that is used or circulated as currency; or

(c) a bill of exchange, promissory note, bank draft, postal order, money order, or similar instrument, other than an item of numismatic interest;

“non-resident person” means a person who is not a resident person and a person referred to in paragraph (d) of the definition of “resident person” to the extent that the person is not a resident person;

“output tax”, in relation to a taxable person, means the tax charged or chargeable under section 9(1)(a) on a taxable supply made by the person;

“person” includes the State, an agency of the State, a local authority, board, natural person, trust, company, and partnership;

“promoter of public entertainment” means a person who arranges the staging of public entertainment;

"public entertainment" means any musical entertainment, sporting event, theatrical performance, comedy show, dance performance, circus show, any show connected with a festival, or any similar show to which the general public is invited, but does not include entertainment organized by–

(a) an approved educational institution; or

(b) the board of management or a parent teacher association of an approved educational institution; or

(c) a person who provides entertainment on a daily or weekly basis; or

(d) a religious organisation;

"recipient", in relation to a supply or import, means the person to whom the supply or import is made or in the case of an import of goods, for whom the goods are intended;

"related persons" means–

(a) a natural person and a relative of that natural person; or

(b) a trust and a person who is or may be a beneficiary in respect of that trust or whose relative is or may be a beneficiary; or

(c) a partnership or company (other than a stock company) and a member thereof who, together with shares or other membership interests held by persons who are related to such member under another clause of this definition, owns twenty-five percent or more of the rights to income or capital of the partnership or company; or

(d) a shareholder in a stock company and the stock company if the shareholder, together with shares held by persons who are related to such shareholder under another clause of this definition–

(i) controls twenty-five percent or more of the voting power in the stock company; or

(ii) owns twenty-five percent or more of the rights to dividends or of the rights to capital; or

(e) two companies, if a person, either alone or together with a person or persons who are related to such person under another clause of this definition–

(i) controls twenty-five percent or more of the voting power in both companies; or

(ii) owns twenty-five percent or more of the rights to dividends or of the rights to capital in both companies;

(f) a taxable person and a branch or division of that taxable person which is separately registered under section 55(3) as a taxable person; or

(g) any branches or divisions of a taxable person which are separately registered under section 55(3) as taxable persons;

and, for purposes of paragraphs (c), (d), and (e) of this definition, a person is treated as owning, on a pro rata basis, shares or other membership interests which are owned or controlled by such person indirectly through one or more interposed persons;

"relative", in relation to a natural person, means–

(a) the spouse of the person; or

(b) an ancestor, lineal descendant, brother, sister, uncle, aunt, nephew, niece, stepfather, stepmother, stepchild, or adopted child of that person or his spouse, and in the case of an adopted child his adopter; or

(c) a spouse of any person referred to in paragraph (b), and for the purposes of this definition, an adopted child is treated as a natural child of the adopter;

"rental agreement" means an agreement for the letting of goods other than a hire-purchase agreement or a finance lease;

"resident person" means–

(a) the State, an agency of the State, or a local authority in Guyana;

(b) a natural person resident in Guyana that is, a natural person who resides permanently or being in Guyana intends to reside permanently in Guyana except for such temporary absences as to the Commissioner may seem reasonable and not inconsistent with the claim of such individual to be resident in Guyana, or who resides in Guyana for more than one-hundred and eighty-three days in the year;

(c) a body, including a company, partnership, board, or trust, which is formed or created under the laws of Guyana or which is managed and controlled in Guyana; or

(d) any other person to the extent that such person carries on in Guyana a taxable or other activity and has a fixed place in Guyana relating to such activity;

"Revenue Authority" means the Guyana Revenue Authority;

"sale" means an agreement of purchase and sale, and any other transaction or act whereby ownership of goods passes or is to pass from one person to another;

"services" means anything that is not goods or money;

"State" means Guyana or the Republic of Guyana;

"supplier", in relation to a supply, means the person making the supply;

"tax period" means a calendar month in relation to a taxable person;

"taxable supply" means a supply of goods or services in Guyana in the course or furtherance of a taxable activity, other than an exempt supply;

"taxation officer" means the Commissioner or any other person in the service of the Board of the Guyana Revenue Authority.

"tax fraction" means the fraction calculated in accordance with the formula–

$$R/(1 + R)$$

where "R" is the rate of VAT applicable to the taxable supply;

"tax invoice" means a document provided as specified under section 28(1);

"trust" means a relationship where property is under the control or management of a trustee;

"trustee" means a person appointed or constituted trustee by act of parties, by order or declaration of a court, or by operation of law, and includes a person having or taking upon himself the administration or control of property subject to a trust; and

"value-added tax" (VAT) or "tax" means the tax imposed under this Act, and includes an amount to the extent that it is treated as tax for the purposes of this Act.

Fair market value.

3. (1) In this section–

"similar import", in relation to an import of goods or services, means any other import of goods or services that, in respect of the characteristics, quality, quantity, functional components, materials, and reputation of the first-mentioned goods or services, is the same as, or closely or substantially resembles, that import of goods or services; and

"similar supply", in relation to a supply of goods or services, means any other supply of goods or services that, in respect of the characteristics, quality, quantity, functional components, materials, and reputation of the first-mentioned goods or services, is the same as, or closely or substantially resembles, that supply of goods or services.

(2) For the purposes of this Act, the fair market value of a supply or import of goods or services at a given date is the consideration in money which the supply or import, as the case may be, would generally fetch if supplied or imported in similar circumstances at that date in Guyana, being a supply or import freely offered and made between persons who are not related persons.

(3) Where the fair market value of a supply or import of goods or services at a given date cannot be determined under subsection (2), the fair market value is the consideration in money which a similar supply or similar import, as the case may be, would generally fetch if supplied or imported in similar circumstances at that date in Guyana, being a supply or import freely offered and made between persons who are not related persons.

(4) Where the fair market value of any supply or import of goods or services cannot be determined under subsection (2) or (3), the fair market value shall be determined in accordance with any method approved by the Commissioner which provides a sufficiently objective approximation of the consideration in money which could be obtained for that supply or import had the supply or import been freely offered and made between persons who are not related persons.

(5) The fair market value of a supply or import is determined at the time of the supply or import as determined under this Act.

Supply.
(2 of 2018)

4. (1) Subject to this Act–

(a) a supply of goods means–

(i) a sale of goods;

(ii) a grant of the use or right to use goods, whether with or without a driver, pilot, crew, or operator, under a rental agreement, credit agreement, freight contract, agreement for charter, or other agreement under which such use or right to use is granted; or

(iii) a transfer or provision of thermal or electrical energy, heat, gas, refrigeration, air conditioning, or water; and

(b) a supply of services means anything done which is not a supply of goods or money, including–

(i) the granting, assignment, cessation, or surrender of a right; or

(ii) making available a facility or advantage; or

(iii) refraining from or tolerating an activity.

(2) The disposition of a taxable activity as a going concern, or a part of a taxable activity that is capable of separate operation, is a supply of goods made in the course or furtherance of such taxable activity.

(3) For the purposes of subsection (2), a taxable activity or a part of a taxable activity capable of separate operation is disposed of as a going concern where–

(a) all the goods and services necessary for the continued operation of that taxable activity or that part of a taxable activity are supplied to the transferee; and

(b) the transferor carries on, or is carrying on, that taxable activity or that part of a taxable activity up to the time of its transfer to the transferee.

(4) A supply of goods in exchange for goods or services is a supply of goods.

(5) A supply of services in exchange for goods or services is a supply of services.

(6) Subject to subsections (17) and (21), the application by a taxable person of goods or services acquired for use in a taxable activity to a different use, including the provision of goods or services to an employee for personal use, is a supply of those goods or services by the taxable person in the course or furtherance of that taxable activity.

(7) Where goods are repossessed under a credit agreement, the repossession is a supply of the goods by the debtor under the credit agreement to the person exercising the right of repossession, and where such debtor is a registered person the supply is made in the course or furtherance of the debtor's taxable activity unless such goods did not form part of the assets held or used by the debtor in connection with that activity.

(8) Where a lay-away agreement is cancelled or terminates and the seller retains an amount paid by the purchaser or recovers an amount the purchaser owes under the agreement, the cancellation or termination is a supply of services by the seller in respect of the agreement.

(9) The placing of a bet by a person with another person operating a game of chance is a supply of services by the person operating the game of chance to the first-mentioned person.

(10) A supply of services incidental to a supply of goods is part of the supply of goods.

(11) A supply of goods incidental to a supply of services is part of the supply of services.

(12) A supply or import of services incidental to an import of goods is part of the import of goods.

(13) Regulations may be made by the Minister to provide that a supply of goods and services is a supply of goods or a supply of services.

(14) Where a supply consists both of a supply that is charged with tax at a positive rate and–

(a) a supply charged with tax at a zero rate; or

(b) an exempt supply,

each part of the supply is treated as a separate supply if reasonably capable of being supplied separately.

(15) A supply of services by an employee to an employer by reason of employment is not a supply.

(16) The provision of goods on consignment and the transfer of goods to a person acting in a representative capacity to the transferor is not a supply.

(17) Where a taxable person supplies goods or services and a credit for input tax paid on the acquisition of such goods or services was denied, the supply by the taxable person is a supply of goods or services otherwise than in the course or furtherance of a taxable activity.

(2 of 2018)

(18) Where a supply described in subsection (2) was charged with tax at the rate of zero percent in terms of paragraph 5 of Schedule I, the acquisition of the taxable activity is a supply by the recipient in the course or furtherance of a taxable activity carried on by the recipient to the extent that the goods and services comprising the taxable activity were acquired for a purpose other than consumption, use, or supply in the course of making taxable supplies, unless this purpose relates to less than ten percent of the total taxable activity.

(19) Where a right to receive goods or services for a monetary value stated on a token, voucher, gift certificate, or stamp, other than a postage stamp, is granted for a consideration in money, the issue of such token, voucher, gift certificate, or stamp is not a supply, except to the extent (if any) that such consideration exceeds that monetary value.

(20) Subsection (19) does not apply to a phone card, prepayment on a cellular phone, or a similar scheme of advance payment for the rendering of services.

(21) A person whose registration is cancelled under section 13 is deemed to have made a taxable supply in Guyana of any goods or services on hand at the date the registration is cancelled, but only if an input tax credit was claimed with respect to the goods or services

Supply by agent or auction.

5. (1) Subject to this section, a supply of goods or services–

(a) made by a person as agent for another person ("the principal") is a supply by the principal; or

(b) made to a person as agent for a principal is a supply to the principal.

(2) Subsection (1) does not apply to services supplied by an agent to the agent's principal.

(3) A supply of goods by auction is treated as a supply of goods for consideration by the auctioneer as supplier made in the course or furtherance of a taxable activity carried on by the auctioneer.

(4) Subsection (1) does not apply where the principal is a non-resident.

Taxable activity.

6. (1) For the purposes of this Act, "taxable activity" means an activity carried on continuously or regularly by a person–

(a) in Guyana,

(b) or partly in Guyana,

whether or not for profit, that involves or is intended to involve, in whole or in part, the supply of taxable goods or services to any other person for consideration.

(2) Taxable activity does not include–

(a) an activity carried on by a person essentially as a private recreational pursuit or hobby; or

(b) an activity that involves the making of exempt supplies.

(3) Anything done in connection with the commencement or termination of a taxable activity is treated as carried out in the course or furtherance of that taxable activity.

(4) Subject to subsection (5), a supply is made for consideration if the supplier directly or indirectly receives a payment for the supply from the recipient or any other person, including a payment wholly or partly in money or kind.

(5) A supply made for consideration includes–

(a) a supply made between related persons for no consideration; or

(b) a supply of goods for use only as trade samples; or

(c) a supply referred to in section 4(6) or (18).

(6) Taxable activity includes a supply of public entertainment.

PART II – Authority to Administer VAT

Administration of the Act; exercise of powers and performance of duties.
No. 20 of 2003

7. (1) The Commissioner is responsible for carrying out the provisions of this Act, including–

(a) receiving payment of VAT on imports and gross VAT receipts from taxable persons into a VAT deposit fund as permitted under section 38 of the Fiscal Management and Accountability Act 2003;

(b) making payments of VAT refunds and other VAT adjustments due to persons subject to this Act out of the VAT deposit fund; and

(c) paying net VAT received during a tax period into the consolidated fund no later than the fifteenth day of the month following the end of that tax period.

(2) The powers conferred and the duties imposed upon the Commissioner by or under the provisions of this Act may be exercised or performed by the Commissioner personally, or by a taxation officer engaged in carrying out the said provisions under the control, direction, or supervision of the Commissioner.

(3) Subject to subsection (4), a decision made and a notice or communication issued or signed by a taxation officer referred to in subsection (2) may be withdrawn or amended by the Commissioner or by the taxation officer concerned, and for the purposes of the said provisions, until it has been so withdrawn, is deemed to have been made, issued, or signed by the Commissioner.

(4) A written decision made by a taxation officer, other than the Commissioner, in the exercise of a discretionary power under the provisions of this Act shall not be withdrawn or amended after the expiration of one year from the date of the written notification of such decision or of a notice of assessment giving effect thereto, unless material facts were withheld from the taxation officer by the taxpayer.

(5) Subject to subsections (6) and (7), a decision made and a notice or communication issued or signed by the Commissioner or his delegate may be withdrawn or amended at any time.

(6) Where the Commissioner, knowing all the material facts at the time, makes a decision that a person is required or not required to register, and the person accepts the Commissioner's decision, and subsequently the Commissioner withdraws the decision, the Commissioner's decision shall govern the liability or non-liability of such person for payment of tax on any transaction concluded or event which occurred before the withdrawal of the decision.

(7) Where the Commissioner, knowing all the material facts at the time, makes a decision as to the nature of a transaction concluded by a person, and the person accepts the Commissioner's decision, and the Commissioner subsequently withdraws the decision, the Commissioner's decision shall govern the liability or non-liability of that person for payment of tax on any transaction concluded before the withdrawal of the decision.

(8) For purposes of this section, "net VAT" means gross VAT receipts in a tax period less refunds and adjustments the Commissioner is required by this Act to pay during the same tax period.

Information and Communication Technology
(2 of 2018)

7A. (1) In the administration of this Act, the Commissioner-General may authorise the use of electronic technology and may for this purpose –

(a) require electronic documents and electronic signatures;

(b) establish hardware and software systems;

(c) provide for any matter in relation to information and communication technology.

(2) The Minister may, by regulations subject to negative resolution of the National Assembly, provide for the carrying out of any matter authorised under this section.

Confidentiality of tax information.

8. (1) Subject to this section, a taxation officer carrying out the provisions of this Act shall not–

(a) disclose to any person any matter in respect of any other person that may in the exercise of the taxation officer's powers or the performance of the taxation officer's duties under the said provisions come to the taxation officer's knowledge; or

(b) permit any person to have access to any records in the possession or custody of the Commissioner,

except in the exercise of the taxation officer's powers or the performance of the taxation officer's duties under this Act or by order of a court.

(2) Nothing in this section prevents the Commissioner from disclosing–

(a) any documents or information to–

(i) a person where the disclosure is necessary for the purposes of this Act or any other fiscal law;

(ii) the Auditor-General where the disclosure is necessary for the performance of the Auditor-General's duties;

(iii) the competent authority of the government of another country with which Guyana has entered into an agreement for the avoidance of double taxation or for the exchange of Information, to the extent permitted under the agreement; or

(iv) a law enforcement agency for the enforcement of any law; or

(b) any information which does not identify a specific person to a person in the service of the State where such disclosure is necessary for the performance of the person's official duties.

(3) A person receiving documents and information under subsection (2) is required to keep them secret under the provisions of this section, except to the minimum extent necessary to achieve the purpose for which the disclosure was made.

(4) Documents or information obtained by the Commissioner in the performance of duties under this Act may be used by the Commissioner for the purposes of any other fiscal law administered by the Minister or Commissioner.

(5) If a person consents in writing, information concerning that person may be disclosed to another person.

(6) The Commissioner may disclose information concerning a taxpayer's affairs to a person claiming to be the taxpayer or the taxpayer's authorised representative only after obtaining reasonable assurance of the authenticity of the claim.

PART III – Imposition of Tax and Persons Liable

Imposition of tax and persons liable.

9. (1) Subject to the provisions of this Act, there shall be levied and paid a tax, to be known as the value- added tax, at a single positive rate to be specified by regulations made by the Minister, which regulations shall be subject to an affirmative resolution of the National Assembly, on the value of–

(a) every taxable supply by a taxable person in Guyana; and

(b) every import of goods or import of services, other than an exempt import.

(2) Except as otherwise provided in this Act, the tax payable under subsection (1) shall–

(a) in the case of a supply to which subsection (1)(a) applies, be accounted for by the taxable person making the supply;

(b) in the case of an import of goods, be paid by the importer; or

(c) in the case of an import of services, be paid by the recipient of the services.

(3) A transaction chargeable with tax under subsection (1)(a) and (b) shall be treated as a supply chargeable under subsection (1)(a).

PART IV – Registration

Taxable person.

10. (1) A taxable person is a person who is registered or is required to register under section 11.

(2) For purposes of subsection (1), a person is a taxable person–

(a) for a person required to register under section 11(1), (6), (7), or (8), from the date specified for that person under section 12(4)(a) and (b); and

(b) for a person who applies for registration under section 11(5) and is registered under section 12(2), from the date specified under section 12(4)(c).

Registration.

11. (1) Subject to this Act, every person who carries on a taxable activity and is not registered, is required to apply for registration within fifteen days of–

(a) the end of any period of twelve or fewer months where during that period the person made taxable supplies the total value of which equals or exceeds the amount specified in paragraph 1 of Schedule IV ; or

(b) the beginning of any period of twelve months where there are reasonable grounds to expect that the total value of taxable supplies to be made by the person during that period will equal or exceed the amount specified in paragraph 1 of Schedule IV .

(2) In determining whether a person is required to apply for registration under subsection (1), the Commissioner may have regard to the value of taxable supplies made by another person where both persons are related persons.

(3) For purposes of subsection (1), the value of a person's supplies is determined under section 16.

(4) A person is not required to apply for registration under subsection (1) where the Commissioner is satisfied that the value of taxable supplies exceeded the amount specified under subsection (1) solely as a consequence of–

(a) the cessation, or substantial and permanent reduction in the size or scale, of a taxable activity carried on by the person; or

(b) the replacement of capital goods used in the taxable activity carried on by that person.

(5) A person who makes, or intends to make taxable supplies, but is not required to apply for registration under subsection (1), may apply to the Commissioner for registration under this Act, and the Commissioner is authorized to permit voluntary registration in accordance with regulations made by the Minister.

(6) Notwithstanding subsection (1), the State, an agency of the State, or a local authority that carries on a taxable activity is required to apply for registration from the date of commencement of that activity.

(7) Notwithstanding subsection (1), a person who is an auctioneer is required to apply for registration on the date on which the person becomes an auctioneer.

(8) Notwithstanding subsection (1), a promoter of public entertainment, and licensees and proprietors of places of public entertainment, are required to apply for registration before they begin making supplies in connection with the first public entertainment promoted by them.

Requirements for registration.

12. (1) A person to be registered is required to make an application for registration under section 11, in the form approved by the Commissioner, and to provide such further information as the Commissioner may require for the purposes of this Act.

(2) The Commissioner is required to register a person who applies for registration within ten days of receipt of the application, unless the Commissioner is satisfied that the person is not eligible to apply for registration under section 11 or, in the case of an application under section 11(5)–

(a) the person has no fixed place of abode or business; or

(b) the Commissioner has reasonable grounds to believe that the person—

(i) will not keep proper records; or

(ii) will not submit regular and reliable tax returns,

as required under this Act.

(3) Where a person required to register under this Act fails to apply for registration as required under section 11, the Commissioner may register the person from the date prescribed by the Commissioner.

(4) Registration takes effect, in the case of–

(a) a person referred to in section 11(1)(a), from the beginning of the tax period immediately following the end of the twelve or fewer months;

(b) a person referred to in section 11(1)(b), (6), (7), or (8), from the beginning of the twelve month period, the commencement of the activities, the date the person becomes an auctioneer, or the date the promoter, licensee or proprietor begins making taxable supplies in connection with public entertainment, respectively; or

(c) an application under section 11(5), from the beginning of the tax period immediately following the period in which the person applied for registration.

(5) The Commissioner shall, within ten days of receipt of an application under subsection (2), serve a notice in writing on an applicant for registration of the decision in respect of the application.

(6) An applicant dissatisfied with a decision referred to under subsection (5) may challenge the decision only under Part X.

(7) The Commissioner shall issue to each person registered a certificate of registration which states the name and other relevant details of the registered person, the date on which the registration takes effect, and the VAT registration number of the registered person.

(8) The Commissioner is required to establish and maintain a register containing the relevant details of all registered persons.

(9) Every registrant is required to display the certificate of registration issued to him under subsection (7) in a conspicuous place at each location at which he engages in taxable activities.

(10) A taxable person is required to notify the Commissioner, in writing, within fifteen days of–

(a) any change in the name, address, place of business, constitution, or nature of the principal taxable activity or activities of the person; and

(b) any change of address from which, or name in which, any taxable activity is carried on by the taxable person; or

(c) any change in circumstances if the person ceases to operate or closes on a temporary basis in a situation not covered in section 13(1).

Cancellation of registration.

13. (1) Subject to subsection (2), a taxable person who ceases to carry on all taxable activities shall notify the Commissioner of that fact within fifteen days of the date of such cessation, and the Commissioner is required to cancel the registration of that person with effect from the last day of the tax period during which all such taxable activities ceased, or from such other date as the Commissioner may determine.

(2) The Commissioner is not required to cancel the registration of a taxable person under subsection (1) where the Commissioner has reasonable grounds to believe that the person will carry on any taxable activity at any time within twelve months from that date of cessation.

(3) A notification pursuant to subsection (1) is required to be made in writing and to state the date upon which that person ceased to carry on all taxable activities, and whether or not that person intends to carry on any taxable activity within twelve months from that date.

(4) Where the Commissioner is satisfied that a taxable person is not carrying on a taxable activity or is neither required nor entitled to apply for registration, the Commissioner may cancel that person's registration with effect from the last day of the tax period during which the Commissioner became so satisfied, or from such other date as the Commissioner may determine, and is required to notify that person in writing of the date on which the cancellation takes effect.

(5) The Commissioner may cancel the registration of a person who is not required to apply for registration under section 11 if the person–

(a) has no fixed place of abode or business;

(b) has not kept proper accounting records relating to any business activity carried on by that person; or

(c) has not submitted regular and reliable tax returns as required by section 31.

(6) A date determined by the Commissioner for the cancellation of registration under subsection (4) or (5) may be retrospective to a date not earlier than–

(a) the last day of the tax period during which taxable activity carried on by the person ceased; or

(b) the date on which the person was registered under this Act, if the Commissioner is satisfied that the person did not, from that date, carry on any taxable activity.

(7) Subject to subsections (8) or (9), a taxable person may apply in writing to the Commissioner to have the person's registration cancelled where, at any time, the value of that person's taxable supplies–

(a) in the past twelve months has not been, or

(b) in the period of twelve months then beginning will not be,

more than the amount specified under section 11(1).

(8) A person–

(a) required to register under section 11(1) who ceases to satisfy the criteria thereunder; or

(b) registered as a result of an application under section 11(5),

may apply for cancellation of the registration only after the expiration of two years from the date the registration took effect.

(9) Subsection (7) does not apply to the State, an agency of the State, or a local authority under section 11(6), to an auctioneer under section 11(7), or to a promoter of public entertainment under section 11(8).

(10) Where the Commissioner is satisfied that a taxable person who has made an application under subsection (7) or (8) is entitled to have a registration cancelled, the Commissioner is required to cancel the person's registration with effect from the end of the tax period in which the registration is cancelled unless the Commissioner orders the cancellation to take effect at an earlier date.

(11) Any obligation or liability under this Act, including the obligation to pay tax and lodge returns, of any person in respect of anything done or omitted to be done by that person while the person is a taxable person, is not affected by cancellation of the person's registration.

(12) Where the registration of a person is cancelled, the Commissioner is required to remove the person's name and details from the register described in section 12(8).

(13) A person dissatisfied with a decision of the Commissioner under this section to cancel or not to cancel the person's registration may challenge the decision only under Part X.

PART V – Rules Relating to Supplies

Time of supply.

14. (1) Subject to this Act, a supply of goods or services occurs on the earliest of the date on which–

(a) the goods are delivered or made available or the performance of services is completed;

(b) an invoice for the supply is issued by the supplier; or

(c) any consideration for the supply is received.

(2) A supply of goods under a credit agreement occurs on the date of commencement of the agreement.

(3) A supply of goods pursuant to a lay-away agreement occurs when the goods are delivered to the purchaser.

(4) A supply of goods or services under section 4(6) occurs when the goods or services are applied to a different use.

(5) A supply of goods under section 4(7) occurs when the goods are repossessed, or where the debtor may under any law be reinstated in his rights and obligations under the credit agreement, the day after the last day of any period during which the debtor may under such law be so reinstated.

(6) A supply of services under section 4(8) occurs when the seller obtains the right to retain any amount paid by the purchaser or when the seller recovers any amount owing by the purchaser under the agreement.

(7) A supply for a consideration in money received by the supplier by means of a machine, meter, or other device operated by coin, note, or token occurs when the coin, note, or token is taken from that machine, meter, or other device by or on behalf of the supplier.

(8) Goods supplied under a rental agreement or services supplied under an agreement that provides for periodic payments are treated as successively supplied for successive parts of the period of the agreement, and each of the successive supplies occurs when a payment becomes due or is received, whichever is the earlier.

(9) Where–

(a) goods described under section 4(1)(a)(iii) are supplied; or

(b) goods or services are supplied directly in the construction, major reconstruction, manufacture, or extension of a building or engineering work,

and the consideration becomes due and payable in instalments or periodically, the goods or services are treated as successively supplied for each period to which a payment for the goods or services relates and each successive supply occurs when payment in respect of the supply becomes due, or is received, or any invoice relating only to that payment is issued, whichever is the earliest.

(10) A supply under section 4(18) occurs when the supply under section 4(2), to which it relates, occurs.

(11) To the extent that the issuance of a token, voucher, gift certificate, or stamp is a supply under section 4(19), the supply occurs when the token, voucher, gift certificate, or stamp is issued.

(12) The forfeit of a deposit (other than a deposit on a returnable container) is a supply of services when the deposit is forfeited.

(13) A supply under subsection 4(21) occurs at the time the registration is cancelled.

Place of supply.

15. (1) Subject to this Act, a supply of goods takes place where the goods are delivered or made available by the supplier or, if the delivery or making available involves the goods being transported, the place where the goods are when the transportation commences.

(2) A supply of thermal or electrical energy, heating, gas, refrigeration, air conditioning, or water takes place where the supply is received.

(3) Subject to this section, a supply of services takes place at the location of the supplier's place of business from which the services are supplied.

(4) The supply of the following goods or services takes place where the recipient uses or obtains the advantage of the goods or services–

(a) a transfer or assignment of a copyright, patent, licence, trademark, or similar right;

(b) the service of a consultant, engineer, lawyer, architect, or accountant, the processing of data or supplying information, or any similar service;

(c) an advertising service;

(d) the obligation to refrain from pursuing or exercising taxable activity, employment, or a right described in this subsection;

(e) the supply of personnel;

(f) the service of an agent in procuring for the agent's principal a service described in this subsection; or

(g) the leasing of movable property (other than transport property).

(5) The supply of cultural, artistic, sporting, educational, or similar activities, or services connected with movable goods, takes place where the service is physically carried out, unless the service is described in subsection (4).

(6) The supply of services connected with immovable property takes place where the property is located, unless the service is described in subsection (4).

(7) A supply of services of, or incidental to, transport takes place where the transport occurs, unless the service is described in subsection (4).

(8) Services that are supplied from a place of business in Guyana and that would be treated as supplied outside Guyana under subsections (4) – (7) are considered as supplied in Guyana and are considered as exported from Guyana for purposes of Schedule I.

Value of supply.

16. (1) Subject to this Act, the value of a supply of goods or services is the amount of the consideration for the supply.

(2) Where a portion of the price of a supply represents tax imposed by this Act that is not accounted for separately, the value of the supply is the price reduced by an amount equal to the tax fraction multiplied by that price.

(3) Where–

(a) a supply is made by a taxable person for no consideration or for a consideration that is less than the fair market value of that supply; and

(b) (i) the supplier and the recipient are related persons; or

(ii) the recipient is a charitable organization, institution of religious worship, educational institution, old-age home, orphanage, children's home, or institution of a similar nature,

the value of the supply is the fair market value of the supply.

(4) Where a taxable person makes a supply of goods or services referred to in section 4(6), the value of the supply is the lesser of–

(a) the consideration paid or payable by the taxable person for those goods or services; or

(b) the fair market value of the supply.

(5) The Minister may by regulation prescribe rules to determine the value of a supply governed by subsection (4) where the taxable person applies less than the entire goods or services to a different use.

(6) The value of a supply of goods under a credit agreement is the cash value of the supply.

(7) Where a debtor makes a supply of goods as a result of the repossession of those goods from the debtor under a credit agreement, the value of the supply is an amount equal to the balance of the cash value of the supply of those goods to the debtor that has not been recovered at the time of the supply.

(8) For purposes of subsection (7), the balance of the cash value of the supply is the amount remaining after deducting from the cash value so much of the sum of the payments made by the debtor under the credit agreement as, on the basis of an apportionment in accordance with the rights and obligations of the parties to such agreement, may properly be regarded as having been made in respect of the cash value of the supply.

(9) The value of a supply of services under section 4(8) is an amount equal to the amount referred to in that subsection that is retained or recoverable.

(10) Where the grant of any right to receive goods or services for a monetary value stated on any token, voucher, gift certificate, or stamp is a supply under section 4(19), the value of the supply is an amount equal to the amount by which the consideration exceeds the monetary value of the token, voucher, gift certificate, or stamp.

(11) Where the holder of a token, voucher, gift certificate, or stamp issued by a taxable person (the issuer) for no consideration surrenders the token, voucher, gift certificate, or stamp to a supplier of goods or services (other than the issuer) in return for a price discount on a taxable supply, the supplier is required to include in the value of the supply of such goods or services the monetary value stated on the token, voucher, gift certificate, or stamp, less the tax fraction of the monetary value.

(12) For purposes of subsection (11), the monetary value is inclusive of tax.

(13) Where a taxable supply is not the only matter to which the consideration for the supply relates, the value of the supply is such part of the consideration as is properly attributable to it.

(14) Except as otherwise provided in this section, if a supply is made for no consideration the value of the supply is nil.

(15) The value of a supply of services under section 4(9) is the amount received in respect of the bet, reduced by an amount equal to the tax fraction multiplied by the amount received in respect of the bet.

(16) The value of a supply referred to in section 4(18) is the consideration for the acquisition of the taxable activity reduced by an amount which bears to the amount of such consideration the same ratio as the intended use or application of the taxable activity for making taxable supplies bears to the total intended use or application of the taxable activity.

(17) The value of a supply referred to in section 4(21) is equal to–

(a) except as provided in paragraph (b), the fair market value of the goods or services deemed to be supplied; and

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(b) in the case of capital goods subject to the allowance for depreciation under the Income Tax Act, the undepreciated cost of the goods deemed to be supplied.

Zero-rating.
(2 of 2018)

17. (1) Where, but for this section, a supply of goods or services would be charged with tax under section 9(1)(a), the supply is charged with tax at the rate of zero percent if it is specified in Schedule I.

(2) Where a taxable person has applied the rate of zero percent to a supply under this section, the taxable person is required to obtain and retain such documentary proof as is acceptable to the Commissioner substantiating the person's entitlement to apply the zero rate to the supply.

Exempt supply.
(2 of 2018
8 of 2020)

18. (1) Subject to subsection (2), a supply of goods or services is an exempt supply if it is specified in Schedule II.

(2) A supply of goods and services is not an exempt supply if, in the absence of subsection (1), the supply would be charged with tax at the rate of zero per cent under section 17.

PART VI – Imports

Time of import.
Cap. 82:01

19. (1) An import of goods occurs when the goods are entered for purposes of the Customs Act.

(2) An import of services occurs at the time determined by applying section 14 to the import on the basis that the import is a supply of services.

Value of import.

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20. (1) The value of an import of goods is an amount equal to the sum of–

(a) the value of the goods for the purposes of customs duty under the Customs Act;

(b) the cost of insurance and freight which is not included in the customs value under paragraph (a); and

(c) the amount of any customs duty, excise tax, or any other fiscal charge (other than VAT) payable on the importation of such goods.

(2) Subject to subsection (3), the value of an import of services is the amount of the consideration for the import.

(3) Where–

(a) an import of services is made for no consideration or for a consideration that is less than the fair market value of that import; and

(b) the supplier and the recipient are related persons,

the value of the import is the fair market value of the import.

(4) Where a portion of the price of an import of services represents tax imposed by this Act that is not accounted for separately, the value of the import is the price reduced by an amount equal to the tax fraction multiplied by that price.

Exempt import.

21. An import of goods or services is an exempt import if the import would be a zero-rated supply under section 17 or an exempt supply under section 18 if it were a supply of goods or services in Guyana.

Import declaration and payment of tax.

22. (1) Where tax is payable on an import of goods, the importer is required, upon entry of the goods, to furnish the Commissioner with an import declaration and pay the tax due on the import in accordance with the arrangements referred to in subsection (4).

(2) Where tax is payable on an import of services, other than where section 4(12) applies, the person liable for the tax under section 9(2)(c) is required to–

(a) furnish the Commissioner with an import declaration; and

(b) pay the tax due in respect of the import, within twenty days after the time of the import.

(3) An import declaration under subsection (1) or (2) shall–

(a) be in the form prescribed by the Commissioner;

(b) state the information necessary to calculate the tax payable in respect of the import; and

(c) be furnished in the manner prescribed by the Commissioner.

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(4) Except where the contrary intention appears, whether in this Act or in regulations made under this Act, the provisions of the Customs Act, relating to the import, transit, coastwise carriage, clearance of goods, and payment and recovery of duty apply, so far as relevant, to the tax charged under this Act on the import of goods, with such exceptions, modifications, and adaptations as the Minister may by regulation prescribe.

PART VII – Calculation of Tax Payable

Tax payable for tax period.

23. (1) The tax payable by a taxable person for a tax period in respect of taxable supplies is the total amount of output tax payable by the person in respect of taxable supplies made by the person during the period, less the total input tax credit allowed to the person under section 24 for the period.

(2) Where the total amount of input tax credit allowed to a taxable person for a tax period under subsection (1) exceeds the total amount of output tax payable by the person for that period, the amount of the excess credit is dealt with in accordance with section 35.

Input tax credit.

24. (1) Subject to this section, the total amount of input tax allowed as a credit for purposes of section 23 is the sum of–

(a) the input tax payable in respect of taxable supplies made to the person during the tax period, and paid in respect of any import of goods by the person during the tax period, where the supply or import is for use in a taxable activity carried on by the person;

(b) any input tax credit allowed under section 26 for the tax period;

(c) any input tax to which subsection (4) applies for the tax period;

(d) an amount equal to the tax fraction of any amount paid during the tax period by the taxable person as a prize or winnings to the recipient of services under section 4(9);

(e) an amount equal to the tax fraction of any amount paid during the tax period by the taxable person to a supplier in respect of the redemption of a token, voucher, gift certificate, or stamp referred to in section 16(11) by the supplier; and

(f) any amount carried forward under section 35(2).

(2) Subject to this section, no credit for input tax is allowed in respect of a supply or import unless –

(a) a tax invoice, a sales invoice or tax debit or tax credit note, as the case may be, in relation to the supply, has been provided in accordance with sections 28 or 29 and is held by the taxable person taking the credit at the time a return in respect of the supply is lodged, other than when a tax invoice is not required to be provided; and

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(b) a bill of entry or validating bill of entry under the Customs Act, or a document issued by the Commissioner evidencing payment of tax in relation to an import that has been delivered in accordance with the Customs Act or this Act and is held by the taxable person taking the credit at the time a return in respect of the import is lodged

(3) Where a taxable person does not have a tax invoice evidencing the input tax paid, the Commissioner may allow an input tax credit in the tax period in which the credit arises where the Commissioner is satisfied–

(a) that the taxable person took all reasonable steps to acquire a tax invoice;

(b) that the failure to acquire a tax invoice was not the fault of the taxable person; and

(c) that the amount of input tax claimed by the taxable person is correct.

(4) Subject to subsection (5), a taxable person, in the first tax period in which the person is registered, is allowed a credit for input tax paid or payable by the person in respect of–

(a) any taxable supplies of goods, including capital goods, made to the person; and

(b) any import of goods, including capital goods, by the person,

prior to becoming registered, to the extent that the goods are for use or re-supply in a taxable activity carried on by the person after registration.

(5) Subsection (4) applies where–

(a) the supply or import occurred not more than three months prior to the date the registration takes effect;

(b) the goods are on hand at the date the registration takes effect; and

(c) the subsection (2) substantiation requirements are satisfied.

Input tax credit allocation and disallowance rules.
(2 of 2018)

25. (1) In this section–

"entertainment" means the provision of food, beverages, tobacco, accommodation, amusement, recreation, or other hospitality by a taxable person whether directly or indirectly to any person; and

"passenger vehicle" means a road vehicle, including a double cab vehicle, designed or adapted for the transport of nine or fewer seated persons.

(2) No amount may be deducted under section 24 by a taxable person for input tax paid or payable in respect of–

(a) a taxable supply to, or import by, the person of a passenger vehicle, unless the person is in the business of dealing in, or hiring of, such vehicles, and the vehicle was acquired for the purposes of such business;

(b) a taxable supply to, or import by, the person of goods or services acquired for the purposes of entertainment or providing entertainment, unless–

(i) the person is in the business of providing entertainment and the taxable supply or import relates to the provision of taxable supplies of entertainment in the ordinary course of that business; or

(ii) the person is in the business of providing taxable supplies of transportation services and the entertainment is provided to passengers as part of the transportation service; or

(c) any fees or subscriptions paid by the person in respect of membership of any person in a club, association, or society of a sporting, social, or recreational nature.

(3) Subject to subsection (5), where only a part of the supplies made by a taxable person during a tax period are taxable supplies, the amount of the input tax allowed as a credit under section 24(1)(a) for that period is determined as follows–

(a) in respect of a supply or import received which is directly allocable to the making of taxable supplies, the full amount of input tax payable in respect of the supply or import shall be allowed as a credit;

(b) in respect of a supply or import received which is directly allocable to the making of exempt supplies, no amount of input tax payable in respect of the supply or import shall be allowed as a credit; or

(c) in respect of a supply or import received which is used for the making of both taxable and exempt supplies,

the amount calculated according to the following formula–

$$\mathbf{A} \times \mathbf{B}/\mathbf{C}$$

where–

A is the total amount of input tax payable in respect of supplies and imports received during the period for which a credit is allowed under section 24(1)(a), less the input tax accounted for under paragraphs (a) and (b);

(2 of 2018)

B is the total amount of taxable supplies made by the taxable person during the current mont of the taxable person; and

(2 of 2018)

C is the total amount of all supplies made by the taxable person during the current month of the taxable person.

(2 of 2018)

(4) Deleted by 2 of 2018.

(5) Where the fraction **B**/**C** in subsection (3)(c) is more than 0.90, the taxable person may deduct the total amount of input tax on supplies and imports described in that paragraph.

(6) Notwithstanding subsection (3), where a taxable person makes both taxable and exempt supplies during a tax period, the Commissioner may determine the amount of input tax allowed for the tax period on such other basis as the Commissioner considers reasonable.

(7) A taxable person dissatisfied with a decision of the Commissioner under subsection (6) may challenge the decision only under Part X.

Post-sale adjustments.

26. (1) This section applies where, in relation to a supply by a registered person–

(a) the supply is cancelled;

(b) the taxation of the supply changes because the nature of the supply is fundamentally varied or altered;

(c) the previously agreed consideration for the supply is altered, whether due to an offer of a discount or for any other reason; or

(d) the goods or services or part thereof are returned to the supplier.

(2) Subsection (1) applies only where the registered person making the supply has–

(a) provided a tax invoice in relation to the supply and the amount shown on the invoice as the tax charged on the supply is incorrect as a result of the occurrence of one or more of the events described under subsection (1)(a) - (d); or

(b) lodged a return for the tax period in which the supply occurred and has accounted for an incorrect amount of output tax on that supply as a result of the occurrence of one or more of the events described under subsection (1)(a) - (d).

(3) Where subsection (1) applies, the registered person making the supply is required to make an adjustment as specified under subsection (4) or (6).

(4) Where the output tax properly chargeable in respect of the supply exceeds the output tax actually accounted for by the registered person (the supplier), the amount of the excess is deemed to be output tax charged by the supplier in relation to a taxable supply made in the tax period in which the event referred to in subsection (1) occurred.

(5) For purposes of section 23, where a registered person issues a tax debit note to rectify the output tax charged to a registered recipient in the circumstances specified under subsection (4), the additional tax specified in the tax debit note is deemed to be input tax payable by the registered recipient in the tax period in which the tax debit note is received.

(6) Subject to subsection (8), where the output tax actually accounted for by the registered person exceeds the output tax properly chargeable in relation to the supply, the registered person is allowed an input tax credit under section 24 for the amount of the excess in the tax period in which the event referred to in subsection (1) occurred.

(7) Where a supplier issues a tax credit note to rectify the output tax charged to the recipient who is a registered person in the circumstances specified under subsection (6), the additional tax specified in the tax credit note is treated as output tax payable by the recipient in respect of a taxable supply made by the recipient in the tax period in which the tax credit note is received.

(8) Where the supply has been made to a person who is not a registered person, a credit under subsection (6) is not allowed, unless the amount of the excess tax has been repaid to the recipient of the supply, whether in cash or as a credit against an amount owing to the registered person by the recipient.

Interest on unpaid tax.
(7 of 2019)

27. (1) A person who fails to pay tax by the due date for payment under section 42 is liable for interest at the rate specified in paragraph 2 of Schedule IV on the amount unpaid, calculated from the date on which the payment was due until the date on which payment was made.

(2) Interest under subsection (1) is calculated as simple interest for each month, or part of a month, during which it remains unpaid.

(3) Interest paid by a person under subsection (1) shall be refunded to the person to the extent that the tax to which it relates is subsequently determined not to have been due and payable.

(4) The provisions of this Act relating to the payment, collection and recovery of tax apply to any interest charged under this section as if the interest were tax due under this Act.

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(5) Where good cause is shown, in writing, by the person liable to interest charged under this section, the Commissioner may remit in whole or part any interest payable.

Tax invoices and sales invoices.

28. (1) Subject to subsection (2), a registered person, referred to as the "registered supplier", making a taxable supply to a person, referred to as the "recipient", is required to provide the recipient with an original tax invoice for the taxable supply containing such particulars as specified in paragraph 1 of Schedule III.

(2) A registered supplier making a taxable supply is authorized to issue a sales invoice in lieu of a tax invoice if the total consideration for the taxable supply is in cash and does not exceed the amount specified in paragraph 3 of Schedule IV.

(3) A person is prohibited from providing a tax invoice in circumstances other than those specified under this section.

(4) Subject to subsection (6), a registered supplier shall issue only one tax invoice for each taxable supply.

(5) Where, within forty days after the date of a supply, a registered recipient who has not received a tax invoice as required by subsection (1) requests the registered supplier, in writing, to provide a tax invoice in respect of the taxable supply, the supplier is required to comply with the request within ten days after receiving it.

(6) Where a registered recipient claims to have lost the original tax invoice for a taxable supply, the registered supplier may provide a copy clearly marked "copy."

Tax credit and debit notes.

29. (1) Where a tax invoice has been issued in the circumstance specified under section 26(2)(a) and the amount shown as tax charged in that tax invoice exceeds the tax properly chargeable in respect of the supply, the registered person making the supply is required to provide a registered recipient of the supply with a tax credit note containing the particulars specified in paragraph 2 of Schedule III.

(2) A person may not provide a tax credit note in any circumstances other than those specified under subsection (1).

(3) Where a tax invoice has been issued in the circumstances specified under section 26(2)(a) and the tax properly chargeable in respect of the supply exceeds the amount shown as tax charged in that tax invoice, the registered person making the supply is required to provide a registered recipient of the supply with a tax debit note containing the particulars specified in paragraph 3 of Schedule III.

(4) A person may not provide a tax debit note in any circumstances other than those specified under subsection (3).

(5) A registered person may issue only one tax credit note or tax debit note for the amount of the excess stated in subsections (1) and (3) respectively.

(6) Notwithstanding the provisions of this section, where a registered person claims to have lost the original tax credit note or tax debit note, the registered person who made the supply may provide a copy clearly marked "copy".

Tax Administration Provisions

PART VIII – Tax Period, Returns and Assessments

Tax period.

30. The Minister may, by regulations, authorise a different tax period for specific categories or classes of taxable persons.

Returns.
(7 of 2019)

31. (1) Every taxable person is required to lodge a tax return for each tax period with the Commissioner within fifteen days after the end of the period, whether or not tax is payable in respect of that period.

(2) A tax return is required to–

(a) be in the form prescribed by the Commissioner;

(b) state the information necessary to calculate the tax payable in accordance with section 23 for the period; and

(c) be lodged in the manner prescribed by the Commissioner.

(3) In addition to or instead of any return required under this Act, the Commissioner may by notice in writing require a person, whether or not a taxable person, to lodge with the Commissioner, whether on that person's own behalf or as agent or trustee of another person, such fewer, additional, or other returns in the prescribed form as and when required by the Commissioner for the purposes of this Act.

(7 of 2019)

(3A) A tax return may be filed electronically in the mannerd form determined by the Commissioner.

(4) A person dissatisfied with a decision of the Commissioner under subsection (3) may challenge the decision only under Part X .

Electronic filing of returns
(2 of 2018)

31A. (1) For the purposes of this Act, lodging of a tax return shall include the electronic filing of tax returns by the use of electronic media.

(2) A return of income filed electronically shall be deemed to be a return filed with the Commissioner-General on the day the Commissioner-General acknowledges receipt of it.

Extension of time.

32. (1) Upon application in writing by a person, the Commissioner may, where good cause is shown by the person, extend the period within which a return required under section 31 is to be lodged.

(2) The granting of an extension of time under subsection (1) does not alter the due date for payment of tax under section 42.

(3) A person dissatisfied with a decision of the Commissioner under subsection (1) may challenge the decision only under Part X.

Assessments.
(3 of 2017)

33. (1) Where–

(a) a person fails to lodge a return as required by section 31 or fails to furnish an import declaration as required by section 22(1) or (2);

(b) the Commissioner is not satisfied with a return or import declaration furnished by a person;

(c) the Commissioner has reason to believe that a person will become liable for the payment of an amount of tax but is unlikely to pay such amount;

(d) a person, other than a taxable person, supplies goods or services and represents that tax is charged on the supply;

(e) a taxable person supplies goods or services and the supply is not a taxable supply or is a taxable supply charged with tax at the rate of zero percent and, in either case, the taxable person represents that a positive rate of tax is charged on the supply; or

(f) the Commissioner has determined the liability of any person under section 91(2),

the Commissioner may make an assessment of the amount of tax payable by the person or of the amount of tax represented by the person as payable in respect of a supply.

(2) The person assessed under subsection (1)–

(a) in the case of an assessment under subsection (1)(d) or (e), is the person making the supply; or

(b) in the case of an assessment under subsection (1)(f), is the person whose liability has been determined under section 91(2); or

(c) in any other case, is the person required to account for the tax under this Act.

(3) An assessment under subsection (1)(a), (c), (d), (e), or (f) may be made at any time.

(4) An assessment under subsection (1)(b)–

(a) where the default was due to fraud, or gross or wilful neglect committed by, or on behalf of, the person who furnished the return or import declaration, may be made at any time; or

(3 of 2017)

(b) in any other case, may be made within five years after the date the return or import declaration was furnished.

(5) The Commissioner may, based on the information available, estimate the tax payable by a person for the purposes of making an assessment under subsection (1).

(6) Where a taxable person is not satisfied with a return lodged by that person under this Act, that person may apply to the Commissioner to make an addition or alteration to that return.

(3 of 2017)

(7) An application under subsection (6) is required to be in writing, to specify in detail the grounds upon which it is made, and to be submitted within five years after the date the return was lodged by the taxable person or, in the event an assessment is made by the Commissioner after such five year period, within forty days after the date that notice of such assessment is served on the taxpayer.

(8) After considering an application under subsection (6), the Commissioner shall make an assessment of the amount that, in the Commissioner's opinion, is the amount of tax payable under this Act.

(9) Where an assessment has been made under this section, the Commissioner is required to serve a notice of the assessment on the person assessed, which notice shall state–

(a) the tax payable;

(b) the date the tax is due and payable; and

(c) the time, place, and manner of objecting to the assessment.

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(10) The Commissioner may, within five years after service of the notice of assessment, or in the case of assessments described in subsection (4), within the deadline specified therein, amend an assessment by making such alterations or additions to the assessment as the Commissioner considers necessary, in which case, the Commissioner is required to serve notice of the amended assessment on the person assessed.

(11) An amended assessment is treated in all respects as an assessment under this Act.

(12) An amount assessed under subsection (1)(d), (e) or (f) is treated, for all purposes of this Act, as tax charged under this Act.

(13) The action taken by the Commissioner under subsections (1) and (10) shall be subject to appeal under PART X.

General provisions relating to assessments.

34. (1) The original or a certified copy of a notice of assessment is receivable in any proceedings as conclusive evidence that the assessment has been duly made and, except in proceedings under Part X relating to the assessment, that the amount and all particulars of the assessment are correct.

(2) No assessment or other document purporting to be made, issued, or executed under this Act shall be–

(a) quashed or deemed to be void or voidable for want of form; or

(b) affected by reason of mistake, defect, or omission therein,

if it is, in substance and effect, in conformity with this Act and the person assessed, or intended to be assessed or affected by the document is designated in it according to common understanding.

PART IX – Refund of Tax and Tax Relief

Carry forward of excess credits and refund of tax.
(3 of 2017)

35. (1) Where–

(a) the total amount of input tax creditable by a taxable person under section 24 for a tax period exceeds the person's output tax for that period; or

(b) the amount of tax paid by a person, other than in circumstances specified under paragraph (a), was in excess of the amount properly charged to tax under this Act,

the amount of the excess shall be treated in the manner provided in this section.

(2) Except as provided in subsection (5), the excess described in subsection (1)(a) is carried forward to the next tax period and treated as input tax creditable in that period.

(3) Subject to this section, if any of the excess referred to in subsection (1)(a) for a tax period remains after being carried forward and used as input tax creditable in six consecutive tax periods, the taxable person may file with the Commissioner a claim for refund for the amount remaining, in the form and with the documentation specified in regulations.

(4) By the end of the second calendar month following the date the claim for refund described in subsection (3) is filed or, where the Commissioner orders an audit of the claim for refund described in subsection (3), within ten days after conclusion of the audit, if later, the Commissioner, to the extent satisfied that the taxpayer is entitled to the amount of the refund claimed–

(a) may apply the amount of the refund claimed under subsection (3) in reduction of any tax, levy, interest, or penalty payable by the person in terms of this Act, other taxes collected by the Commissioner, and any unpaid amounts under the repealed Consumption Tax Act; and

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(b) is required to refund any excess remaining to the taxable person.

(5) Where at least fifty percent of the amount of the taxable supplies of a taxable person for the taxable period is taxed at a zero rate, and the person reports an excess described in subsection (1)(a) for a taxable period, the person may file with the Commissioner a claim for refund for the excess credits attributable to the zero-rated supplies in the form and with the documentation specified in regulations.

(6) By the end of the first calendar month following the date the return described in subsection (5) is filed or, where the Commissioner orders an audit of the claim for refund described in subsection (5), within ten days after conclusion of the audit, if later, the Commissioner, to the extent satisfied that the taxpayer is entitled to the amount of the refund claimed–

(a) may apply the amount of the refund claimed under subsection (5) in reduction of any tax, levy, interest, or penalty payable by the person in terms of this Act, other taxes collected by the Commissioner, and any unpaid amounts under the repealed Consumption Tax Act; and

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(b) is required to refund any excess remaining to the taxable person.

(7) Notwithstanding subsection (4)(b) or (6)(b), if the amount of the excess to be refunded is not more than the amount specified in paragraph 4 of Schedule IV, the excess shall be carried forward to the next succeeding tax period and be accounted for as provided in section 24(1)(f).

(8) Where a person has overpaid tax in the circumstances specified under subsection (1)(b), the person may apply in writing to the Commissioner for a refund of the excess amount of tax, accompanied by documentary proof of payment of the excess amount.

(9) For purposes of subsection (8), if the claim for refund is filed by a taxable person–

(a) the Commissioner is required to deal with the claim as if it were a claim under subsection (3); and

(b) to the extent that any output tax claimed to be refundable is an amount borne by a recipient who is not a registered person, the output tax is refundable only to the extent that it will be repaid by the taxable person to that recipient, whether in cash or as a credit against an amount owing to the taxable person by the recipient.

(10) Where a taxable person has failed to lodge a return for any tax period as required under this Act, the Commissioner may withhold payment of any amount refundable under this section until the taxable person lodges such return as required.

(11) To be considered, a claim for a refund specified in subsection (3), (5), or (8) must be made within five years after the date the person has the right to apply for the refund under this section.

(12) The Commissioner is required to serve on a person claiming a refund, a notice in writing of the decision in respect of the claim.

(13) A person claiming a refund under this section who is dissatisfied with a decision referred to in subsection (12) may challenge the decision only under Part X.

Interest on overpayment.

36. (1) Where the Commissioner fails to pay a refund of tax relating to an excess under section 35 by the date specified under that section, the Commissioner is required to pay the taxable person entitled to the refund an additional amount as interest at the rate specified in paragraph 5 of Schedule IV, commencing from the date on which the refund was due and ending on the date the payment of the refund is made.

(2) Where the Commissioner is required to refund an amount of tax to a person as a result of–

(a) a decision of the VAT Board of Review under section 39; or

(b) a decision of the High Court under section 40,

the Commissioner is required to pay interest at the rate specified in paragraph 5 of Schedule IV on the amount of the refund for the period commencing from the date the person paid the tax refunded and ending on the date the refund is made

Others eligible for tax refund.
(3 of 2017)

37. (1) The Minister may, in accordance with regulations made by him in consultation with the Minister of Foreign Affairs, authorise the granting of a refund of tax paid or borne on a supply to or import by–

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(a) a person to the extent provided under the Diplomatic Immunities and Privileges Act, an international convention having force of law in Guyana, or the recognised principles of international law; or

(b) a diplomatic or consular mission of a foreign country established in Guyana, relating to transactions concluded for the official purposes of such mission; or

(c) an organization or government to the extent provided under a technical assistance or humanitarian assistance agreement entered into with the Government of Guyana; or

(3 of 2017)

(d) Deleted by 3 of 2017

(3 of 2017)

(2) The refund provided for in subsection (1)(a) is not available to a citizen or a permanent resident of Guyana.

(3) The Minister may authorise any relief under this section on such conditions and subject to such restrictions as the Minister may deem fit.

(4) A claim for a refund of tax under this section is to be made in such form and at such time as the Minister may prescribe and shall be accompanied by proof of payment of tax.

(5) The Minister may, by notice in the Gazette, apply the provisions of this section to a public international organisation and its officials and employees.

Remittance of tax
(7 of 2019)

37A. The Minister may by Regulations, subject to negative resolution of the National Assembly, provide for the remitting wholly or in part of the Value-Added Tax payable by any person or category of persons in respect of any period in accordance with such conditions as may be specified in the Regulations.

PART X – Objections and Appeals

Objections.

38. (1) A person dissatisfied with an appealable decision may lodge an objection to the decision with the Commissioner within twenty days after the service of the notice of the decision.

(2) Where the Commissioner is satisfied that owing to absence from Guyana, sickness, or other reasonable cause, the person was prevented from lodging an objection within the time specified under subsection (1) and there has been no unreasonable delay by the person in lodging the objection, the Commissioner may accept an objection lodged after the time specified under subsection (1).

(3) An objection to an appealable decision is required to be in writing and to specify in detail the grounds upon which it is made.

(4) Where tax determined to be paid is disputed in part, then the part which is not disputed should be paid in full before any objection to the Commissioner on the disputed sum is considered.

(5) After considering the objection, the Commissioner may allow the objection in whole or part and amend the assessment or the decision objected to accordingly, or disallow the objection.

(6) The Commissioner is required to serve the person objecting with notice in writing of the decision on the objection.

(7) A person dissatisfied with a decision of the Commissioner under subsection (2) may challenge the decision only under Part X.

Appeal to VAT Board of Review.

39. (1) In this section "VAT Board of Review" means a VAT Board of Review appointed by the Minister under Section 39A to hear and decide any matter in dispute between the Commissioner and any person in respect of the person's liability or assessment for value-added tax.

(2) A person dissatisfied with the Commissioner's decision on an objection under section 38(6) may, within twenty days after being served with notice of the decision—

(a) lodge a notice of appeal with the VAT Board of Review;

(b) serve a copy of the notice of appeal on the Commissioner; and

(c) pay to the Commissioner tax equal to two-thirds of the tax which is in dispute.

(3) Upon application in writing by a person dissatisfied with a decision under section 38(5), the VAT Board of Review may, where satisfied that owing to absence from Guyana, sickness, or other reasonable cause, the person was prevented from lodging a notice of appeal within the time specified under subsection (2) and there has been no unreasonable delay by the person in lodging the notice, accept a notice of appeal lodged after the time specified under subsection (2).

(4) If the Commissioner has not made an objection decision, and forty days have passed since the objection was lodged, an appeal may be made under subsection (2) at any time, as if the Commissioner had made a decision to disallow the objection.

(5) In an appeal to the VAT Board of Review against an objection decision, the person is limited to the grounds set out in the person's objection, unless the VAT Board of Review grants the person leave to add new grounds.

(6) In deciding an appeal, the VAT Board of Review may make an order–

(a) affirming, reducing, increasing, or varying the assessment under appeal; or

(b) remitting the assessment for reconsideration by the Commissioner in accordance with the directions of the VAT Board of Review.

(7) A person dissatisfied with a decision of the VAT Board of Review under subsection (3) may challenge the decision only under Part X.

Establishment of a VAT Board of Review

39A. (1) The VAT Board of Review shall consist of a Chairman and not less than three nor more than four other members appointed by the Minister.

(2) The Chairman shall be an attorney-at-law of not less than seven years standing.

(3) The other members shall be appointed from among persons appearing to the Minister to be qualified as having had experience of, and shown capacity in, social services, finance or accountancy or any other discipline.

(4) Each member including the Chairman shall be appointed for two years.

(5) The VAT Board of Review shall regulate its own procedure.

(6) Decisions of the Board shall be by a majority, except that in case of a tie the Chairman shall have a casting vote.

Burden of proof.

40. The burden of proving that an assessment is excessive or that a decision of the Commissioner is wrong is on the person objecting to the assessment or decision.

Appeal to High Court.

41. (1) A party who is dissatisfied with the decision of the VAT Board of Review mentioned in section 39 may, within twenty days after being notified of the decision, appeal to a judge in Chambers; and the party so appealing shall serve a copy of the notice of appeal on the other party to the proceeding before the VAT Board of Review.

(2) An appeal under subsection (1) may be made only on a question of law, including a question of mixed fact and law, and the notice of the appeal shall state the question of law that will be raised on the appeal.

(3) No appeal shall lie under this section unless the full amount of tax which is in dispute is paid to the Commissioner.

(4) For the removal of doubt it is hereby declared that where the Commissioner appeals the decision of the VAT Board of Review, subsection (3) shall not apply.

PART XI – Payment, Collection and Recovery

Due date for payment of tax.
(3 of 2017)

42. (1) Tax payable under this Act is due and payable–

(a) by a taxable person for a tax period, by the due date for the return for the tax period;

(b) by a person assessed under an assessment issued under this Act, on the date specified in the notice of assessment;

(c) by an importer of goods or a recipient of an import of services, by the due date specified under section 22 in respect of the import; or

(d) by any other person, by the date the taxable transaction occurs as determined under this Act.

(2) Where an objection to, or a notice of appeal against, an assessment has been lodged, the tax payable under the assessment is due and payable under subsection (1), and may be recovered, notwithstanding that objection or appeal.

(3 of 2017)

(3) Deleted by 3 of 2017.

(3 of 2017)

(4) Deleted by 3 of 2017.

Allocation of payments.

43. Where, in addition to any amount of tax which is due and payable by a person under this Act, an amount of interest or penalty is payable, a payment made by the person in respect of such tax, interest, or penalty which is less than the total amount due is deemed to be made–

(a) first in respect of such penalty;

(b) to the extent that such payment exceeds the amount of such penalty, then in respect of such interest; and

(c) to the extent that such payment exceeds the sum of such penalty and interest, then in respect of such tax.

Recovery of tax as debt due.

44. (1) An amount of tax due and payable under this Act shall be recoverable by the Commissioner as a debt due to the State from the person liable therefor in the manner provided in this section.

(2) Except where a person has lodged an appeal or where his case is engaging the attention of the Court, where a person fails to pay tax when it is due and payable, referred to as the "defaulter", the Commissioner may file, with the clerk or registrar of a court of competent jurisdiction, a statement certified by the Commissioner setting forth the amount of the tax due and payable by that person, and that statement shall have the effect of a civil judgment lawfully given in that court in favour of the Commissioner for a debt in the amount specified in the statement; and the court shall issue a writ of execution in respect thereof against the defaulter.

(3) A writ of execution under subsection (2) shall not be issued until ten days after service by the court on the defaulter of a notice informing the defaulter that a writ of execution will be issued by the court in respect of tax owed by the defaulter, and unpaid, unless before the expiration of that period of ten days the defaulter produces proof of payment thereof satisfactory to the court.

(4) The Commissioner may, without prejudice to re-instituting proceedings under subsection (2), by notice in writing addressed to the clerk or registrar of the court, withdraw the statement referred to in subsection (2) and such statement shall thereupon cease to have any effect.

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(5) Except where the contrary intention appears, the provisions of the Customs Act on imported goods shall, with such exceptions, modifications, and adaptations as the Minister may by Order prescribe, apply in relation to any tax chargeable on imported goods.

Recovery of monies from persons leaving Guyana.
[3 of 2017]

45. (1) Where the Commissioner has reasonable grounds to believe that a person may leave Guyana without paying all tax due under this Act, the Commissioner may issue a certificate to the Chief Immigration Officer containing particulars of the tax due and request that the Chief Immigration Officer take the necessary steps to prevent the person from leaving Guyana until the person makes–

(a) payment in full; or

(b) an arrangement satisfactory to the Commissioner for the payment of the tax.

(2) A copy of the certificate issued under subsection (1) shall be served by the Commissioner on the person named in the certificate if it is practicable to do so.

(3) If a certificate is issued under subsection (1), proof of payment to the Commissioner of the tax specified in the certificate or the production of the certificate signed by the Commissioner stating that the tax has been paid or satisfactory arrangements for payment have been made shall be sufficient authority for any immigration officer to allow the person to leave Guyana.

Security.

46. (1) Where it is reasonable to do so for the protection of the revenue or as provided for in this Act, the Commissioner, by notice in writing, may require a person to give security for the payment of tax that is or may become payable by the person under this Act.

(2) Security required under subsection (1), including security required from a promoter of public entertainment, shall be for such amount, in such form, and furnished within such period as the Commissioner may specify in the notice.

(3) Where security under subsection (1) is in cash and the Commissioner is satisfied that the security is no longer required, the Commissioner is required to apply the amount of the security as specified under section 35(4).

(4) A person dissatisfied with a decision of the Commissioner under subsection (1) may challenge the decision only under Part X.

(5) A promoter of public entertainment is not permitted to allow the public entertainment to take place unless the promoter has paid the amount required under subsection (2) and has received the Commissioner's written approval.

Preferential claim to assets.

47. From the date on which tax becomes due and payable under this Act, the Commissioner has a preferential claim upon the assets of the person liable to pay the tax until the tax is paid.

Seizure of goods and vehicles.

48. (1) Where the Commissioner is satisfied on reasonable grounds that tax on a supply or import of goods has not been paid, the Commissioner may seize the goods.

(2) The Commissioner may seize a vehicle used in the removal or carriage of goods liable to be seized under subsection (1), unless it is shown that such vehicle was so used without the consent or knowledge of the owner of that vehicle or other person lawfully in possession or charge thereof; and at the discretion of the Commissioner, the vehicle may be sold by public auction or may be dealt with in such other manner as the Commissioner may direct.

(3) Goods seized under subsection (1) shall be stored in a place approved by the Commissioner for the storage of such goods.

(4) Where goods are seized under subsection (1), the Commissioner is required to serve on the owner of the goods or the person who had custody or control of the goods immediately before seizure, a notice in writing as soon as practicable after the seizure –

(a) identifying the goods;

(b) stating that the goods have been seized under this section and the reason for seizure; and

(c) setting out the terms of subsections (7), (8), and (9).

(5) The Commissioner is not required to serve notice under subsection (4) if, after making reasonable enquiries, the Commissioner does not have sufficient information to identify the person on whom the notice should be served.

(6) Where subsection (5) applies, the Commissioner may serve a notice under subsection (4) on a person claiming the goods, provided the person has given the Commissioner sufficient information to enable such a notice to be served.

(7) Subject to subsection (8), the Commissioner may authorise the delivery of goods seized under subsection (1) to the person on whom a notice under subsection (4) has been served, where that person pays or gives security, in accordance with section 46, for the payment of tax due and payable or that will become due and payable in respect of the supply or import of the goods.

(8) The Commissioner is permitted to detain the goods seized under subsection (1)–

(a) in the case of perishable goods, only for such period as the Commissioner considers reasonable having regard to the condition of the goods; or

(b) in any other case, until the later of–

(i) ten days after the seizure of the goods; or

(ii) ten days after the due date for payment of the tax on the supply or import of the goods.

(9) Where the detention period in subsection (8) has expired, the Commissioner may sell the goods in the manner specified under section 49(4) and apply the proceeds of sale as set out in section 49(5).

(10) Notwithstanding the provisions of this section, the Commissioner may proceed under section 44 with respect to any balance owed if the proceeds of sale are not sufficient to meet the costs thereof and the tax due.

Distress proceedings.

49. (1) The Commissioner may recover unpaid tax by distress proceedings against the movable property of the person liable to pay the tax, referred to as the "person liable", by issuing an order in writing, specifying the person liable, the location of the property, and the tax liability to which the proceedings relate.

(2) For the purposes of executing distress under subsection (1), the Commissioner may–

(a) at any time enter any house or premises described in the order authorising the distress proceedings; and

(b) require a police officer to be present while the distress is being executed.

(3) Property upon which a distress is levied under this section, other than perishable goods, must be kept for ten days either at the premises where the distress was levied or at such other place as the Commissioner may consider appropriate, at the cost of the person liable.

(4) Where the person liable does not pay the tax due, together with the costs of the distress–

(a) in the case of perishable goods, within such period as the Commissioner considers reasonable having regard to the condition of the goods; or

(b) in any other case, within ten days after the distress is levied,

the property distrained upon may be sold by public auction, or in such other manner as provided in regulations.

(5) The proceeds of a disposal under subsection (4) shall be applied by the auctioneer or seller first towards the cost of taking, keeping, and selling the property distrained upon, then by the Commissioner towards the tax due and payable, and the remainder of the proceeds, if any, shall be restored to the person liable.

(6) Nothing in this section precludes the Commissioner from proceeding under section 44 with respect to any balance owed if the proceeds of the distress are not sufficient to meet the costs thereof and the tax due.

(7) All costs incurred by the Commissioner in respect of a distress may be recovered by the Commissioner from the person liable as tax due under this Act.

Recovery of tax from recipient of supply.

50. (1) Where, in respect of a taxable supply by a taxable person, the taxable person has, in consequence of a fraudulent action or misrepresentation by the recipient of the supply, incorrectly treated the supply as an exempt or zero-rated supply, the Commissioner may raise an assessment upon the recipient for the amount of unpaid tax in respect of the supply together with any interest or penalty that has become payable under sections 27 and 44.

(2) The Commissioner is required to serve notice of an assessment under subsection (1) on the recipient specifying–

(a) the tax payable;

(b) the date the tax is due and payable; and

(c) the time, place, and manner of objecting to the assessment.

(3) An assessment raised under subsection (1) is treated as an assessment for all purposes of this Act.

(4) Subsection (1) does not preclude the Commissioner from recovering the tax, interest, or penalty from the taxable person making the supply.

(5) For purposes of subsection (4)–

(a) any amount recovered from the recipient is to be credited against the liability of the taxable person; and

(b) any amount recovered from the taxable person is to be credited against the liability of the recipient.

(6) Where an amount of tax, interest, or penalty referred to in subsection (1) is paid by the taxable person, the taxable person may recover the amount paid from the recipient.

(7) An amount assessed under this section is treated, for all purposes of this Act, as tax charged under this Act.

Recovery of tax from third parties.
(3 of 2017)

51. (1) Where a person liable to pay tax under this Act, referred to as the "person liable", fails to do so by the due date, the Commissioner may, by notice in writing, require any other person–

(a) owing or who may owe money to the person liable;

(b) holding or who may subsequently hold money for, or on account of, the person liable; or

(c) having authority from some other person to pay money to the person liable,

to pay the money to the Commissioner on the date set out in the notice, up to the amount of the tax due.

(2) The date specified in the notice under subsection (1) shall not be a date before the money becomes due to the person liable to pay tax, or held on the person's behalf.

(3) A copy of a notice issued under subsection (1) shall be served on the person liable.

(4) A person making a payment pursuant to a notice under subsection (1) is deemed to have acted under the authority of the person liable and of all other persons concerned and is indemnified in respect of the payment.

(5) The provisions of this Act relating to the payment, collection and recovery of tax apply to any amount due under this section as if the amount were tax due under this Act.

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(6) Where judgment is granted against a taxpayer, in favour of the Revenue Authority and the taxpayer is a customer with a bank, trust company, credit union or other financial institution, the Commissioner shall by demand or notice, require the bank, trust company, credit union or other financial institution to remit the amount payable to the Revenue Authority as a debt owed to the State.

Duties of receivers.

52. (1) In this section, "receiver" means a person who, with respect to an asset in Guyana is–

(a) a liquidator of a company;

(b) a receiver appointed out of court or by a court;

(c) a mortgagee in possession;

(d) an executor of the estate of a deceased person; or

(e) any other person conducting business on behalf of a person legally incapacitated.

(2) A receiver is required to notify the Commissioner in writing within ten days after being appointed to the position or taking possession of an asset in Guyana, whichever first occurs.

(3) The Commissioner may in writing notify a receiver of the amount which appears to the Commissioner to be sufficient to provide for any tax which is or will become payable by the person whose assets are in the possession of the receiver.

(4) A receiver–

(a) is required to set aside, out of the proceeds of sale of an asset, the amount notified by the Commissioner under subsection (3), or such lesser amount as is subsequently agreed on by the Commissioner;

(b) is liable to the extent of the amount set aside for the tax of the person who owned the asset.

(5) A receiver is personally liable to the extent of any amount required to be set aside under subsection (4) for the tax referred to in subsection (3) if, and to the extent that, the receiver fails to comply with the requirements of this section.

PART XII – Representatives and Special Cases of Taxable Persons

Persons acting in a representative capacity.

53. (1) In this section,

"representative", in relation to a taxable person, means–

(a) in the case of a corporation, the treasurer or other designated officer or officers;

(b) in the case of an unincorporated association or body, any member of the committee of management;

(c) in the case of a company–

(i) for a company other than a company in liquidation, the secretary of the company; or

(ii) for a company in liquidation, the liquidator;

(d) in the case of the State, any person responsible for accounting for the receipt and payment of money under the provisions of any law or for the receipt and payment of public funds or of funds voted by Parliament;

(e) in the case of a local authority or board, any person who is responsible for accounting for the receipt and payment of money or funds on behalf of the local authority or board;

(f) in the case of a partnership, any partner in the partnership;

(g) in the case of a trust, any trustee; or

(h) in the case of a non-resident person or a person referred to in paragraph (d) of the definition of "resident person" in section 2, any person controlling the non-resident person's affairs in Guyana, including any manager of a taxable activity of the non-resident person in Guyana.

(2) Every representative of a taxable person is responsible for performing any duties, including the payment of tax, imposed by this Act on the taxable person.

(3) Every representative who in that capacity pays any tax payable under this Act by a taxable person is entitled to recover the amount so paid from the taxable person or to retain the amount so paid out of any money of the taxable person that is in the representative's possession or under the representative's control.

(4) Every representative is personally liable for the payment of any tax payable by the representative in his representative capacity if, while the amount remains unpaid, the representative–

(a) alienates, charges, or disposes of any money received or accrued in respect of which the tax is payable; or

(b) disposes of or parts with any fund or money belonging to the taxable person which is in the possession of the representative or which comes to the representative after the tax is payable if such tax could legally have been paid from or out of such fund or money.

(5) Nothing in this section shall be construed as relieving a taxable person from performing any duties imposed by this Act on the taxable person which the representative of the person has failed to perform.

Power to appoint agent.

54. (1) The Commissioner may, if the Commissioner considers it necessary to do so, declare a person to be an agent of a taxable person and the person declared to be agent is deemed to be a representative of the taxable person for the purposes of section 53.

(2) A person dissatisfied with a decision referred to in subsection (1) may challenge the decision only under Part X.

Branches.

55. (1) Where a taxable activity is conducted by a taxable person in branches or divisions, the taxable person is deemed to be a single person conducting the taxable activity for purposes of this Act.

(2) Subject to subsection (3), a taxable person who conducts a taxable activity in branches or divisions is required to register in the name of the taxable person and not also in the names of its branches and divisions.

(3) Upon application in writing, the Commissioner may authorise a taxable person to register one or more of its branches or divisions as separate taxable persons if the Commissioner is satisfied that the branch or division maintains an independent system of accounting and can be separately identified by the nature of its activities or its location.

(4) The registration of a branch or division under subsection (3) is subject to such conditions and restrictions as the Minister may deem fit.

Bodies of persons (other than incorporated companies).

56. (1) This Act applies to a partnership as if the partnership were a person separate from the partners of the partnership, except that–

(a) obligations that would be imposed on the partnership are instead imposed on each partner, but may be discharged by any of the partners;

(b) the partners are jointly and severally liable to pay any amount due under this Act that would be payable by the partnership; and

(c) any offence under this Act that would otherwise be committed by the partnership is taken to have been committed by each of the partners.

(2) This Act applies to a partnership, unincorporated association or body as if it were a person separate from the members of the association or body, but the obligations that would be imposed on the association or body are instead imposed on each member of the committee of management of the partnership, unincorporated association or body, but may be discharged by any of those members.

(3) Where–

(a) a partnership, or unincorporated association or body is dissolved, referred to as the "dissolved entity", in consequence of–

(i) the retirement or withdrawal of one or more, but not all, of its partners or members; or

(ii) the admission of a new partner or member;

(b) a new partnership, or association or body comes into existence, referred to as the "new entity", consisting of the remaining members and one or more new members; and

(c) the new entity continues to carry on the taxable activity of the dissolved entity as a going concern,

the dissolved entity and the new entity, for the purposes of this Act, are deemed to be one and the same, unless the Commissioner, having regard to the circumstances of the case, otherwise directs.

Death or insolvency of taxable person; mortgagee in possession.

57. (1) Where, after the death of a taxable person or the sequestration of a taxable person's estate, any taxable activity previously carried on by the taxable person is carried on by or on behalf of the executor or trustee of the person's estate or anything is done

in connection with the termination of the taxable activity, the estate of the taxable person, as represented by the executor or trustee, is deemed for the purposes of this Act to be the taxable person in respect of the taxable activity.

(2) Where a mortgagee is in possession of any land or other property previously mortgaged by a mortgagor who is a taxable person, and the mortgagee carries on a taxable activity in relation to the land or other property, the mortgagee is deemed, from the date the mortgagee took possession of that land or property until such time as the mortgagee ceases to be in possession of the land or property, to be the taxable person carrying on the taxable activity.

Trustee.

58. A person who is a trustee in more than one capacity is treated for the purposes of this Act as a separate person in relation to each of those capacities.

PART XIII – Records and Investigation Powers

Interpretation.

59. In this Part, "records" means accounting records, accounts, books, computer-stored information, or any other documents.

Record-keeping.

60. (1) Every taxable person or any other person liable for tax under this Act is required to maintain in Guyana–

(a) original tax invoices, tax credit notes, and tax debit notes received by the person;

(b) a copy of all tax invoices, tax credit notes, and tax debit notes issued by the person;

(c) customs documentation relating to imports and exports by the person;

(d) accounting records relating to taxable activities carried on in Guyana; and

(e) any other records as may be prescribed by regulations.

(2) Records required to be maintained under subsection (1) are required to be retained for seven years after the end of the tax period to which they relate.

Access to records, computers, goods, and vehicles.

61. (1) Notwithstanding anything in the other provisions of this section, a taxation officer having a writ of assistance issued from the High Court (which is hereby authorised and requested to grant such writs upon application by the Commissioner) may by day or night, enter into and search any premises or place where records are kept and seize and bring away any such records which in the taxation officer's opinion, may afford evidence that may be material in determining the liability of any person for tax payable under this Act, and may exercise all other powers that are exercisable under the provisions of this section by a taxation officer with a warrant.

(2) Where the Commissioner has reasonable grounds to believe that an offence in connection with the tax is being, or is about to be committed on any premises, or that evidence of the commission of such an offence is to be found therein, he shall apply to the Magistrate for a warrant to allow a taxation officer–

(a) without any prior notice and at any time, to enter any premises or place where records are kept and on such premises search for any records;

(b) in carrying out a search referred to in paragraph (a) and in any manner, to open or cause to be opened or removed and opened, any article in which the taxation officer suspects that any records are kept;

(c) to seize any records which in the taxation officer's opinion may afford evidence that may be material in determining the liability of any person for tax payable under this Act;

(d) to retain any records seized under paragraph (c) for as long as they may be required for determining a person's liability under this Act or for any proceeding under this Act;

(e) to examine and make extracts from, and copies of, any records, and require from any person an explanation of any entry therein;

(f) where a hard copy or computer disk of computer-stored information is not provided, to seize and retain the computer in which the information is stored for as long as is necessary to copy the information required; and

(g) to stop and board a vehicle which the taxation officer has reasonable cause to believe is importing goods into Guyana, search any such vehicle or any person found in the vehicle and question the person with respect to any matter dealt with in this Act.

(3) A taxation officer who attempts to exercise a power under subsection (1) on behalf of the Commissioner is not entitled to enter or remain on any premises or at any place if, upon being requested by the occupier of the premises or place, the taxation officer does not produce an authorisation in writing from the Commissioner to the effect that the taxation officer is authorised to exercise that power under this section.

(4) The owner, manager, or any other person lawfully on the premises or at the place entered or proposed to be entered under this section is required to provide all reasonable facilities and assistance for the effective exercise of power under this section.

(5) A person whose records or computer has been removed and retained under subsection (1) may examine them and make copies or extracts from them during regular office hours under such supervision as the Commissioner may determine.

(6) A taxation officer exercising a power under subsection (1) may request the assistance of a police officer as the taxation officer may consider reasonably necessary and any such police officer shall render such assistance as may be required by the taxation officer.

Records not in official language

62. Where a record referred to in section 60 or 61 is not in English, the Commissioner may, by notice in writing, require the person keeping the record to provide at that person's expense a translation into English by a translator approved by the Commissioner for this purpose.

.Notice to obtain information or evidence.

63. (1) The Commissioner may, by notice in writing, require a person, whether or not liable for tax under this Act–

(a) to furnish such information concerning that person or any other person as may be required by the notice; or

(b) to attend at the time and place designated in the notice for the purpose of being examined on oath before the Commissioner (or any other taxation officer specifically authorised for this purpose by the Commissioner) concerning the tax affairs of that person or any other person, and at that time to produce any record or computer in the control of the person and relevant to the examination.

(2) Where the notice requires the production of any record or computer, it is sufficient if such record or computer is described in the notice with reasonable certainty.

(3) A notice issued under this section is required to be served by or at the direction of the Commissioner by a signed copy delivered–

(a) by registered post;

(b) by hand to the person to whom it is directed; or

(c) left at the person's last and usual place of abode,

and the certificate of service signed by the person serving the notice is evidence of the facts stated therein.

(4) This section has effect notwithstanding any rule of law relating to privilege or the public interest in relation to the furnishing of information or the production of records or documents.

PART XIV - Offences and Penalties

Division I: Criminal Offences

Power to bring criminal charges.

64. (1) Subject to the powers of the Director of Public Prosecutions under the Constitution, no criminal proceedings in respect of any offence under this Act shall be commenced except where the Commissioner determines to bring charges and prosecute.

(2) Criminal proceedings under this Act shall be commenced in the name of the Commissioner in a court of summary conviction.

Time limits for proceedings to be taken. (3 of 2017)

65. Proceedings under this Division may be commenced–

(a) where the offence alleged involves the doing of any act in violation of this Act, within five years after the discovery of the act;

(b) where the offence alleged involves the failure to do any act as required under this Act, within five years after the Commissioner has become aware of such failure; or

(c) where the offence alleged has involved the non-disclosure or incorrect disclosure by any person of information relating to that person's liability to tax for a tax period, within five years after his correct liability to tax has become final for that tax period.

Failure to apply for VAT registration.

66. A person who knowingly or recklessly fails to apply for VAT registration as required by section 11(1), (7), or (8) commits an offence and is liable on conviction to a fine not exceeding twenty-five thousand dollars and imprisonment for a term not exceeding two years

Improper VAT documentation.

67. (1) A person who knowingly or recklessly fails to furnish any import declaration as required by section 22 commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars and to imprisonment for a term not exceeding three years.

(2) Where a person convicted of an offence under subsection (1) fails to furnish the import declaration within a further period specified by the Commissioner by notice in writing, that person commits an offence and is liable on conviction to a fine of one thousand dollars for each day during which the failure continues and to imprisonment for three months.

(3) A registered person who knowingly or recklessly fails to provide a tax invoice as required by section 28 commits an offence and is liable on conviction to a fine not exceeding fifteen thousand dollars and to imprisonment for a term not exceeding six months.

(4) A person who knowingly or recklessly provides a tax invoice otherwise than as provided for in section 28 commits an offence and is liable on conviction to a fine not exceeding fifteen thousand dollars and to imprisonment for a term not exceeding two years.

(5) A registered person who fails to provide a tax credit note or tax debit note as required by section 29 commits an offence and is liable on conviction to a fine not exceeding fifteen thousand dollars and to imprisonment for a term not exceeding six months.

(6) A person who knowingly or recklessly provides a tax credit note or tax debit note otherwise than as provided for in section 29 commits an offence and is liable on conviction to a fine not exceeding fifteen thousand dollars and to imprisonment for a term not exceeding two years.

(7) A person who knowingly or recklessly uses a false VAT registration number, including the VAT registration number of another person, on a return, notice, or other document prescribed or used for the purposes of this Act commits an offence and is liable on conviction to a fine not exceeding fifty thousand dollars and to imprisonment for a term not exceeding two years.

(8) Subsection (7) does not apply to a person who uses the VAT registration number of another person with the permission of that other person on a return, notice, or other document relating to the tax affairs of that other person.

False claim for VAT refund.

68. A person who knowingly or recklessly makes a false claim for refund under section 35 commits an offence and is liable on conviction to a fine not exceeding fifteen thousand dollars and to imprisonment for a term not exceeding six months.

Failure to notify Commissioner of cessation of taxable activity.

69. (1) A person who fails to notify the Commissioner of a change in circumstances as required by section 12(10) commits an offence and is liable on conviction–

(a) where the failure was made knowingly or recklessly, to a fine not exceeding fifty thousand dollars and to imprisonment for a term not exceeding two years; or

(b) in any other case, to a fine not exceeding twenty-five thousand dollars.

(2) A person who fails to notify the Commissioner as required by section 13(1) commits an offence and is liable on conviction–

(a) where the failure was made knowingly or recklessly, to a fine not exceeding fifty thousand dollars and to imprisonment for a term not exceeding two years; or

(b) in any other case, to a fine not exceeding twenty-five thousand dollars .

Failure to comply with third-party payment notice.

70. (1) A person who fails to comply with a third-party payment notice under section 51 commits an offence and is liable on conviction to a fine not exceeding twenty-five thousand dollars and to imprisonment for a term not exceeding one year.

(2) Where a person is convicted of an offence under subsection (1), the Court may, in addition to imposing a fine and imprisonment, order the convicted person to pay to the Commissioner an amount not exceeding the amount which the person failed to pay as required under section 51.

(3) A person who fails to comply with a notice issued under section 63 commits an offence and is liable on conviction to a fine not exceeding fifteen thousand dollars and to imprisonment for a term not exceeding six months.

Failure to comply with duties as receiver.

71. (1) A person who fails to comply with the requirements of section 52(4) commits an offence and is liable on conviction to a fine not exceeding twenty-five thousand dollars and to imprisonment for a term not exceeding one year.

(2) Where a person is convicted of an offence under subsection (1) for failing to set aside an amount as required under section 52(4), the Court may, in addition to imposing a fine and imprisonment, order the convicted person to pay to the Commissioner an amount not exceeding the amount which the person failed to set aside as required under section 52(4).

Failure to file VAT return.

72. (1) A person who knowingly or recklessly fails to lodge a return as required by section 31 commits an offence and is liable on conviction to a fine not exceeding fifteen thousand dollars.

(2) Where a person convicted of an offence under subsection (1) fails to lodge the return within a further period specified by the Commissioner by notice in writing, that person commits an offence and is liable on conviction to a fine of two thousand dollars for each day during which the failure continues and to imprisonment for three months.

Failure to maintain proper records.
(3 of 2017)

73. (1) A person who knowingly or recklessly fails to maintain proper records in accordance with section 60 commits an offence and is liable on conviction to a fine not exceeding two hundred thousand dollars or five percent of the tax assessed, whichever is greater.

(2) Any person, including a non-resident company, who knowingly or recklessly fails to present books and records when requested by the Commissioner commits an offence and is liable -

(a) in the case of the person, to a fine of twenty five thousand dollars; and

(b) in the case of a non-resident company, to a fine of one million dollars.

Disclosure of confidential information.

74. A person who knowingly or recklessly contravenes the secrecy requirements of section 8 commits an offence and is liable on conviction to a fine not exceeding twenty - five thousand dollars.

False or misleading statements.

75. (1) A person who–

(a) makes a statement to a taxation officer that is false or misleading in a material particular; or

(b) omits from a statement made to a taxation officer any matter or thing without which the statement is misleading in a material particular,

commits an offence and is liable on conviction–

(c) where the statement or omission was made knowingly or recklessly, to a fine not exceeding fifteen thousand dollars and to imprisonment for a term not exceeding two years.

(2) A reference in this section to a statement made to a taxation officer is a reference to a statement made orally, in writing, or in any other form to that taxation officer acting in the performance of the taxation officer's duties under this Act, and includes a statement made–

(a) in an application, certificate, declaration, notification, return, objection, or other document made, prepared, given, filed, lodged, or furnished under this Act;

(b) in any information required to be furnished under this Act;

(c) in a document furnished to a taxation officer otherwise than pursuant to this Act;

(d) in an answer to a question asked of a person by a taxation officer; or

(e) to another person with the knowledge or reasonable expectation that the statement would be conveyed to a taxation officer.

(3) It is a defence to a prosecution under subsection (1) that the person did not know and could not reasonably be expected to have known that the statement to which the prosecution relates was false or misleading.

Obstructing taxation officers.

76. (1) A person who obstructs a taxation officer in the performance of the taxation officer's duties under this Act commits an offence and is liable on conviction to a fine not exceeding fifteen thousand dollars and to imprisonment for a term not exceeding two years.

(2) A person who fails to provide a taxation officer with reasonable facilities and assistance as required by subsection 61(4) commits an offence and is liable on conviction to a fine not exceeding fifteen thousand dollars.

Offences by taxation officers.

77. A taxation officer in carrying out the provisions of this Act who–

(a) directly or indirectly asks for, or takes in connection with any of the taxation officer's duties a payment or reward, whether pecuniary or otherwise, or any promise or security for any such payment or reward, not being a payment or reward which the taxation officer was lawfully entitled to receive; or

(b) enters into or acquiesces in an agreement to do, abstain from doing, permit, conceal, or connive at an act or thing whereby the tax revenue is or may be defrauded or which is contrary to the provisions of this Act or to the proper execution of the taxation officer's duty,

commits an offence and is liable on conviction to a fine not exceeding one hundred thousand dollars and to imprisonment for a term not exceeding five years, and the Court may, in addition to imposing a fine, order the convicted person to pay to the Commissioner an amount of tax that has not been paid as a result of the taxation officer's wrongdoing and which cannot be recovered from the person liable for the tax.

Offences by companies, aiders and abetters.

78. (1) Where an offence under this Act has been committed by a company, every person who at the time of the commission of the offence–

(a) was a representative officer, director, general manager, secretary, or other similar officer of the company; or

(b) was acting or purporting to act in such capacity,

is deemed to have committed the offence.

(2) Subsection (1) does not apply where–

(a) the offence was committed without such person's consent or knowledge; and

(b) the person exercised all such diligence to prevent the commission of the offence as ought to have been exercised having regard to the nature of the person's functions and all the circumstances.

(3) A person aiding and abetting the commission of an offence under this Act shall also be guilty of that offence and liable to the same penalties as the person committing the offence.

Compounding of offences.

79. (1) Where a person has committed an offence under this Act other than an offence under sections 74 or 77, the Commissioner may, with the approval of the Minister, at any time prior to the commencement of the court proceedings relating thereto, compound such offence and order the person to pay such sum of money as specified by the Commissioner, not exceeding the maximum amount of the fine prescribed for the offence.

(2) The Commissioner may compound an offence under this section only if the person concerned admits in writing that the person has committed the offence, or requests in writing that the Commissioner so deal with the offence.

(3) Where the Commissioner compounds an offence under this section, the order referred to in subsection (1)–

(a) shall be in writing and shall have attached the written admission or request;

(b) shall specify–

(i) the offence committed;

(ii) the sum of money to be paid; and

(iii) the due date for the payment;

(c) shall be served on the person who committed the offence; and

(d) shall be final and not subject to any appeal.

(4) When the Commissioner compounds an offence under this section, the person concerned shall not be liable for prosecution in respect of such offence or for a civil penalty under section 80, 82, 83, or 84.

(5) The amount ordered to be paid under subsection (1) is recoverable as if it were tax due and payable.

Division II: Civil Penalties

Application of this Division

79A. In so far as circumstances permit the provisions of this Division should first be utilised before resort is had to the provisions of Division I.

Civil penalty for failure to apply for VAT registration.

80. (1) A person who fails to apply for registration as required by subsection 11(1), (7), or (8) is liable for a penalty equal to double the amount of output tax payable from the time the person is required to apply for registration until the person files an application for registration with the Commissioner.

(2) No penalty is payable under subsection (1) where the person has been convicted of an offence under section 66 in respect of the same act or omission, or where an offence has been compounded under section 79.

(3) If a penalty under subsection (1) has been paid and the Commissioner institutes a prosecution proceeding under section 66 in respect of the same act or omission, the Commissioner shall refund the amount of the penalty paid; and that penalty is not payable unless the prosecution is withdrawn.

Civil penalty for failure to declare or pay VAT on import.

81. (1) A person who fails to furnish any import declaration within the time required under this Act is liable for a penalty which is the greater of–

(a) one thousand dollars per day for each day or part thereof that the import declaration remains outstanding; or

(b) an amount equal to ten percent of the tax payable for the period of such import declaration, for each month or part thereof that the import declaration remains outstanding.

(2) The penalty imposed under subsection (1) shall not exceed the amount of tax payable in respect of the import declaration.

(3) A person who fails to pay tax payable on an import in accordance with section 22 on or before the due date is liable for a penalty in an amount equal to the greater of–

(a) one thousand dollars per day for each day or part thereof that the tax remains outstanding; or

(b) an amount equal to ten percent of the tax outstanding, for each month or part thereof that the tax remains outstanding.

(4) The penalty imposed under subsection (3) shall not exceed the amount of unpaid tax.

(5) A penalty paid by a person under subsection (3) shall be refunded to the person to the extent that the tax to which it relates is subsequently determined not to have been due and payable.

(6) A penalty imposed under subsection (3) is in addition to any interest payable under section 27.

Civil penalty for failure to file VAT return.

82. (1) A person who fails to lodge a return within the time required under this Act is liable for a penalty, which is the greater of–

(a) one thousand dollars per day for each day or part thereof that the return remains outstanding; or

(b) an amount equal to ten percent of the tax payable for the period of such return, for each month or part thereof that the return remains outstanding.

(2) The penalty imposed under subsection (1) shall not exceed the amount of tax payable in respect of the return.

(3) No penalty is payable under subsection (1) where the person has been convicted of an offence under section 72 in respect of the same act or omission, or an offence has been compounded under section 79.

Civil penalty for failure to maintain proper records.

83. (1) A person who fails to maintain proper records in a tax period in accordance with the requirements of section 60 is liable for a penalty of one hundred dollars per day for each day or portion thereof that the failure continues.

(2) No penalty is payable under subsection (1) where the person has been convicted of an offence under section 73 in respect of the same act or omission, or an offence has been compounded under section 79.

(3) If a penalty under subsection (1) has been paid and the Commissioner institutes a prosecution proceeding under section 73 in respect of the same act or omission, the Commissioner is required to refund the amount of civil penalty paid; and that civil penalty is not payable unless the prosecution is withdrawn.

Civil penalty for making false or misleading statements.

84. (1) Where a person knowingly or recklessly–

(a) makes a statement to a taxation officer that is false or misleading in a material particular; or

(b) omits from a statement made to a taxation officer any matter or thing without which the statement is misleading in a material particular,

and the tax properly payable by the person exceeds the tax that would be payable if the person were assessed on the basis that the statement is true, the person is liable for a penalty equal to an amount determined by the Commissioner.

(2) Section 75(2) applies in determining whether a person has made a statement to a taxation officer.

(3) No penalty is payable under this section where the person has been convicted of an offence under section 75 in respect of the same act or omission, or where an offence has been compounded under section 79.

(4) If a penalty under this section has been paid and the Commissioner institutes a prosecution proceeding under section 75 in respect of the same act or omission, the Commissioner shall refund the amount of the penalty paid; and that penalty is not payable unless the prosecution is withdrawn.

Recovery or remission of penalties.

85. (1) Where good cause is shown, in writing, by the person liable for a civil penalty, the Commissioner may remit in whole or part any civil penalty payable.

(2) Except as otherwise provided in this Act, the imposition of a civil penalty is in addition to any fine and imprisonment imposed as a result of a conviction for an offence under Division I of Part XIV.

(3) Penalties may be assessed and collected as if the amount of penalty is tax due under this Act.

(4) A person dissatisfied with a decision of the Commissioner under subsection (1) may challenge the decision only under Part X.

Temporary closure of business premises.

86. (1) Where a person repeatedly violates–

(a) section 67 in relation to tax invoices,

(b) section 67 in relation to tax debit notes or tax credit notes;

(c) section 72 by failing to file returns;

(d) section 68 by falsely claiming tax refunds;

(e) section 76 by obstructing taxation officers; or

(f) section 22 or 42 by failing to pay tax when due;

after obtaining an order of a court having jurisdiction in respect of the person, the Commissioner may forcibly close one or more business premises of the person for a period of between three and thirty days.

(2) For purposes of subsection (1), the Commissioner may use reasonable force and police assistance necessary to close all or any premises of the person, barring access with locks, fencing, boarding, or other appropriate methods.

(3) For purposes of this section, a repeated violation means a violation that is committed within one year of receipt by the person of a written warning–

(a) that a violation of such kind has been committed more than once within the year preceding the year of the warning, and

(b) that repetition may result in closure under this section.

PART XV – Miscellaneous

VAT registration number.

87. The Commissioner may require a person to include the Tax Identification Number (TIN) issued to the person as the VAT registration number issued by the Commissioner to that person, or may require the use of a different number as the VAT registration number, in any return, notice, or other document prescribed or used for the purposes of this Act.

Forms and notices; authentication of documents.

88. (1) Forms, notices, returns, and other documents prescribed or published by the Commissioner may be in such form as the Commissioner determines for the efficient administration of this Act.

(2) The Commissioner is required to make the documents referred to in subsection (1) available to the public.

(3) A notice or other document issued, served, or given by the Commissioner under this Act is sufficiently authenticated if the name or title of the Commissioner, or authorised taxation officer, is printed, stamped, or written on the document.

Service of notices.

89. (1) Unless otherwise provided in this Act, a notice required by this Act to be in writing shall be served on the recipient of the notice.

(2) A notice mentioned in subsection (1) is considered sufficiently served–

(a) on a person being an individual other than in a representative capacity, if it is–

(i) personally served on that person;

(ii) left at the person's usual or last known place of abode, office, or place of business in Guyana; or

(iii) sent by registered post to such place of abode, office, or place of business, or to the person's usual or last known address in Guyana; or

(b) on any other person, if it is–

(i) personally served on the representative of the person;

(ii) left at the registered office of the person or the person's address for service of notices under this Act; or

(iii) where there is no such office or address, left at or sent by registered post to an office or place of business of the person in Guyana.

Tax-inclusive pricing.

90. (1) A price charged by a taxable person in respect of a taxable supply is deemed to include, for the purposes of this Act, the tax charged on the supply under section 9(1)(a), whether or not the taxable person has included tax in such price.

(2) Subject to subsection (3), a price advertised or quoted by a taxable person in respect of a taxable supply is required to include tax and to state in the advertisement or quotation that tax is included.

(3) A taxable person may advertise or quote a price in respect of a taxable supply as exclusive of tax provided–

(a) the advertisement or quotation also states the amount of tax charged on the supply and the price inclusive of tax; and

(b) the price inclusive of tax and the price exclusive of tax are advertised or quoted with equal prominence or impact.

(4) Subject to subsection (5), price tickets on goods supplied by a taxable person need not state that the price includes tax if this is stated by way of a notice prominently displayed at the premises in which the taxable person carries on a taxable activity, including the places in such premises where payments are effected.

(5) The Commissioner may in the case of a taxable person or class of taxable person approve any other method of displaying prices of goods or services by such persons.

Schemes for obtaining tax benefits.

91. (1) In this section–

"scheme" includes an agreement, arrangement, promise, or undertaking whether express or implied and whether or not legally enforceable, and a plan, proposal, course of action, or course of conduct; and

"tax benefit" includes–

(a) a reduction in the liability of a person to pay value-added tax;

(b) an increase in the entitlement of a person to a credit or refund;

(c) any postponement of liability for the payment of value-added tax;

(d) any acceleration of a deduction for input tax; or

(e) any other avoidance or benefit from the delay in payment of tax or acceleration of a deduction for input tax.

(2) Notwithstanding anything in this Act, if the Commissioner is satisfied that a scheme has been entered into or carried out where–

(a) a person has obtained a tax benefit in connection with the scheme in a manner that constitutes a misuse of the provisions of this Act; and

(b) having regard to the substance of the scheme, it would be concluded that the person, or one of the persons, who entered into or carried out the scheme did so for the sole or dominant purpose of enabling the person to obtain the tax benefit,

the Commissioner may determine the liability of the person who has obtained the tax benefit as if the scheme had not been entered into or carried out, or in such manner as in the circumstances the Commissioner considers appropriate for the prevention or reduction of the tax benefit.

Currency conversion.

92. (1) For the purposes of this Act, all amounts of money are to be expressed in dollars.

(2) Where an amount is expressed in a currency other than dollars–

(a) in the case of imports, the amount shall be converted at the exchange rate as determined in accordance with section 22(2)(c) of the Customs Act; or

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(b) in all other cases, the amount shall be converted at the exchange rate applying between the currency and the dollar at the time the amount is taken into account under this Act.

Registration of certain goods prohibited in certain circumstances.

93. (1) For purposes of this section, "registering authority" means a person appointed under a law to issue a licence, permit, certificate, concession, or other authorisation.

(2) Where a form of registration is required under a law in respect of goods consisting of an aircraft, boat, fishing vessel, ship, yacht, motor cycle, motor vehicle, tractor, caravan, or trailer, hereinafter referred to as "registrable goods", no registering authority responsible for such registration under such law may effect such registration upon a change of ownership or importation into Guyana of registrable goods unless the person applying for registration produces to such registering authority–

(a) in the case of registrable goods that–

(i) form the subject of any supply, or

(ii) are imported into Guyana,

a document issued by the Commissioner showing that tax which is payable under this Act has been paid in respect of such supply or importation into Guyana, or a receipt or certificate showing that no tax is payable under this Act in respect of such supply or importation, as the case may be, of the registrable goods in consequence of which the registration is required;

(b) a declaration, in such form as the Commissioner may prescribe, issued by a registered person who, in carrying on a taxable activity in the ordinary course of which registrable goods are dealt in, supplied such goods in consequence of which the registration is required, certifying that the tax payable under this Act has been, or will be, paid by such person; or

(c) a certificate issued by the Commissioner, or other documentation acceptable to the Commissioner, to the effect that the supply or import of the registrable goods was an exempt supply or exempt import, as the case may be.

Auctioneer and agent.

94. (1) Where a taxable supply has been made in circumstances specified under section 5(1)(a), the agent may issue a tax invoice in accordance with this Act in relation to the supply as if the agent had made the supply, in which case the principal may not also issue a tax invoice in relation to the supply.

(2) Where a taxable supply has been made in the circumstances specified under section 5(1)(b), at the request of the agent, a tax invoice in relation to the supply may be issued to the agent, in which case the supplier may not issue a tax invoice to the principal in relation to the supply.

(3) Where tax is payable by an auctioneer in respect of the supply of goods specified under section 5(3), the auctioneer is required to charge the purchaser the amount of tax payable in respect of the sale by adding the tax to the amount of a successful bid or, in the case of sales out-of-hand, to the purchase price, and is required to recover that tax from the purchaser.

Regulations.
(2 of 2018)

95. (1) The Minister may make regulations–

(2 of 2018)

(a) for matters that under this Act are to be prescribed by regulations, as specified in sections 4(13), 9(1), 11(5), 30(2), 35(3), 35(5), 37(1), 49(4), 60(1)(e), 100(12), Schedule II, Schedule IV paragraph 1, or

(b) whether or not to be prescribed by regulations under this Act, for any matters necessary or convenient to be prescribed for the better carrying out or giving effect to this Act, including revisions to the Schedules hereto,

and without prejudice to the generality of the foregoing, such regulations may contain provisions of a saving or transitional nature consequent on the coming into force of this Act.

(2) Regulations made under this Act may prescribe specific offences for breach of the regulations, and the penalties therefor, but such penalties may not exceed a fine of one hundred thousand dollars and imprisonment for a term of five years.

(3) Subject to subsection (4), regulations made under this Act are subject to an affirmative resolution of the National Assembly.

(4) Regulations pertaining to the description of the nature and form of filing and documentation requirements, including but not limited to those specified in 35(3), 35(5), and 60(1)(e), may be issued by the Minister by way of notice in the Gazette.

Variation of consideration on a change in rate.

96. (1) Where–

(a) an agreement for a supply of goods or services by a registered person has been entered into; and

(b) subsequent to entering into the agreement, tax is imposed on the supply or the rate of tax applicable to the supply is increased,

the supplier may, notwithstanding anything to the contrary in any agreement or law, recover from the recipient, in addition to the amounts payable by the recipient, an amount equal to the amount of tax imposed or the amount by which tax was increased, as the case may be.

(2) Where–

(a) an agreement for a supply of goods or services by a registered person has been entered into; and

(b) subsequent to entering into the agreement, tax on the supply is withdrawn or the rate of tax applicable to the supply is decreased,

the supplier, notwithstanding anything to the contrary in any agreement or law, is required to reduce the amount payable by the recipient by an amount equal to the amount of tax withdrawn or the amount by which tax was decreased, as the case may be.

(3) Subject to subsections (4) and (5), where subsection (1) or (2) applies in respect of a supply of goods or services subject to any fee, charge, or other amount, whether a fixed, maximum, or minimum fee, charge, or other amount, prescribed by, or determined pursuant to, any Act, regulation, or measure having force of law, that fee, charge, or other amount may be increased or shall be decreased, as the case may be, by the amount of tax or additional tax chargeable, or the amount of tax no longer chargeable.

(4) Subsection (3) does not apply where the fee, charge, or other amount has been altered in an Act, regulation, or measure having force of law to take account of an imposition, increase, decrease, or withdrawal of tax

(5) Nothing in subsection (3) shall be construed so as to permit a further increase or require a further decrease, as the case may be, in a fee, charge, or other amount where the fee, charge, or other amount is calculated as a percentage or fraction of another amount which represents the consideration in money for a taxable supply.

Application of increased or reduced rate.

97. (1) Where goods, other than immovable property, are provided by a supplier before the date on which a change in the rate of tax levied under section 9(1)(a) becomes effective in respect of the supply of the goods or the date on which the tax is imposed or withdrawn in respect of the supply, and the supply is treated under section 14 as having been made on or after the said date, then in the case of -

(a) a change in rate on the said date, the rate of tax applicable to the supply is the rate applicable immediately before the said date;

(b) the imposition of tax on the said date, the supply is treated as not being subject to tax; or

(c) the withdrawal of the tax on the said date, the supply is deemed to be subject to tax as if the tax had not been withdrawn.

(2) Where–

(a) services are performed; or

(b) goods, other than immovable property, are provided in respect of a successive supply contemplated in section 14(8) or (9),

during a period beginning and ending before the date on which a change in the rate of tax levied under section 9(1)(a) becomes effective in respect of the supply of the goods or the date on which the tax is imposed or withdrawn in respect of the supply, and the supply is deemed under section 14 to have been made on or after the said date, then in the case of–

(c) a change in rate on the said date, the rate of tax applicable to the supply is the rate applicable immediately before the said date;

(d) the imposition of tax on the said date, the supply is treated as not being subject to tax; or

(e) the withdrawal of the tax on the said date, the supply is deemed to be subject to tax as if the tax had not been withdrawn.

(3) Where–

(a) services are performed; or

(b) goods, other than immovable property, are provided in respect of a successive supply contemplated in section 14(8) or (9),

during a period beginning before and ending on or after the date on which a change in the rate of tax levied under section 9(1)(a) becomes effective in respect of the supply of the goods or the date on which the tax is imposed or withdrawn in respect of the supply, and the supply is deemed under section to have been made on or after the said date, the value of the supply shall, on the basis of a fair and reasonable apportionment, be deemed to consist of a part, referred to as the "first part", relating to the performance of services or provision of goods before the said date and a part, referred to as the "second part", relating to the performance of services or provision of goods on or after the said date.

(4) For purposes of subsection (3), in the case of–

(a) a change in the rate on the said date, the tax payable in respect of the first part shall be determined at the rate applicable before the said date and the tax payable in respect of the second part shall be determined at the rate applicable on the said date;

(b) the imposition of tax on the said date, the first part shall not be subject to tax; or

(c) the withdrawal of the tax, the first part shall be subject to tax as if the tax had not been withdrawn.

(5) For the purposes of subsections (1), (2), and (3), goods are deemed to be provided by the supplier of the goods when the goods are delivered to the recipient and goods supplied under a rental agreement are deemed to be provided to the recipient when the recipient takes possession or occupation of the goods.

(6) Subject to section 100, where, before the date on which an increase in the rate of tax becomes effective, a written agreement is concluded for–

(a) the sale of immovable property consisting of–

(i) a dwelling together with land on which it is erected, or of any real right conferring a right of occupation of a dwelling; or

(ii) land, or of any real right conferring a right of occupation of land for the sole or principal purpose of the erection by or for the purchaser of a dwelling or dwellings on the land, as confirmed by the purchaser in writing; or

(b) the construction of a new dwelling by a taxable person carrying on a construction business, and–

(c) the price of the sale or construction in question was determined and stated in the agreement which was in operation before the said date and signed by the parties thereto before that date; and

(d) the supply of such immovable property or construction services under the said agreement is deemed under section to have been made on or after the said date,

the rate of tax levied under section 9 on that supply shall be the rate at which tax would have been levied had the supply taken place on the date on which such agreement was concluded.

Orders to amend Schedules or channge amounts or tax rate. (6 of 2007)

98. (1) The Minister may by order, subject to negative resolution of the National Assembly, amend Schedules I and II –

(2) The Minister may by order, subject to affirmative resolution of the National Assembly –

(a) increase or decrease any monetary amount set out in this Act.

(b) amend Schedules III, IV and V.

Repeal of laws and interpretation.

99. The Acts specified in Schedule V and any regulations made thereunder are hereby repealed, except to the extent and for the purposes set forth in the transitional rules of section 100 or regulations made under this Act.

Transitional.

100. (1) In this section–

"qualifying goods" means any stock held for sale in the ordinary course of business;

"repealed legislation" means the legislation referred to in section 99; and

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"consumption tax" means the tax imposed under the Consumption Tax Act.

(2) The repealed legislation, including the laws governing the levy, payment, assessment, reporting, and recovery of those taxes, continue to apply to a supply or import taking place prior to the date on which this Act comes into operation pursuant to section 1.

(3) An oath of secrecy taken under the repealed legislation is treated as having been taken under this Act.

(4) Where a contract was concluded between two or more parties before the entry into operation of this Act, and no provision relating to tax was made in the contract, the supplier may recover from the recipient tax due on any taxable supplies made under the contract after the date on which this Act comes into operation.

(5) Where a contract concluded after the date on which this Act comes into operation does not include a provision relating to tax, the contract price is deemed to include tax and the supplier under the contract is required to account for the tax due.

(6) Subject to subsection (7), if, in connection with a supply of goods or services–

(a) title to goods passes, delivery of goods is made, or services are rendered after the date on which this Act comes into operation, and

(b) payment is received or an invoice is issued within three months before that date,

for purposes of determining the tax period in which the supply occurs or an input tax credit is allowable, the payment is treated as having been made or the invoice is treated as having been issued on the date on which this Act comes into operation.

(7) If services subject to service tax were rendered before the date on which this Act comes into effect and payment is made within three months after this Act comes into effect, VAT is not imposed on the supply of the services.

(8) If–

(a) successive supplies described in section 14(8) or (9) were provided, or

(b) services subject to service tax were rendered,

during a period that began before this Act comes into effect and ended after this Act comes into effect, VAT is imposed on the consideration for the services rendered after this Act comes into effect, except that to the extent the consideration for the services rendered before this Act comes into effect is paid more than three months after this Act comes into effect, the consideration shall be treated as consideration for the supply of services rendered on the day after the end of that three-month period.

(9) Notwithstanding subsection (8), if construction, reconstruction, manufacture or extension of a building or civil engineering work is performed under a written agreement executed before this Act comes into effect and the property is made available to the recipient after that date, VAT imposed only on the value of the work performed after that date if the value of the work on the day before this Act comes into effect is determined in a manner approved by the Commissioner and is submitted to the Commissioner by the end of the supplier's first tax period after VAT becomes effective.

(10) If immovable property is provided under a rental agreement for a period that commences before and ends after the commencement of this Act, the consideration for the rental shall not include the amount attributable to the portion of the period that ends before the effective date.

(11) For purposes of section (1)(d), an amount paid as a prize or winnings does not include an amount attributable to obligations or contingent obligations that exist immediately before this Act comes into effect.

(12) The Minister may make regulations for other transitional measures relating to the end of repealed taxes listed in Schedule V, the start of value-added tax, or the transition from repealed taxes to value-added tax.

(13) All forms and documents used in relation to the repealed legislation may continue to be used under this Act, and all references in those forms and documents to provisions of and expressions appropriate to the repealed legislation are taken to refer to the corresponding provisions and expressions of this Act.

Schedule I

Zero-rated Supplies for Purposes of Section 17

Amended by

((O) 23 of 2006
(O) 11 of 2008
(O) 29 of 2008
(O) 178 of 2012
(O) 30 of 2014
(O) 12 of 2015
(O) 6 of 2016
(O) 18 of 2016
(O) 40 of 2017
(O) 49 of 2018
(O) 78 of 2020
(O) 6 of 2021
(O) 9 of 2022
(O) 10 of 2022
(O) 23 of 2022)

1. In this Schedule–

"export country" means any country other than Guyana and includes a place which is not situated in Guyana, but does not include a specific country or territory that the President by proclamation in the *Gazette* designates as one that is not an export country;

"exported from Guyana", in relation to any movable goods supplied by a registered person under a sale or a credit agreement, means–

(a) consigned or delivered by the registered person to the recipient at an address in an export country as evidenced by documentary proof acceptable to the Commissioner; or

(b) delivered by the registered person to the owner or charterer of a foreign-going aircraft when such aircraft is going to a destination in an export country and such goods are for use or consumption in such aircraft, as the case may be;

"intellectual property rights" means a patent, design, trade mark, copyright, know-how, confidential information, trade secret, or similar rights; and

"regionally" means in Guyana or any CARICOM country.

EXPORT OF GOODS

2. The following goods are zero-rated for the purposes of section 17 –

(a) a supply of goods in the course of repairing, renovating, modifying or treating goods including goods temporarily imported into Guyana under the exemptions under the Customs Act and the goods -

(i) are wrought into, affixed to, attached to, or otherwise form part of those other goods; or

(ii) being consumable goods, become unsalable or worthless as a direct result of being in that repair, renovation, modification or treatment process;

(b) a supply of goods under a rental agreement, charter party or agreement for chartering where the goods are used exclusively in an export country;

(c) a supply of goods where the Commissioner is satisfied that the goods have been exported from Guyana by the supplier;

(d) a supply of goods where the goods are not situated in Guyana at the time of supply and are not to be entered into Guyana for home consumption pursuant to the Customs Act by the supplier of the goods; and

(e) a supply of goods where the supplier has entered the goods for export, pursuant to the Customs Act, and the goods have been exported from Guyana by the supplier.

EXPORT OF SERVICE

3. The following supplies are zero-rated for the purposes of section 17 -

(a) a supply of services directly in connection with land or any improvement to land situated outside Guyana;

(b) a supply of services directly in respect of -

(i) movable property situated outside Guyana at the time the services are rendered;

(ii) goods temporarily imported into Guyana under the exemptions in the Customs Act;

(iii) a supply of goods referred to in the definition of "exported from Guyana"; or

(iv) the repair, maintenance, cleaning or reconditioning of a foreign-going aircraft or vessel;

(c) a supply of services directly to a non-resident person who is not a taxable person, otherwise than through an agent or other person -

(i) comprising the handling, pilotage, salvage, or towage of a foreign-going aircraft while situated in Guyana;

(ii) provided in connection with the operation or management of a foreign-going aircraft; or

(iii) comprising the storage, repair, maintenance, cleaning, management, or arranging the provision of a container temporarily imported under the Customs Act, or the arranging of services;

(d) a supply of services physically rendered elsewhere than in Guyana;

(e) a supply of services to a non-resident person who isnot a taxable person comprising the arranging for the person of -

(i) a supply of goods referred to in the definition of "exported from Guyana";

(ii) a supply of services for repair, maintenance, cleaning or re-conditioning of a foreign-going aircraft or vessel; or

(iii) the transport of goods including ancillary transport services within Guyana;

(f) a supply of services to a non-resident person who is outside Guyana at the time the services are supplied, other than a supply of services -

(i) comprising the refraining from undertaking any taxable activity in Guyana;

(ii) comprising the tolerating of another person undertaking any taxable activity in Guyana;

(iii) directly in connection with immovable property situated in Guyana; or

(iv) directly in connection with movable property situated in Guyana at the time the services are supplied unless the movable property is exported from Guyana subsequent to the supply of services;

(g) a supply of services comprising -

(i) the filing, prosecution, granting, maintenance, transfer, assignment, licensing or enforcement of any intellectual property rights for the use outside Guyana;

(ii) incidental services necessary for the supply of services referred to in clause (i); or

(iii) the acceptance by a person of an obligation to refrain from pursuing or exercising in whole or part any intellectual property rights for use outside Guyana.

RAW MATERIALS AND PACKAGING MATERIALS

4. The following supplies are zero-rated for the purposes of section 17 -

(a) a supply of raw materials and packaging materials to be used in the production of goods to the satisfaction of the Commissioner;

(b) a supply of all bio-degradable containers used in the packaging of food and beverages; and

(c) the importation of equipment and spares to be used in the production of goods in the fishing industry, to the satisfaction of the Commissioner.

INVESTMENT/LOCAL MANUFACTURING

5. Zero-rated for the purposes of section 17 are –

(a) a supply by a registered person to another registered person of a taxable activity, or part of a taxable activity, as a going concern:

Provided that a notice in writing signed by the transferor and transferee is furnished to the Commissioner within fifteen days after the supply takes place and such notice includes the details of the supply;

(b) goods and services under an investment agreement entered into on behalf of the Government with the taxable persons with a per unit price greater than two hundred thousand dollars Guyana dollars (G$200,000); and

(c) goods and services under any agreement, other than an investment agreement, entered into on behalf of the Government;

MEDICAL SUPPLIES

6. The following medical supplies are zero-rated for the purposes of section 17 -

(a) a supply of medicines and drugs of a kind available by prescription;

(b) any of the following medicines for human use -

(i) analgesics in the form of liquids, tablets, capsules, or other solid dosage forms for oral or rectal use;

(ii) cough and cold preparations in the form of liquids, tablets, capsules or other solid dosage forms for oral and nasal use;

(iii) antacids and anti-flatulants in the form of liquids, tablets, capsules and other solid dosage forms for oral use;

(iv) laxatives in the form of liquids, tablets, capsules or other solid dosage forms for oral or rectal use;

(v) anthelmintics in the form of liquids, tablets or capsules for oral use;

(vi) oral rehydration preparations in the form of salts or solution of W.H.O./Pharmacopoeia standards;

(vii) a supply of over the counter drugs;

(viii) a supply of vitamins, minerals and tonics for medical or health supplement use excluding items such as energy drinks and food supplements classified under Chapter 21 of the Common External Tariff;

(c) Diabetic -

(i) glucometers (glucose blood test machines), needles and glucose blood strips made for use with such machines;

(ii) insulin syringes with needles and devices for the administration of insulin;

(d) spectacles prescribed by an optometrist in the treatment of the human eye and visual system;

(e) crutches;

(f) wheelchairs; and

(g) a supply of medical, dental, hospital, optical or paramedical services, to the extent provided in the regulations other than veterinary services.

UTILITIES

7. The following services are zero-rated for the purposes of section 17 -

(a) a supply of water services and sewage services provided by Guyana Water Incorporated and Kwakwani Utilities Incorporated; and

(b) a supply of electricity by a person authorised under the Electricity Sector Reform Act.

CONSTRUCTION

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8. Zero-rated for the purposes of section 17 are -

(a) a supply of locally produced sand including loam and similar materials, asphalt, concrete blocks, ply wood, logs and lumber of a type and quality used in construction and housing;

(b) a supply of regionally produced -

(i) stone for the purpose of construction and housing; and

(ii) boulders for the purpose of construction of sea defence;

(c) a supply of locally produced pre-stressed concrete piles;

(d) a supply of locally fabricated and manufactured steel beams for building and construction;

(e) a supply of locally manufactured roofing and PVC product; and

(f) a supply of spars, palings, staves, shingles and wattles;

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(O) 10 of 2022)

(g) a supply of building cement;

(O) 10 of 2022)

(h) a supply of cement board;

(O) 10 of 2022)

(i) a supply of sheet rock;

(O) 23 of 2022

(j) a supply of lubricating oil.

9. Zero-rated for the purposes of section 17 are supplies of capital equipment and machinery used in the mining, forestry, agriculture, construction and manufacturing industries.

10. Zero-rated for the purposes of section 17 is a supply of all-terrain vehicles for use in the mining, forestry, agriculture and manufacturing industries and by Toshaos from Amerindian communities.

AGRICULTURE

11. The following supplies are zero-rated for the purposes of section 17 -

(a) hatching eggs;

(b) live chicks, cattle, pigs, ducks, goat, sheep and other animals used for consumption excluding exotic and wild meat;

(c) a supply of packaging material for use in the poultry industry;

(d) fertilisers;

(e) agro-chemicals;

(f) pesticides;

(g) paddy;

(h) vegetable seeds;

(i) fish hooks, sheet lead, fishing floats, cotton and styrofoam for use in the fishing industry;

(j) harrows, cultivators, scarifiers, ploughs, weeders and hoes;

(k) ice for fishing purposes;

(l) knotted netting twine, cordage or rope made up of fishing nets and other made up nets, of textile materials;

(m) machinery used for preparing animal feeding stuffs;

(n) machinery, equipment or components used in the generation of renewable energy in the agriculture sector using agricultural by-products;

(o) poultry feed, cattle feed, pig feed, other animal feed, and ingredients and animal feed as determined by the Commissioner-General, but not including pet feed;

(p) equipment and chemicals for water treatment and production plants;

(q) goods and services in agro-processing facilities, cold storage and packaging; and

(r) animal medication including animal vitamins.

TRAVEL AND TRANSPORTATION

12. The following supplies of travel and transportation services are specified as zero-rated for the purposes of section 17 –

(a) a supply of river and land crossing services to the hinterland regions; and

(b) a supply of services of transporting passengers or goods by air, river or land from one place in Guyana to the hinterland regions.

FOOD ITEMS

13. Zero-rated for the purposes of section 17 are supplies of -

(a) bread including sliced bread, plait bread and tennis roll made with white or whole wheat flour, but not including all other bread such as French bread, Swiss bread, and sweet breads;

(b) raw brown rice, raw white rice and parboiled rice;

(c) sugar cane and raw brown sugar;

(d) cooking oil;

(e) vinegar;

(f) cow's milk and milk powder, evaporated milk, liquid cow's milk including Ultra High Temperature (UHT) milk and fully and partially skimmed milk, powdered milk (skim and cream) but not including other milk such as flavoured milk;

(g) baby formula;

(h) baby cereal;

(i) fresh fruits, but not including apples, grapes, dates, prunes, peaches, plums, strawberries and other assorted berries;

(j) fresh vegetables, including onions, garlic, potatoes but not including olives, radishes, broccoli and cauliflower and similar assorted vegetables;

(k) dried split peas, pigeon peas (not including canned pigeon peas), dried kidney beans (not including canned kidney beans), dried chick peas (not including canned chick peas), dried black-eyed peas (not including canned black-eyed peas);

(l) unprocessed wheat;

(m) wheaten flour;

(n) barley flour;

(o) plantain flour;

(p) roti-mix;

(q) self-rising flour;

(r) cassava bread;

(s) casareep;

(t) cheddar cheese but not including grated, powdered or single sliced cheese;

(u) farine;

(v) margarine;

(w) baking powder;

(x) cooking salt;

(y) fresh, chilled or frozen chicken, pork, beef, shrimp, prawns, mutton, duck; fresh, chilled or frozen fish, salted fish, but not including canned products.

(z) uncooked bird's eggs;

(aa) lard;

(bb) shortening;

(cc) locally produced jams, jellies and peanut butter;

(dd) oats;

(ee) sago;

(ff) locally produced peanuts and cashew nuts;

(gg) unflavoured cracker biscuits; and

(hh) wheat up.

HOUSEHOLD NECESSITIES

14. Zero-rated for the purposes of section 17 are supplies of -

(a) diapers such as pampers for adults and babies;

(b) kerosene stoves;

(c) sanitary napkins or panty liners;

(d) toilet tissues in rolls;

(e) paper towels;

(f) bleach;

(g) disinfectants including rubs and wipes impregnated with alcohol or other disinfectants;

(h) alcohol, solutions un-denatured containing 50% or more ethyl alcohol, including rubbing alcohol;

(i) soap powder;

(j) laundry, toilet, medicated and hand soap;

(k) hand sanitizers;

(l) dishwashing detergents;

(m) toothpaste and toothbrushes;

(n) mouthwash;

(o) matches;

(p) mosquito nets;

(q) locally produced bed sheets, pillow cases, self covers, blankets;

(r) locally produced towels, rags, handkerchiefs and school garments;

(s) locally produced rugs, mats, table covers and ribbons; and

(t) locally produced garments.

STATE/STATE AGENCY/LOCAL AUTHORITY

15. Zero-rated for the purposes of section 17 are -

(a) a supply of goods and services financed from proceeds of a donor agency;

(b) goods and services when imported and consultancy services, to be supplied to the State, an agency of the State, or a local authority and directly incorporate into a project funded by grants or loans supplied by a foreign government (or agency of that government) or a public international organisation; and

(c) goods and services when imported and works and consultancy services purchased by a budget agency listed in the schedule to the Fiscal Management and Accountability Act 2003 and by state agencies that perform regulatory functions by statute.

EDUCATIONAL

16. Zero-rated for the purposes of section 17 -

(a) a supply of educational services provided by private educational institutions;

(b) a supply of the following educational materials-

(i) printed books, including children's picture books, children's drawing books, children's story books, coloring books, instructional newspapers and newsletters, textbooks, dictionaries, atlases, music manuscripts, recipe books, religious books, novels, exercise books, notebooks (spiral and composition), graph books and graph paper;

(ii) educational charts, alphabetical charts, numbers charts, maps, globes;

(iii) school supplies of student-use quality, including file paper (loose leaf ruled three-holed filler paper), crayons (wax and wooden), dividers and compasses for school use, erasers, chalk (white and colored), chalkboard erasers, hand pencil sharpeners, simple protractors used by students, scientific calculators only, rulers, pencils, student's paints (whether in tablets, tubes, jars, bottles, sets or similar forms and packages), lunch kits, lunch packs, lunch bags and geometry sets; and

(iv) educational robot kits.

COMPUTER AND INTERNET DATA

17. Zero-rated for the purposes of section 17 are -

(a) a supply of computers, including internal hardware devices, computer accessories, notebooks, tablets and laptops;

(b) a supply of computer monitors (of a kind designed solely to be used with computers and excluding video monitors, television monitors and dual-purpose monitors);

(c) a supply of routers, switches and hubs for networking computers;

(d) a supply of computer printer including multi-function printers; and

(e) a supply toner cartridges and ink cartridges for computer printers.

18. Zero-rated for the purposes of section 17 is a supply of internet data for residential and individual usage.

Schedule II

Exempt Supplies for Purposes of Section 18

1. In this Schedule–

((O) 23 of 2006
(O) 18 of 2016
(O) 48 of 2018
(O) 78 of 2020
(O) 6 of 2021
(O) 1 of 2022)

"ancillary transport services" means stevedoring services, lashing and securing services, cargo inspection services, preparation of customs documentation, container handling services and storage of transported goods or goods to be transported;

"export country" means any country other than Guyana and includes a place which is not situated in Guyana, but does not include a specific country or territory that the President by proclamation in the *Gazette* designates as one that is not an export country;

"foreign-going aircraft" means an aircraft engaged in the transportation for reward of passengers or goods wholly or mainly on flights between a location or locations in Guyana and an airport or airports in export countries, or between airports in export countries;

"international transport services" means –

(a) the services, other than ancillary transport services, of transporting passengers or goods by road, rail, water or air –

(i) from a place outside Guyana to another place outside Guyana where the transport or part of the transport is across the territory of Guyana;

(ii) from a place outside Guyana to a place in Guyana; or

(iii) from a place in Guyana to a place outside Guyana;

(b) the services of transporting passengers from a place in Guyana to another place in Guyana to the extent that transport is by aircraft and constitutes "international

carriage" as defined in Article 3 of the Convention on International Civil Aviation;

(c) the services, including any ancillary transport services, of transporting goods from a place in Guyana to another place in Guyana to the extent that those services are supplied by the same supplier as part of the supply of services to which paragraph (a) applies; or

(d) the services of insuring or the arranging of the insurance or the arranging of the transport of passengers or goods to which paragraphs (a) to (c) apply; and

"residential dwelling" means a building, premises, structure, or any other place, or any part thereof, used predominantly as a place of residence or abode of a natural person or which is intended for use as a place of residence or abode of a natural person, together with any appurtenances belonging thereto and enjoyed therewith, but does not include a hotel, guest house, inn, or other establishment that in the usual course of business provides lodging primarily to guests whose typical stay is less than thirty days.

2. The following supplies are specified as exempt supplies for the purposes of section 18–

(a) a supply of financial services to the extent provided in regulations issued by the Minister;

(b) a supply of international transport services;

(c) a supply of –

(i) kerosene oil;

(ii) liquid propane gas;

(iii) liquid butane gas;

(iv) gasoline; and

(v) diesel.

(d) a supply of–

(i) accommodation in a residential dwelling; or

(ii) leasehold land by way of lease (not being a grant or sale of the lease of that land) to the extent that the subject land is used or is to be used for the principal purpose of accommodation in a residential dwelling erected or to be erected on that land;

(e) a supply of any goods or services by the State, a local authority, or a charity where the consideration for the goods or services is nominal in amount or not intended to recover the cost of such goods or services;

(f) a supply of all goods and services by budget agencies listed in the Schedule to the Fiscal Management and Accountability Act, Cap 73:02, and by state agencies that perform regulatory functions by statute; or

(g) a supply of locally mined raw gold or diamonds certified by the Guyana Gold Board, the Geology and Mines Commission or other approved authorised dealers in gold and diamond.

3. The following domestic services are exempt for the purposes of section 18 -

(a) funeral services; and

(b) human remains.

4. The following supplies of imported motor vehicles are exemptfor the purposes of section 18 -

(a) motor vehicles that are at least 4 years and older from the date of manufacture except coaches and buses which transport more than 21 persons but not exceeding 29 persons;

(b) motor vehicles for persons qualifying for exemption from customs duties under section 23 of the Customs Act;

(c) motor vehicles when imported by any diplomatic mission or consulate or diplomats accredited to Guyana - who qualify under item 6 in Part III B2 of the First Schedule to the Customs Act;

(d) motor vehicles imported by or for the use of the President;

(e) motor vehicles imported by or for the use of the Prime Minister;

(f) total exemptions for vehicles for re-migrants, settlers and returning students shall be in accordance with the provisions of section 23 of the Customs Act, Cap. 82:01; and

(g) motor vehicles designed for use by differently-abled persons, or converted for use by such persons, subject to the satisfaction of the Commissioner, on the conditions that -

(i) the authority representing differently-abled persons certifies that the person and the motor vehicle are eligible; and

(ii) the motor vehicle cannot be transferred, leased or sold for a period of five years from the date of registration.

(O) 1 of 2022 (h) new motor trucks of any tonnage used for the transport of goods;

(O) 1 of 2022 (i) new haulers or similar vehicles used for the pulling of containers;

(O) 1 of 2022 (j) canes;

(O) 1 of 2022 (k) safety equipment, to the satisfaction of the Commissioner-General;

(O) 1 of 2022 (l) oil spill equipment, to the satisfaction of the Commissioner-General.

5. The following supplies of sports gear and sports equipment are exempt for the purposes of section 18 -

(a) a passenger vehicle as shown to the satisfaction of the Commissioner to have been won abroad, or bestowed as an honorary or prize to a sports personality; and

(b) a supply of cup, medal, shield or similar trophy, which is shown to the satisfaction of the Commissioner not to be of general utility, not bearing any advertisement, not imported or stocked for the purpose of trade, imported for the purpose of bestowal as an honorary distinction or prize, either won abroad or awarded by a donor resident abroad.

6. Exempted for the purposes of section 18 are -

(a) a supply of machinery and equipment for obtaining, generating and utilizing electricity from renewable energy sources, including solar panels, solar lamps, deep-cycle batteries, solar generators, solar cookers, solar water heaters, (DC) solar refrigerators, direct current (DC) solar freezers, direct current (DC) solar air-conditioners, power inverters, water turbines, wind turbines, energy efficient lighting, including compact fluorescent lamps and light emitting diode (LED) lamps; and

(b) a supply of items including machinery and equipment for utilizing alternate energy technologies, renewable energy options such as gasifiers to use biomass, and harnessing renewable energy through wind, solar and water, as determined by the Commissioner.

7. The following supplies of transportation and travel are exempt for the purposes of section 18 -

(a) bicycles;

(b) outboard engines not exceeding 75 hp;

(c) boats used in rural and riverain areas designed for the transport of goods and persons not exceeding 7.08 cubic metres (250 cubic feet), proven to the satisfaction of the Commissioner; and

(d) aircraft engines, main components and parts, as determined by the Commissioner.

8. The following are exempt for the purposes of section 18 -

(a) coins, bank notes and other monetary instruments imported by or on behalf of the Government;

(b) importation of personal effects by re-migrants who qualify for exemption from customs duties under section 23 of the Customs Act;

(c) goods imported for non-commercial purposes and contained in a passenger's baggage or imported in gift parcels sent by air or sea or by parcel post, of which the cost, insurance and freight (CIF) value does not exceed the Guyana dollar equivalent of two hundred United States dollars (US$200.00), subject to the provisions contained in Annex I of Part I of the First Schedule to the Customs Act;

(d) a supply of goods and services to or use by persons qualifying under Items 44(i) and 44(ii) in Part III B (ii) of the First Schedule to the Customs Act; and

(e) a supply of goods for use by persons qualifying under Item 6 in Part III B (ii) of the First Schedule to the Customs Act.

9. Exempt for the purposes of section 18 are supplies of items, as approved by the Commissioner, (excluding motor vehicles and all-terrain vehicles), imported or acquired for use by charitable organisations or non-governmental organisations or for free distribution to the less fortunate.

10. Exempt for the purposes of section 18 are supplies of goods that have been or will be re-imported into Guyana by the supplier.

11. (a) Exempt for the purposes of section 18 are supplies of postal services rendered by the Guyana Post Office Corporation.

(b) For the purpose of sub-paragraph (a), a supply of postal services means-

(i) sale of domestic and overseas postage stamps; commemorative stamps and revenue stamps;

(ii) delivery of all types of mail but does not include packages;

(iii) delivery of all types of registered mail but does not include packages;

(iv) delivery, tracking and tracing of mail utilizing the express mail service; and

(v) the advice of delivery services rendered for domestic and overseas mail tracking.

12. (a) Exempt for the purposes of section 18 is a supply of Common User Terminal Equipment (CUTE) Fee, airport security fee and passenger screening fee.

(b) For the purpose of sub-paragraph (a) -

(i) "CUTE Fee" means the fee charged for using the airport check in counters, flight information display system, conveyor system, and the airline check in systems inclusive of the boarding gates;

(ii) "airport security fee" means the fee charged for use of staff and equipment to screen passengers at all access control points and gates inclusive of the hold baggage screening; and

(iii) "passenger screening fee" means the fee charged for screening of a departing passenger at the main screening point of the airport.

13. Exempt for the purposes of section 18 are buses less than four years old used to transport more than 21 persons but not exceeding 29 persons.

14. Exempt for the purposes of section 18 are supplies of complete housing units costing less than 6.5 million dollars and built by or on behalf of the Central Housing and Planning Authority or any other approved entity.

15. Exempt for the purposes of section 18 are smartphones and handsets with special applications and accessibility features for differently-abled persons, as certified by the authority representing differently-abled persons, proven to the satisfaction of the Commissioner.

16. Exempt for the purposes of section 18 are supplies of mobile phones.

Schedule III

Tax Invoices, Tax Credit Notes and Tax Debit Notes for Purposes of Sections 28 and 29

1. Except as the Commissioner may otherwise allow, a tax invoice as required by section 28(1) shall contain the following particulars–

(a) the words "tax invoice" in a prominent place;

(b) the name, address, and VAT registration number of the registered person making the supply;

(c) for a supply to a registered recipient, the name, address, and VAT registration number of the recipient of the supply;

(d) the individualised serial number and the date on which the tax invoice is issued;

(e) a description of the goods or services supplied;

(f) the quantity or volume of the goods or services supplied; and

(g) the total amount of the tax charged, the consideration for the supply, and the consideration including tax.

2. Except as the Commissioner may otherwise allow, a tax debit note as required by section 29(3) shall contain the following particulars–

(a) the words "tax debit note" in a prominent place;

(b) the name, address, and VAT registration number of the registered person making the supply;

(c) the name, address, and VAT registration number of the recipient of the supply;

(d) the date on which the tax credit note was issued;

(e) the value of the supply shown on the tax invoice, the correct amount of the value of the supply, the difference between those two amounts, and the tax charged that relates to that difference;

(f) a brief explanation of the circumstances giving rise to the issuing of the tax credit note; and

(g) information sufficient to identify the taxable supply to which the tax credit note relates.

Schedule IV

(O) 18 of 2016

Registration Threshold, Interest Rates and Other Amounts for Purposes of Sections 11, 27, 28, 35 and 36

1. For purposes of section 11(1)(a) and (b), the registration threshold amount is the amount determined in regulations made under this Act subject to an affirmative resolution of the National Assembly.

2. For purposes of section 27(1), the interest rate is two percent per month or part thereof.

3. For purposes of section 28(2), the amount is ten thousand dollars.

4. For purposes of section 35(7), the amount is twenty thousand dollars.

5. For purposes of section 36(1), the interest rate is one percent simple interest per month or part thereof.

(O) 18 of 2016

6. Deleted by (O) 18 of 2016

Schedule V

(O) 23 of 2006

Repeal of Laws - Section 99

Amendment to Schedule V to the Act

Consumption Tax Act	Cap. 80:02
Hotel Accommodation Tax Act	Act No. 14 of 1993
Provisions relating to Service Tax	in Fiscal Enactments (Amendment) No. 3 Act 2003
Provisions relating to Entertainment Tax (Duty)	in Tax Act, Cap. 80:01
Provisions relating to Telephone Tax	in Tax Act, Cap. 80:01
Provisions relating to Purchase Tax	in Motor Vehicles and Road Traffic Act, Cap. 51:02

REGULATIONS

Made Under

THE VALUE-ADDED TAX ACT 2005

CHAPTER 81:05

IN EXERCISE OF THE POWERS CONFERRED UPON ME BY SECTION 95 OF THE VALUE-ADDED TAX ACT 2005 I HEREBY MAKE THE FOLLOWING REGULATIONS:-

Amended by VAT (Amendment) Regulations (13/2006)
Reg. 8/2016
Reg. 12/2018
Reg. 2/2020

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation.
2. Rate of tax under section 9(1) of the Act.
3. Registration threshold.
4. Criteria for voluntary registration.
5. Sales invoices.
6. Form and manner of filing returns.
7. Credit carry forward and refund claims.
8. Refunds for International Organizations and departing nonresidents.
9. Record keeping requirements.
10. Printing and use of tax invoices.
11. Financial services.
12. Medical services.
13. Deleted by Reg. 2/2020
14. Deleted by Reg. 2/2020

Citation.

1. These Regulations may be cited as the Value-Added Tax Regulations 2005.

Rate of tax under section 9(1) of the Act.
Reg. 8/2016

2. The tax imposed under section 9(1) of the Act shall be at a rate of fourteen percent **(14%)**.

Registration threshold.
Reg. 8/2016

3. For the purposes of section 11(1) (a) and (b) and Schedule IV, paragraph (1), of the Act the registration threshold shall be $15,000,000.00.

Criteria for voluntary registration.

4. An approval of an application for voluntary registration under section 11(5) of the Act may be granted by the Commissioner where the applicant satisfies the following conditions –

(a) that the applicants' business and business location are identifiable and the address and other information of the applicant or his agent are provided to the Commissioner's satisfaction;

(b) that the applicant demonstrates to the Commissioner's satisfaction that the recordkeeping requirements of section 60 of the Act have been or are likely to be met;

(c) that the applicant demonstrates to the Commissioner's satisfaction an intention to make taxable supplies. Where the applicant's business operations have not yet begun at the time of application, or if the applicant has carried on the business for less than a calendar year, evidence of bank loans and revenue projections, contracts or other details of arrangements to make taxable supplies, feasibility studies, purchase of capital equipment, and similar information may be accepted by the Commissioner as evidence that the applicant intends to make taxable supplies.

Sales invoices.

5. A sales invoice under section 28 of the Act is a document executed in the form required by the Commissioner that includes the following information -

(a) the name, address, and VAT registration number of the registered person making the supply;

(b) a description sufficient to identify the goods supplied or services rendered;

(c) the price of the supply;

(d) the amount of VAT if separately stated; and

(e) the issue date of the sales invoice.

Form and manner of filing returns.

6. In addition to the information required by section 31(2)(b) of the Act, a VAT return shall be accompanied with the documentation determined by the Commissioner and shall include the following information—

(a) the legal name of the registered person making the return, and the registered person's trade name, if different from the legal name;

(b) the VAT registration number.

Credit carry forward and refund claims.

7. (1) If a taxpayer in a credit position is entitled to claim a refund under section 35 of the Act, the claim shall be submitted in the form and with the documentation determined by the Commissioner, including the following information—

(a) the legal name of the registered person making the claim, and the registered person's trade name, if different from the legal name;

(b) the VAT registration number of the registered person making the supply;

(c) the amount of the refund claimed, the period or periods in which the credit arose, the periods, if any, to which the credit was carried and portions of it were claimed.

(2) A person who provides false information under this regulation or regulation 6 or 8 commits an offence and is liable on summary conviction to a fine of $25000.00 and to imprisonment for one month.

Refunds for international organizations and departing nonresidents.
Reg. 8/2016

8. (1) A claim for refund under section 37(1) of the Act, shall be submitted in the form and with the documentation determined by the Commissioner and shall include the following information—

(a) the name of the person making the claim; and

Reg. 8/2016

(b) deleted by Reg. 8/2016

(c) the amount of the refund claimed, with a list of the eligible supplies and imports giving rise to the claim, along with the related sales or tax invoices.

(2) Tax on supplies and imports is refundable under section 37(1) of the Act only if the supplies and imports are related to the basis for the refund claimed under section 37(1) -

(a) In the case of refunds permitted by section 37(1)(a) of the Act, eligible supplies and imports that are customary under law;

(b) In the case of refunds permitted by section 37(1)(b) of the Act, eligible supplies and imports are those relating to the official purposes of the diplomatic or consular mission, including —

i) Office supplies and equipment;

ii) Furniture and equipment for use on consular or diplomatic premises;

iii) Official receptions and meals hosted at hotels and restaurants with a cost exceeding the amount specified in Schedule IV, paragraph (6);

iv) Vehicles and fuel for official use; and

v) Telephone, electricity, and other utility services supplied to the mission's business premises.

(c) In the case of refunds permitted by section 37(1)(c) of the Act, eligible supplies and imports are those specified in the claimant's agreement.

Reg. 8/2016

(d) Deleted by Reg. 8/2016

(3) Upon application in the form specified by the Commissioner, a person entitled to receive refunds under section 37(1) (a), (b), or (c) of the Act shall be issued a taxpayer's identification number for use in making VAT refund claims. The Minister may, after consultation with the Commissioner, from time to time publish by notice in the Gazette names of persons entitled to such refunds.

Record keeping requirements.

9. The accounting records relating to taxable activities carried on in Guyana under section 60(1) of the Act include the following -

(a) sales invoices issued under section 28(2) of the Act and a record listing and summarising sales transactions of less than $10000.00;

(b) a record of supplies taken by the taxable person for personal use, or given free of charge for nominal considerations to other persons;

(c) records listing and summarising cash receipts and cash payments in respect of daily transactions;

(d) stock records in respect to opening and closing stock;

(e) purchases and sales ledgers;

(f) income and expense accounts;

(g) till rolls and tapes;

(h) till rolls and tapes;

(i) copies of customs import and export documents;

(j) computer records;

(k) any other records related to the business including correspondence and audit reports.

Printing and use of tax invoices.
Reg. 13/2006

10. In pursuance of the provisions of section 95 of the Act-

(a) Deleted by Reg. 13/2006

(b) Deleted by Reg. 13/2006

(c) Deleted by Reg.13/2006

(d) invoices which contain particulars of goods and services, which are zero-rated or zero-rated along with taxable supplies, to show such goods and services separately on the invoice, along with a separate total for such goods and services;

(e) Deleted by Reg. 13/2006

Financial services.

1**1.** (1) A supply of financial services is exempt from tax under Schedule II, paragraph 2(a), whether provided for explicit or implicit fees.

(2) The financial services exempt under Schedule II, paragraph (2) are the following -

(a) granting, negotiating, and dealing with loans, credit, credit guarantees, and any surety for money, including management of loans, credit, or credit guarantees by the grantor; or

(b) transactions concerning money (including the exchange of currency), deposit, savings, and current accounts, payments, transfers, debts, cheques, or negotiable instruments, other than debt collection and factoring; or

(c) provision of credit under a hire purchase agreement or sale of goods, but only if the credit Is provided for a separate charge, and the separate charge is disclosed to the recipient of the goods; or

(d) the provision, or transfer of ownership, of an insurance policy, or the provision of

reinsurance in respect of any such policy, whether the services are performed by insurers , brokers or insurance agents; or

(e) the management of investment funds, including transactions involving an interest in a benefit fund, provident fund, pension fund, retirement annuity fund, or preservation fund; or

(f) transactions by issuers, brokers, or dealers involving shares, stock, bonds, and other sureties, but not including custody services.

(3) In this regulation –

"cheque" includes a postal order, a money order, a traveler's cheque, or any order or authorisation (whether in writing, by electronic means, or otherwise) to a financial institution to credit or debit any account;

"currency" means any banknote or other currency of any country, other than when used as a collector's piece, investment article, item of numismatic interest, or otherwise than as a medium of exchange;

"insurance policy" means insurance cover under a policy treated as general insurance business or as long-term insurance business under the Insurance Act;

(4) Financial services that are listed as exempt under this regulation are exempted, whether rendered by a registered bank or financial institution or by any other person.

(5) Some services are not exempt under Schedule II, paragraph 2(a), whether or not they are rendered in connection with an exempt financial service. They include the following -

(a) legal, accounting and record package services, actuarial, notary, and tax agency services (including advisory services) when

rendered to a supplier of financial services or to a customer of that supplier of financial services;

(b) safe custody for cash, documents, or other items;

(c) data processing and payroll services;

(d) debt collection or factoring services;

(e) trustee, financial advisory, and estate planning services; and

(f) leases, licenses, and similar arrangements relating to property other than a financial instrument.

(6) For purposes of sub-regulation (5) of this regulation, accounting and record package services include a financial clearing system that may be part of the settlement process, the posting of financial transactions to customers' accounts, the maintenance of customers' accounts, and the rendering of services ancillary to the services just described.

(7) The mere acquisition of a debt is not a taxable transaction, including debt acquired by a factor. The services related to debt recovery, litigation, and the management of the recovery of the amount due from debtors is taxable, including sales accounting services under a factoring arrangement and other services related to factoring.

(8) The exemption for financial services extends to the premiums for insurance cover under an insurance policy, but not to broker's fees or commissions charged on the premium.

(9) The premium on an insurance policy is exempt only if the premium is charged on a policy issued by a person who is licensed to issue such policies under the Insurance Act.

(10) An insurance policy does not include insurance cover on a warranty in respect of the quality, fitness or performance of tangible property.

Medical services.
Reg. 13/2006
Reg. 12/2018
Reg, 2/2020

12. (1) Schedule I, paragraph 6A zero-rates the supply of medical services. Medical services are zero-rated, whether provided with or without charge and whether paid for by the patient or resident or any third party, if the medical services meet two conditions -

(a) they are rendered in a qualified medical facility or by a qualified medical practitioner (or under the supervision of a qualified medical practioner), or both, and

Reg, 2/2020

(b) they qualify as zero-rated medical services in this regulation.

(2) A qualified medical facility is the office of a qualified medical practitioner. It includes a registered hospital, maternity home, nursing home, convalescent home, hospice, clinic or clinical laboratory.

(3) A qualified medical practitioner is a person who is registered as being qualified under the Medical Practitioner's Act. Persons qualified to perform medical, dental, nursing, convalescent, rehabilitation, midwifery, or paramedical services are deemed to be medical practitioners.

(4) Medical services involve the diagnosis, treatment, prevention, or amelioration of a disease, including the promotion of mental health, but do not include services for cosmetic reasons other than those required in connection with a disease, trauma, or congenital deformity.

(5) The services provided to a resident or patient staying in a qualified medical facility are considered medical services for purposes of this regulation, including meals and accommodations, nursing and personal care, and assistance with daily living activities to meet the needs of the resident or patient, provided that the purpose of the residency is the provision of medical services.

Reg. 12/2018
Reg, 2/2020

(6) The following services are zero-rated medical services –

(a) medicines and drugs that are administered in a hospital or clinic, or by hospice;

(b) Laboratory, x-ray, magnetic resonance imagery, sonogram, or other imaging services or other diagnostic services;

(c) medical devices provided as part of the supply of qualified medical services;

(d) the use of operating rooms, case rooms, or anesthetic facilities, including necessary equipment or supplies;

Reg, 2/2020

(e) the use of radiotherapy, physiotherapy, or occupational therapy facilities in rendering zero-rated medical services;

Reg. 12/2018

(f) services rendered by the medical facility staff (including orderlies or technicians) in connection with zero-rated medical services;

Reg. 12/2018

(g) dental, periodontal, and endodontal services;

Reg. 12/2018

(h) psychoanalytic services;

Reg. 12/2018

(i) optical services; and

Reg. 12/2018

(j) paramedical services”; and

(7) Medical devices and their components are those supplied to a resident or patient in a qualified medical facility, or supplied on prescription in connection with the rendition of qualified medical services, including—

(a) a respiratory or heart monitor, dialysis machine, or feeding utensil for use by an individual with a disability;

(b) a medical or surgical prosthesis or orthopedic aid provided as part of the rendition of qualified medical services; and

(c) an item of medical or surgical equipment sold or rented by a qualified medical facility or a qualified medical practitioner to a patient or resident.

Reg. 12/2018

(8) Deleted by Reg. 12/2018

Electricity
Reg.8/2016

13. Deleted by Reg. 2/2020

Water
Reg. 8/2016

14. Deleted by Reg. 2/2020

(TRANSITIONAL) REGULATIONS

Made Under

THE VALUE-ADDED TAX ACT 2005

CHAPTER 81:05

IN EXERCISE OF THE POWERS CONFERRED UPON ME BY SECTION 95 OF THE VALUE-ADDED TAX ACT 2005 I HEREBY MAKE THE FOLLOWING REGULATIONS:-

Amended by VAT (Amendment)Regulations (13/2006)
Reg. 13/2016

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation.
2. Claim for input tax credit.
3. Transitional credit.
4. Input tax allowances.
5. Qualification of goods.
6. Claim for transitional credit.
7. Inventory of goods.
8. Disallowances of transitional credit.
9. Eligibility requirements

Citation.

1. These Regulations may be cited as the Value-Added Tax (Transitional) Regulations 2006

Claim for input tax credit.

2. In calculating the amount of Value-Added Tax (VAT) payable by a taxable person in respect of the first three tax periods after the VAT becomes effective, the taxable person may include in his claim as input tax credit under Section 24 of the Act an amount equal to a transitional credit calculated and claimed in accordance with these Regulations.

Transitiona1 credit.

3. Where a taxable person held, at the end of 31st December 2006, qualifying goods acquired during December 2006, and has substantiated, to the satisfaction of the Commissioner-General, the amount of consumption tax paid on the acquisition of those goods, the amount eligible as the transitional credit is that substantiated amount, subject these Regulations.

Input tax allowances.

4. If a taxable person is allowed a transitional credit, the amount is deemed to be input tax credit allowable under section 24 of the Act in the tax period in which the goods in question are supplied in a transfer subject to VAT.

Qualification of goods.

5. No transitional credit is allowed for consumption tax paid in respect of the acquisition of goods if VAT imposed on the acquisition of those goods in a supply after the effective date of the VAT would not qualify for input tax credit under Section 24 of the Act.

Claim for transitional credit.

6. A claim for transitional credit for consumption tax paid on qualifying goods on hand, on the date of the entry into operation of the VAT, is allowable only if the claimant submitted, no later than 15th December 2006, an application to be registered for VAT.

Inventory of goods.

7. A taxable person claiming a transitional credit is required to submit with the first VAT return an inventory of all qualifying goods on hand as of 31st December 2006, supported by documentary evidence of the payment of consumption tax.

Disallowances of transitional credit.

8. Disallowances of a transitional credit for consumption tax paid before the effective date of the VAT shall not

be treated as a disallowance for the purposes of section 4(17) of the Act.

Eligibility requirements

9. (1) No transitional credit is allowed in respect of an inventoried item until it has been sold, and only items sold during the period from 1st January 2007 to 31st March, 2007 shall qualify for the credit.

(2) Claimants for transitional credits shall be required to provide documentary evidence of sales of the respective items.

(3) Transitional credit for inventorised items acquired during December 2006 and sold during the period from 1st January 2007 to 31st March 2007 will be restricted to the applicable VAT rate or the consumption tax rate actually paid, whichever is lower.

(4) The First-In-First-Out (FIFO) method of accounting shall be applied to determine which goods are on hand at the end of 31st December 2006 and the same FIFO method of accounting shall be applied to determine which goods are sold during the period from 1st January 2007 to 31st March 2007.

(5) All claims for transitional credit shall be subject to audit and verification prior to being allowed as input credit.

10. For purposes of these Regulations, goods are deemed to have been acquired during December 2006 if:

(i) in the case of imported goods, the applicable consumption tax was paid during the period from 1st December 2006 to 31st December 2006; or

(ii) in the case of manufactured goods, the applicable consumption tax became due and payable during the period from 1st December 2006 to 31st December 2006.